

EXTERNAL BORDERS?

[...] the Commission considers that Croatia has taken the measures needed to ensure that the necessary conditions for the application of the Schengen acquis in the field of management of the external borders are met.

(European Commission communication on the verification of the full application of the Schengen acquis by Croatia, 22 October 2019)

BACKGROUND

Where do push-backs occur?

Push-backs¹ of migrants and refugees from Croatia by the Croatian authorities tend to occur in a handful of semi-rural, secluded locations at the country's 1,300 km-long borders with Bosnia-Herzegovina and Serbia rather than at the dozens of official crossing points.

In **Bosnia-Herzegovina**, reports refer to violence and push-backs on unsurfaced roads and in forests close to the border areas near Velika Kladuša, Šturlić and Bihać. In **Serbia**, incidents occur near the Tovarnik train station and the woodland surrounding Batrovci (Šid). Violence is not limited to the border areas, but is also committed against people on the move inside Croatian territory (see below), in vans and at police stations.

Timeline

- **February 2016**: first reports of violence and push-backs at the Croatian borders, mostly of displaced people from countries other than Syria, Afghanistan and Iraq, including unaccompanied children.
- **March 2016**: passage along the so-called Balkan route is restricted. Thousands trapped in Serbia attempt to continue their journey to Europe by crossing borders irregularly. Hungary uses violence to rebuff them, erects border fences, restricts entry to extremely limited numbers (currently one person per working day) and introduces blanket detention in 'transit zones'.
- **Spring 2017**: increase in attempts to enter Croatia and of violent push-backs.
- **November 2017**: death of Madina Hussiny, a six-year-old Afghan girl who was hit by a train after Croatian border guards forced her family to leave the country by walking along a train track.
- **Spring 2018**: as arrivals from Serbia and along the new route via Bosnia and Herzegovina rise, so does the violence by Croatian border guards, with severe beatings of refugees and migrants, including minors and women. These practices become systematic in **mid-2018** and are **ongoing**.



Author: No Name Kitchen

"We asked to be taken to a camp, we said 'asylum, we want asylum.' The police just laughed at us. [...] My friend and I had to lie down on our stomachs with our hands behind our heads, our wives and children had to kneel and [do the same]. The police were laughing and taking pictures of us. [...] They asked me to take off all my clothes except my underwear and they were searching me, my body with their hands. [...] The children were also searched, the babies' nappies had to be taken off to search [them]. They were naked in the forest in the middle of the night"

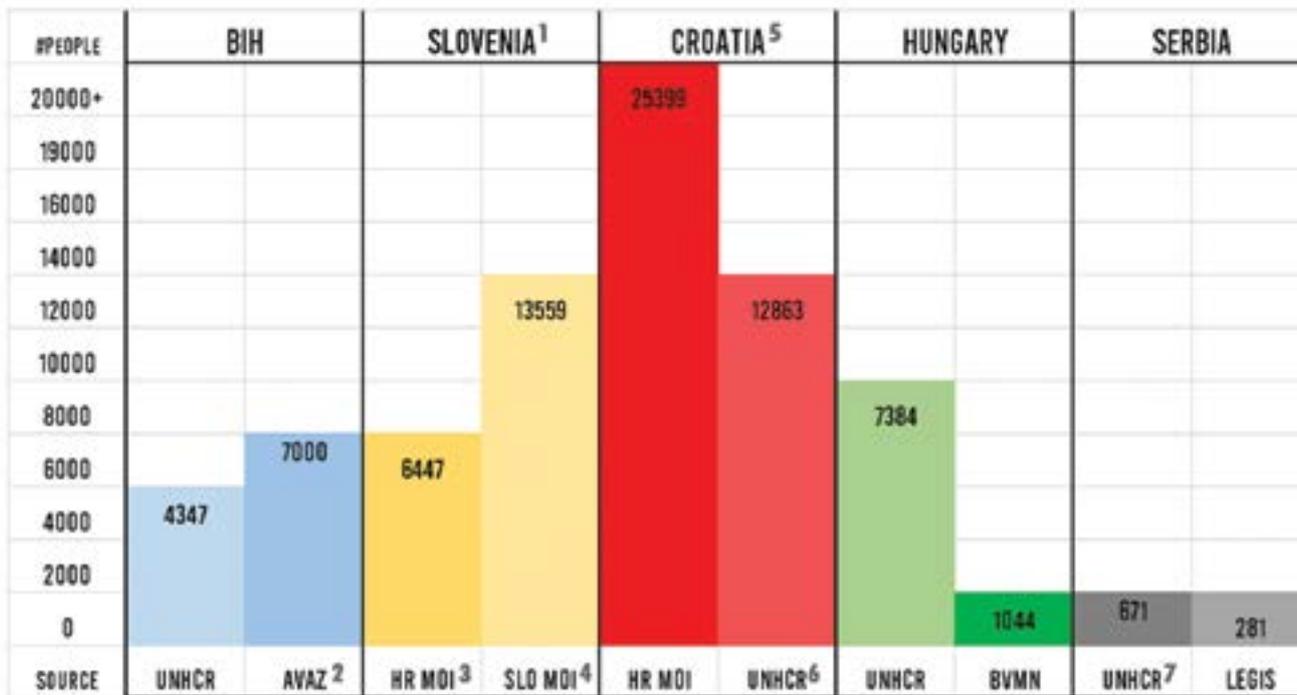
- Palestinian man, October 16, 2019

¹ Defined by ECCHR as 'a set of state measures by which refugees and migrants are forced back over a border [...] without consideration of their individual circumstances and without any possibility to apply for asylum or to put forward arguments against the measures taken'.

DATA

PUSHBACKS CONDUCTED BY AUTHORITIES IN EACH COUNTRY

MULTISOURCE COMPARATIVE DATA BASED ON NUMBER OF PEOPLE - PERIOD 2017/19



1 Not all of these are push-backs since Croatia and Slovenia have a readmission agreement, but while Slovenia is returning people legally, Croatia is then pushing them back.
 2 Only first eight months of 2019. Refers not explicitly to push-backs but rather "preventing illegal border crossings".
 3 Only first eight months of 2019.
 4 Only first ten months of 2019.
 5 Under assumption that most of the people pushed back by Croatian officials have already suffered pushbacks in other countries across the Balkans route.
 6 Registering only pushbacks from Croatia to Serbia.
 7 Registering only pushbacks from BiH to Serbia.

Author: No Name Kitchen

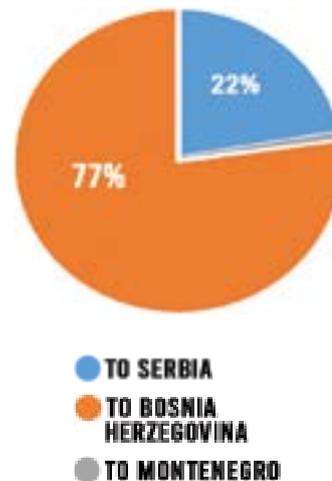
ABUSES AT CROATIA EXTERNAL EU BORDER BREAKDOWN



Breakdown figures are calculated out of 531 push-back reports, representing 4,722 individuals, conducted by participants of the Border Violence Monitoring Network during the period of May 2017 - October 2019. Source: www.borderviolence.eu
 * Referring to the spectrum of aggressions which refugees might face from Croatian authorities. It includes direct physical violence, either against people-in-transit or against their immediate necessities such as food or clothes; or specific threats of imminent, direct physical violence. Arbitrary detention, torture, psychological violence, theft, and the destruction of personal property.

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DESTINATION COUNTRIES OF PUSHBACKS CONDUCTED BY CROATIA'S OFFICIALS



Author: No Name Kitchen

ABUSES AT THE BORDERS: WHEN AND HOW THEY OCCUR

Push-backs can roughly be divided into four categories:

- **Detections at official border crossings** by border authorities or the police of people hidden in trucks/cars or trains, who are mostly held for 1-12 hours at detention facilities at checkpoints. Personal data is collected and valuables are often arbitrarily confiscated by officials. Detainees are asked to sign documents, but they are not given a copy and in most cases translation is not provided. Physical violence and the destruction of mobile phones often occur before the push-back, with the apparent aims of deterring the migrants from entering Croatia again and from documenting the abuses.
- **Detections within the territory** of Croatia up to 8 days after crossing the border by a variety of police units, including the Ministry of the Interior's *Interventna* and *Specijalna* police divisions, who are equipped with military-style rifles and often wear black ski masks over their faces. Large groups of people in transit are corralled by these units, generally using firearms and dogs, and transported to police stations. Disproportionate use of force includes threats, recourse to electric discharge weapons, forced undressing (including of children) during detention and transportation, prolonged detention inside police vehicles without water, detention in inadequate facilities (including the infamous so-called torture garage in Korenica). Most violence is inflicted at the final push-back location, including forced kneeling in the open in harsh weather conditions.
- **People detected in the cities** of Croatia, where they often arrive intending to apply for asylum and go to police stations to this effect. For a while in 2017, potential asylum seekers tried to request support from the UN refugee agency (UNHCR) in the capital Zagreb, but the authorities blocked their access. Since then, potential asylum seekers have attempted to reach NGOs based in Zagreb such as the Centre for Peace Studies and Are You Syrious, but threats from the authorities for providing legal support to asylum seekers have led to the suspension of these projects.
- **Chain push-backs after initial apprehension in Italy or Slovenia.** Groups arrested in Slovenia are transferred to the Croatian authorities, who then take them to a detention facility at border checkpoints or to a police station. Belongings handed over by the Slovenian authorities are often not returned to the migrants. Although there are issues of access to asylum in Slovenia as well², Slovenia appears to be using a bilateral readmission agreement, while subsequent push-backs from Croatia to Serbia or Bosnia happen outside the law.

"Officers order policemen to push back all refugees and migrants to Bosnia-Herzegovina without documentation and processing - thereby leaving no trace - to take money, to break mobiles and to throw them in the river or keep them for themselves"

- group of whistle-blowers from the Croatian police, in a complaint to the Croatian Ombudswoman

"Like in a movie, they forced all men to lie down on their stomachs with our hands behind our heads [...]. They took everyone's backpacks, bags and sleeping bags and for single men they took jackets as well. Everything was burned. I asked if I could take my baby's food from the bag and they said no, took my backpack and threw it in the fire. [...] [They drove at an] insane speed on a road full of rocks. The children became sick and started vomiting. One child returned from the crossing and is still sick."

- Syrian man, October 14, 2019

Evidence shows that extreme levels of violence during push-backs has increased over the years. 19% of all cases recorded by Border Violence Monitoring Network between 2017 and 2019³ involved firearms, with police firing live ammunition and staging mock executions, including with people who had already been detained and were not at risk of absconding. Groups are forced into overcrowded police vehicles and driven in these conditions for up to six hours. In some cases, Croatian police fire tear gas containers into the vans and squirt pepper spray into people's eyes.

VIOLATIONS OF INTERNATIONAL, EU & NATIONAL LAW

As a candidate for membership of the Schengen Area, Croatia should fulfill all the provisions of the **Schengen Border Code**, which recalls the obligations that Member States have under international human rights and refugee law, including the principle of non-*refoulement*.⁴ The Code also specifies⁵ that border surveillance should be subject to the procedures and safeguards laid out in the **EU Returns Directive** (2008/115/EC). These include ensuring that a fair and efficient asylum system is in place and that detention occurs in specialised facilities in a humane and dignified manner, respecting fundamental rights and in compliance with international and national law.

Although the **Croatian Foreigners Act** transposes the Returns Directive, Croatia appears to be violating key provisions as regards access to the asylum system, the principle of non-*refoulement* and the detention of third-country nationals, as well as the **Asylum Procedures Directive** (2013/32/EU), which stipulates the right to access asylum and to an individual procedure.

2 In the first ten months of 2019, almost 70% of irregular entrants to Slovenia were returned to Croatia (source: Slovenian Ministry of the Interior).

3 affecting 1,279 people.

4 Article 4, which refers to the Charter of Fundamental Rights of the EU, relevant international law and the Geneva Convention.

5 Article 13.

"[...] One of the policemen asked me, "Can you speak English?" As soon as I started to answer, my head was hit from behind. [...] I fell to the ground and he began to beat me with a cable and baton and to kick me in the head, back, legs and knees [...]. I wanted to escape, but there was a big hole in front of me that I fell into and the scarf that I had around my neck had been caught by two of them and pulled upwards. I felt that I was choking. Again they started to hit me with cables and using the baton on my fingers, kicking me at the same time. One of them pointed the flashlight at me and beat me with it. They beat me for 8 minutes [...]. When I ran in the other direction one more policeman was standing at the border and he also hit me with a baton"

– Iranian man, December 2018

The **EU Charter of Fundamental Rights** clearly states⁶ the right to asylum and the obligation to respect the Geneva Convention on the Status of Refugees, and prohibits collective expulsion⁷. Croatian police conduct may also represent a violation of the prohibition of torture⁸ and collective expulsion⁹ stipulated in the **European Convention on Human Rights**.

The practices outlined above also appear to run foul of international law and, in particular, of the **United Nations Convention against Torture** as well as the **Geneva Convention**.

In 2019, courts in Italy and Switzerland have referred to this body of law to justify suspending returns of asylum seekers to Croatia under the **Dublin Regulation** (604/2013), given that returnees could be at risk of *refoulement*. There are also two cases pending against Croatia at the **European Court of Human Rights**: *M.H. and others v. Croatia*¹⁰, where the claimants are Madina Hussiny's family, and *Daraibou v. Croatia*¹¹.

CRIMINALISING CIVIL SOCIETY

Actors that speak publicly about the violations, such as human rights lawyers and civil society organisations as well as the Croatian Ombudsperson, have been targeted by the Ministry of the Interior. NGO staff and volunteers have been intimidated and harassed, and some have been held in police stations without formal charges and threatened for criticising police activities at the borders. Both Centre for Peace Studies and Are You Syrious have not been allowed to continue providing free legal and educational support in government asylum seeker reception centres. AYS is being prosecuted for allegedly abetting an illegal border crossing and the Ministry of Interior has requested the highest possible sentence, including prison time for a volunteer, a €43,000 fine and a suspension of AYS' work.

6 Article 29.

7 Article 19.

8 Article 3.

9 Article 4, Protocol 4.

10 Articles 3, 5, 8, 14 and 34 of ECHR, Article 4 of Protocol No. 4.

11 Articles 2 and 3.

This publication has been jointly produced by Centre for Peace Studies, Border Violence Monitoring Network, Are You Syrious, Asylum Protection Centre and No Name Kitchen, who provide support to refugees, asylum seekers and migrants and have collected substantial evidence of abuses perpetrated by the Croatian authorities against people trying to enter the European Union, including their unlawful and violent return to non-EU countries Serbia and Bosnia-Herzegovina. Unless specified, all the information included in this publication has been gathered by these organisations, but national and international entities such as the Croatian Ombudsperson and the Council of Europe Commissioner for Human Rights as well as international NGOs Amnesty International, Human Rights Watch and European Council for Refugees and Exiles (ECRE), among others, have documented similar patterns of systematic violations of human rights. The national authorities in Serbia and Bosnia-Herzegovina have also condemned the violence perpetrated against migrants returned to their respective countries from Croatia.