

# Pushback report on children and unaccompanied children in Croatia



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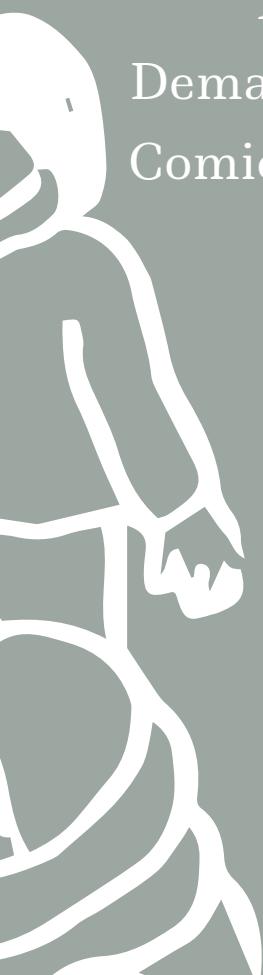
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# Introduction

Violation of human rights of refugees and other migrants in the Balkans has been a focus of many activists, groups, and networks for the last 4 years. In 2016<sup>1</sup>, when first mass pushbacks were observed on the Croatian-Serbian border - we thought that a report with testimonies and photographs, as clear evidence of the violations, will contribute to stopping them. But it hasn't. We are still hearing, witnessing, reading, and writing about pushbacks of refugees and other migrants from the Croatian police officers on the external borders of the European Union. This type of violation and law abuse has become an official border management practice.

It's a fact that on the EU side of the border this illegal practice is a public secret, while on the other side (in Bosnia and Herzegovina, and Serbia) it's a daily topic among locals, NGO's, politicians and others. Despite overwhelming evidence including reports, testimonies, photographs, and videos published by human rights organizations and the media, Croatian authorities simply deny any wrongdoing.

No procedures were being taken against individuals doing these practices on the borders, and the Croatian Ministry of Interior is continuously neglecting such practices. Contrary, there are several anonymous testimonies from Croatian police officers that have confirmed these illegal practices and have described entire procedures of pushback implementation. "I got orders from my superior. And he got it from his. It goes all the way up to the top. Later we realised it was wrong. We were told we have to catch them before they reach the human rights groups or any place they would help them to seek asylum"<sup>2</sup>.

The independent body for protection of children's rights, the Ombudsperson for Children, is in her report for 2019 stating how they have received 10 complaints on violations of migrant children's rights. These complaints include verbal and physical violence, destroyal of personal belongings and illegal pushback to the neighbouring countries (BIH and Serbia) without giving them the possibility to seek international protection. She defines that such actions are a clear break of the international law and Protocol; and that they put children in the risk of violence - from the group they are traveling with, police or can become victims of traffickers<sup>3</sup>.

1 Banich, S., Gerbig, L., Homberger, A. (2016) Report on Systemic Police Violence and Push-Backs against Non-SIA People Conducted by Croatian Authorities. Moving Europe, Belgrade. Available at: [http://moving-europe.org/wp-content/uploads/2016/01/28.01.2016\\_Report-Police-Violence-and-Push-Backs.pdf](http://moving-europe.org/wp-content/uploads/2016/01/28.01.2016_Report-Police-Violence-and-Push-Backs.pdf)

2 BBC (2019): 'Beaten and robbed': How Croatia is policing its borders. Available at: <https://www.bbc.com/news/av/world-europe-49132735/beaten-and-robbed-how-croatia-is-policing-its-borders>

3 Croatia, The Ombudsperson for Children (Pravobraniteljica za djecu) (2020), Report on the work of the Ombudsperson for Children in 2019 (Izvješće o radu Pravobraniteljice za djecu za 2019. godinu), p. 174. Available at: <http://dijete.hr/izvjesce-o-radu-pravobraniteljice-za-djecu-u-2019-predano-hrvatskome-saboru/>.

Collective of organisations gathered to write the 6th report on push backs of refugees and other migrants on the external EU border in Croatia, are doing it to remind the public and decision-makers how being blind to these contemporary issues will affect our future. And how one day children are going to ask us what did we do in the times when police were beating children on the border?

Not only has the violence continued, but it has become more systematised, brutal, and blind to any vulnerability. It is the 21st century and we are living in a country where state officials are beating other people just because they do not have relevant documents to enter the country or they wish to seek international protection.

The report in front of you is dedicated to children and unaccompanied children. Convention on the Rights of the Child defines a child as "every human being below the age of eighteen years unless, under the law applicable to the child, majority is attained earlier"<sup>4</sup>. Croatian Law on Family<sup>5</sup> defines that child is a person under 18 years of age. In this report, we focus on all the categories of children: those traveling with families<sup>6</sup> and those travelling separated from their adult family members- unaccompanied children. We will refer to testimonies of children who were either witnessing abuse being done to their parents or guardians, other adults, or have lived it through themselves. These actions are leaving direct effects on the lives of children, and children will most probably develop traumas because of them. We are leaving the planet to our children, but we also have to think about the children we are leaving for our planet and ask ourselves: how are our actions and this humanitarian-political crisis<sup>7</sup> affecting children of the future and what will they become from the actions they have lived through!?

The voices of children are not heard within the pushback mechanisms. This is why we have chosen to focus on children and unaccompanied children - on the move, in the 6th report on pushbacks on the external EU borders in Croatia.

<sup>4</sup> UN (1989), Convention on the Rights of the Child, Article 1, available at: <https://www.ohchr.org/en/professionalinterest/pages/crc.aspx>

<sup>5</sup> Croatia, Family Act (Obiteljski Zakon) (2015), Official Gazette (Narodne novine), NN 103/2015, available at: [narodne-novine.nn.hr/clanci/sluzbeni/2015\\_09\\_103\\_1992.html](http://narodne-novine.nn.hr/clanci/sluzbeni/2015_09_103_1992.html)

<sup>6</sup> It is important to note that under the notion of family we don't only refer to traditional families that combine a father, a mother and a child (children). There are multiple different existing combinations of affective relationships i.e. a family can be an aunt or an uncle travelling with the children of her/his sister/brother.

<sup>7</sup> Throughout the report we use the term humanitarian-political crisis to describe the events happening from 2015 until today with regards to refugees and other migrants arriving to Europe in a search of safety. Although the events in 2015 could have been characterized as a humanitarian crisis, almost 5 years later we are witnessing the crisis which is a consequence of the lack of political will on the EU level. Because of this lack of political will today we see the negative impact of externalization and securitization of migration which further violate human rights of the most vulnerable groups such as refugees.

## Numbers - statistics

In previous pushback reports we have addressed the issue of official statistics not being transparent and correct<sup>8</sup>; what shows a clear gap in legal procedures and protection of human rights. The same situation is with official state statistics on unaccompanied children in Croatia. The Ombudsperson for Children in her report for 2019, states: "Discrepancy between the statistics on the number of unaccompanied children between the bodies that should provide them with protection remains a topical issue, so we do not have accurate data on the number of unaccompanied children in the Republic of Croatia"<sup>9</sup>.

For this report, we have contacted responsible institutions to provide us with relevant data on children and unaccompanied children, but have received responses only from the Ministry of Demography, Family, Youth, and Social Policy. They have provided us with data on the Centre for Social Care decision on the appointment of special guardians - what is a necessity for all the unaccompanied children met on the territory of the Republic of Croatia, according to the Protocol on the treatment of unaccompanied children<sup>10</sup>. However, the second data provided to us shows that recognized right to social services for temporary accommodation in crisis situations or to organized housing in social care homes founded by the Republic of Croatia is lower from the data on special guardians. This shows that some children went missing - have "disappeared" from the territory of Croatia: to be exact, 37 children in 2018, and 25 children in 2019.

8 Are You Syrious, Centre for Peace Studies, Initiative Welcome (2019): 5th Report On Pushbacks And Violence From The Republic Of Croatia: Illegal Practices And Systemic Human Rights Violations At Eu Borders, p. 3. Zagreb, Croatia. Available at: [https://www.cms.hr/system/article\\_document/doc/597/5\\_5TH\\_REPORT\\_ON\\_PUSHBACKS\\_AND\\_VIOLENCE\\_20052019.pdf](https://www.cms.hr/system/article_document/doc/597/5_5TH_REPORT_ON_PUSHBACKS_AND_VIOLENCE_20052019.pdf)

9 Croatia, The Ombudsperson for Children (Pravobraniteljica za djecu) (2020), Report on the work of the Ombudsperson for Children in 2019 (Izvješće o radu Pravobraniteljice za djecu za 2019. godinu), p. 176. Available at: <http://dijete.hr/izvjesce-o-radu-pravobraniteljice-za-djecu-u-2019-predano-hrvatskome-saboru/>.

10 Croatia, Government of the Republic of Croatia (Vlada Republike Hrvatske) (2018), Protocol on the treatment of unaccompanied children (Protokol o postupanju prema djeci bez pravnje) (2018), available at: [www.mdomsp.gov.hr/istaknute-teme/djeca-i-obitelj/djeca-bez-pravnje/10441](http://www.mdomsp.gov.hr/istaknute-teme/djeca-i-obitelj/djeca-bez-pravnje/10441)

## Registered unaccompanied children in Croatia:

	2018	2019	2020
Centre for Social Care decision on the appointment of special guardians	225	281	45
Recognized right to social services for temporary accommodation in crisis situations or organized housing in social care homes founded by the Republic of Croatia.	188	256	No data available

Source; Ministry for Demography, Family, Youth, and Social Policy (e-mail received on 04th March 2020).

Available statistics on unaccompanied children in Croatia on the Ministry of Interior website shows data on asylum-seeking children in Croatia. We believe these are the children accompanied by their families or legal guardians since the unaccompanied children have to be placed in child-care institutions. However, the Ombudsperson for Children in her report for 2019 analysis further statistic data that was sent to them: "According to the data of the Ministry for Demography, Family, Youth, and Social Policy, in 2019, the Centres for Social Care issued decisions on the appointment of special guardians for 281 unaccompanied children, while Ministry of Interior data refer to 70 unaccompanied children, applicants for international protection."<sup>11</sup> This gap and disbalance is an outcome of the policy of delayed start of asylum procedure for unaccompanied children in Croatia; in which appointment of the guardian is done immediately, while waiting for the start of the procedure can last for weeks or more. This is an issue all asylum seekers are facing in Croatia, but when discussing a vulnerable group like children - their procedures must be taken into account as soon as possible.

Many children and unaccompanied children are not recorded at all in official available statistics of the Republic of Croatia - like

<sup>11</sup> Croatia, The Ombudsperson for Children (Pravobraniteljica za djecu) (2020), Report on the work of the Ombudsperson for Children in 2019 (Izvješće o radu Pravobraniteljice za djecu za 2019. godinu), p. 176. Available at: <http://dijete.hr/izvjesce-o-radu-pravobraniteljice-za-djecu-u-2019-predano-hrvatskome-saboru/>.

children who are pushed back to the neighbouring countries (Bosnia and Serbia). The state harms these children by omitting them from the official statistics - firstly by not allowing them to stay in the country and secondly by non-recording them. This practice stands against the best interest of the child.

The UN Committee on the Rights of the Child has recommended in their report on Croatia in 2014 a need for the creation of a single central database<sup>12</sup>. The lack of such a database shows willful neglect of the state towards unaccompanied children and their protection. The issue with accommodation and access to basic rights has been pointed out for years by many human rights organisations. "It is necessary to make records that will contain information on unaccompanied children who have tried to enter the Republic of Croatia and who have been granted access to the territory and denied entry, as well as the reason for the refusal, information on the legal status, the procedures carried out under the Protocol, the return to the country of origin or country of entry in the Republic of Croatia, the missing children, the appointment of a guardian and placement, health care and inclusion in education, and others relevant files."<sup>13</sup>

#### Children asylum seekers in Croatia:

sex	2017			2018			2019		
	M	F	total	M	F	total	M	F	total
0-13	33	22	55	42	35	77	30	25	55
14-17	4	2	6	14	14	28	9	5	14
total	37	24	61	56	49	105	39	30	69

Source; Ministry of Interior. Available at: <https://mup.gov.hr/pristup-informacijama-16/statistika-228/statistika-trazitelji-medjunarodne-zastite/283234>.

Save the Children Serbia is collecting and publishing data on children which shows much higher numbers of children present in the Balkan region. In their reports about push backs and violence against children on the move at the Western Balkans borders 1842 children have been pushed back in the period January - June

12 The UN Committee on the Rights of the Child (2014): Concluding observations on the combined third and fourth periodic reports of Croatia, point 15. Available at: [https://thinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRC/C/HRV/CO/3-4&Lang=En](https://thinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRC/C/HRV/CO/3-4&Lang=En)

13 Croatia, The Ombudsperson for Children (Pravobraniteljica za djecu) (2020), Report on the work of the Ombudsperson for Children in 2019 (Izvješće o radu Pravobraniteljice za djecu za 2019. godinu), p. 177. Available at: <http://dijete.hr/izvjesce-o-radu-pravobraniteljice-za-djecu-u-2019-predano-hrvatskome-saboru/>

2019<sup>14</sup> and 1127 children in the period July - September 2019<sup>15</sup>. Danish Refugee Council has started to publish "Border Monitoring Monthly Snapshots" for Bosnia and Herzegovina since December 2019 and in their data pushbacks of children from Croatia to Bosnia and Herzegovina are visible. For December 2019 they collected testimonies of pushbacks from 21 unaccompanied children, 69 boys and 27 girls (here boys and girls are divided as children that have experienced pushbacks while being accompanied with their families or legal guardians). For January 2020, 20 unaccompanied children, 27 girls, and 37 boys; and for February 2020, 106 unaccompanied children, 22 girls, and 27 boys. In March and April of 2020, there were fewer cases because of the situation related to the COVID-19 pandemic.

### Children and unaccompanied children being pushed back from Croatia to BIH

	December 2019	January 2020	February 2020	March 2020	Total
Unaccompanied children	21	20	106	10	157
Girls	27	27	22	3	79
Boys	69	37	27	9	142
Total	117	84	155	22	378

Source: Danish Refugee Council, Border Monitoring Monthly Snapshots - Bosnia, and Herzegovina.

From January 2017 to April 2020, the Border Violence Monitoring Network (further in the text "the BVMN") recorded a total of 548 pushback cases from Croatian territory to either Serbia or Bosnia-Herzegovina. These reports were taken under a standardised framework with people who had recently suffered the pushback in one-to-one or small group interviews. Among the recorded incidents

<sup>14</sup> Save the Children (2019): Reports about push backs and violence against children on the move at the Western Balkans borders: January - June 2019. Available at:

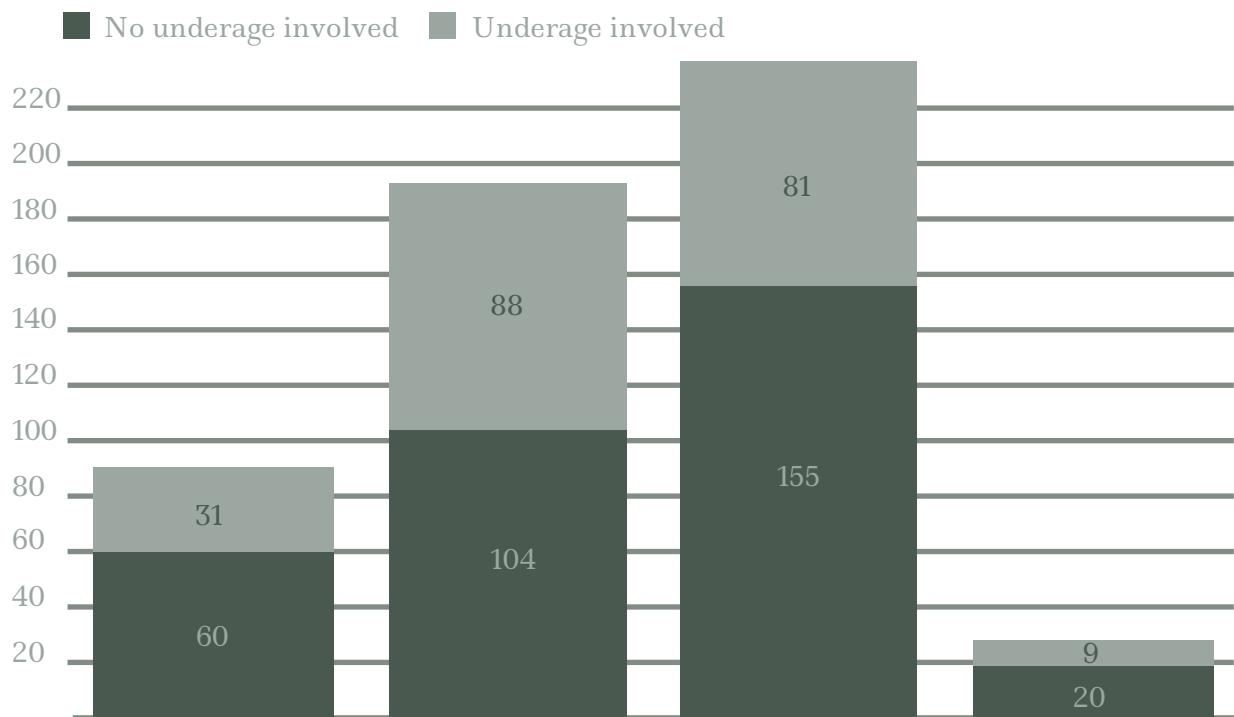
<https://nwb.savethechildren.net/news/reports-about-push-backs-and-violence-against-children-move-western-balkans-borders-january>

<sup>15</sup> Save the Children (2019): Reports about push backs and violence against children on the move at the Western Balkans borders: July - September 2019. Available at:

<https://nwb.savethechildren.net/news/reports-about-push-backs-and-violence-against-children-western-balkans-borders-july-september>

209 cases included children and unaccompanied children as part of the affected transit group. Notably, the number of cases recorded by BVMN is not representative of the total number of cases across the Croatian border, which far surpasses these figures. Often people subject to pushbacks, including children, do not report or succeed to talk with NGOs/activists to make their experience public, thus pushbacks and violent episodes are with every probability happening in a bigger number than can be documented or imagined.

Minors involved in push-backs from Croatia to Serbia and Bosnia and Herzegovina



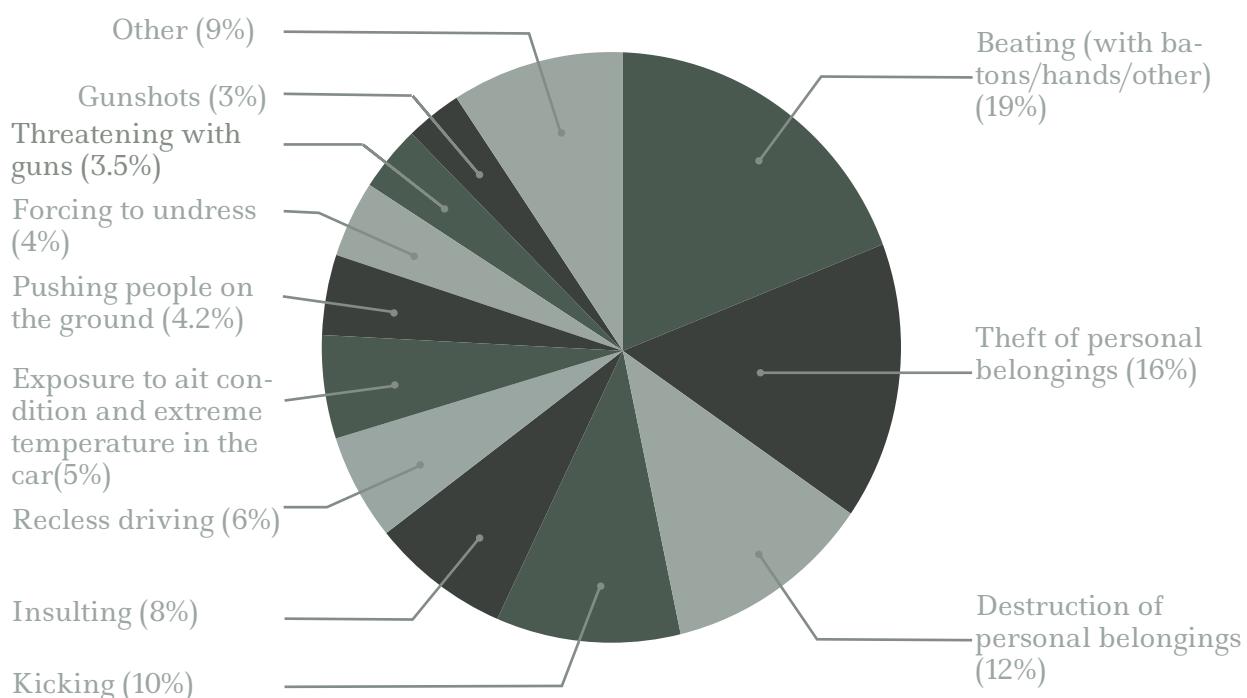
Source: BVMN Database, Created with Datawrapper, Objavio: Border Violence Monitoring Network

The data gives an insight into the high frequency of violations against children during collective expulsion from Croatia to neighboring state territories. Between 2017 and 2019, the number of cases involving an underage person was consistently between 30% - 50%. It is important to note that the recording method only accounts for the presence of a children within a group, but does not account for the raw number of underage persons affected. This is sometimes unknown, especially because the total size of the transit group regularly exceeds 20 persons. However, based on the written testimonies, it is fair to surmise that in a large number of cases more than one child was present, whether as part of a family unit or travelling unaccompanied.

What is rather worrying, is that the 209 recorded cases of pushbacks of children and unaccompanied children included

physical violence and fundamental rights breaches. The data gathered in this chart below represents the execution of different violations, though in many cases several of these acts were perpetrated within one case. Under the recording method, it was not specified whether these acts were conferred directly onto the bodies of the children, or carried out on adults in the group. Multiple testimonies in the BVMN database allude to cases of indiscriminate violence against children when they were part of a group of adults. Meanwhile, other testimonies describe the children as witnesses to the violence carried out against adults in their presence. In both senses, the grievous misconduct of the police contributes to a consistent level of abuse or intimidating behavior towards children during unlawful pushbacks.

Types of Violence used in push-backs from Croatia (2017-2020) to Bosnia and Herzegovina and Serbia where minors were involved



\*One report can include several types of violence

Source: BVMN Database, Created with Datawrapper, Objavio: Border Violence Monitoring Network

The two most prevalent actions recorded in the pushback of children and unaccompanied children are physical assault and theft of possessions. In 19% of recorded cases, groups including children and unaccompanied children were beaten by Croatian police during their pushback (receiving impact injury from either fists, open palms, baton strikes, or other blunt implements). Meanwhile,

in 16% of cases, the groups including children were robbed by the authorities, acts which encompass the extraction of money, mobile phones, and possessions of personal/monetary value.

The numbers we refer to in this chapter show the extent of this unlawful practice that not only disables children to seek international protection but exposes them to violence and traumatisation. Indeed, it is almost impossible to track every child that witnessed and experienced these unlawful practices.

In the next few chapters, we will look into the extent of violence and methods used by the Croatian police officers, and their consequences.

# Croatian authorities depriving children of their rights and safety

In order to confirm the very basis of the community-shared value system of care, protection, and respect of children and their safety, Croatia has taken steps in legally obliging itself to those under the international, European and national law.

Along with non-state responsibility-holders (parents, guardians, care-givers) Croatia, therefore, has not only moral but also a legal duty and obligation to respect, protect, and fulfil children's rights. Out of these 3 "steps", respect represents the very minimum - a negative obligation of Croatia to refrain from violating children's rights by the action of the state institutions and authorities themselves. As it will be referred after in more detail, the law accords to the children the status of a vulnerable group. Unaccompanied children are a particularly vulnerable and sensitive group because of their age, exposure, distance from home, and separation from parents and family.

From the above mentioned it undoubtedly follows that especially the children coming to the territory of Croatia seeking protection should be treated with particular care and attention. But - are they? The following chapters of the report will show the cruelty of Croatian authorities and show in which ways they violate the rights of children in a, particularly vulnerable situation. These children who seek protection and safety are met with disrespect and extreme violence.

The Center of any decision must be  
the best interest of the child - but is it?

Every community must protect the best interest of the most vulnerable ones - each and every one of us is obliged to care and protect children as the basis of humanity in us. The umbrella principle for the State to be governed with is the principle of the best interest of the child, one of primary importance and mirrored in relevant regional and national legislation.

According to Article 3 of the Convention on the Rights of the Child (further in-text "the CRC") "all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration.<sup>16</sup>

Pushbacks carried out by the Croatian Ministry of Interior (state authority), do not only violate the right to seek international protection but also show ignorance towards the obligation to ensure that the best interest of the child has been assessed and taken as a primary consideration in decisions and actions taken by the state authorities and institutions.<sup>17</sup>

Arising from the principle of the best interest of the child is the determination of the child's situation of vulnerability which covers the specific group that this report refers to, children and unaccompanied children. Due to their specific vulnerability, the role of the CRC and the principle of the best interest of the child is to ensure full enjoyment of rights defined by the CRC but also rights defined in the Convention relating to the Status of Refugees. Most importantly, when it comes to the children who are in a specific situation of vulnerability, like asylum seekers and refugees, the authorities are under the obligation to take into consideration their specific kind and degree of vulnerability.<sup>18</sup>

The UN Committee on the Rights of the Child has already decided on the case comparable to those this report refers to and has found violations if several children's rights (specifically Articles 3, 20 and 37 of the CRC), which is why in the references to that case are crucial for understanding the illegality of actions carried out by Croatian authorities. The case D.D. v. Spain (No. 4/2016) concerned the removal of an unaccompanied child from Spain to Morocco without assessing the best interests of the child. Here the Committee clearly stated that the CRC applies to all children, regardless of their legal status, and the Convention cannot be curtailed at the border. Further on, the States must conduct an initial best interest assessment prior to any removal, such as the rejection at the border, which needs to include, among others, age and vulnerability assessments. Failing to do so before refusing entry would violate the best interest of the child (Art. 3 of the CRC) and the right to liberty and freedom from torture (Art. 37 CRC). Best interest assessment requires access to territory, as such access constitutes a prerequisite to the initial assessment process by the authorities. Even if a child is at the border, he or she falls under the Member State's jurisdiction.

<sup>17</sup> As stipulated in UN (2013), General Comment No. 14 (2013) on the right of the child to have his or her best interests taken as a primary consideration (art. 3, para. 1), para. 14, p. 5.: a) the obligation that the best interest of the child is integrated and consistently applied; b) the obligation to ensure that the interests of the child have been assessed and taken as a primary consideration in decisions and actions taken by the state authorities and institutions; c) the obligation to ensure that the interests of the child have been assessed and taken as a primary consideration in decisions and actions taken by the private sector.

<sup>18</sup> United Nations (2013), General Comment No. 14 (2013) on the right of the child to have his or her best interests taken as a primary consideration (art. 3, para. 1), para. 76, p.16.

As the principle that offers a basis for the treatment of children is also stipulated by the European law, where the European Court of Human Rights (ECtHR) has stressed the States' positive obligation to protect and provide care for extremely vulnerable individuals, regardless of their status as irregular migrants, nationality or statelessness. The ECtHR recalled that the best interest of the child implies that States need to ensure, as far as they can, family unity and the use of detention can only be a measure of last resort. Finally, the ECtHR ruled that the extreme vulnerability of a child takes precedence over the person's status as a migrant in an irregular situation.

#### Pushbacks of children and unaccompanied children

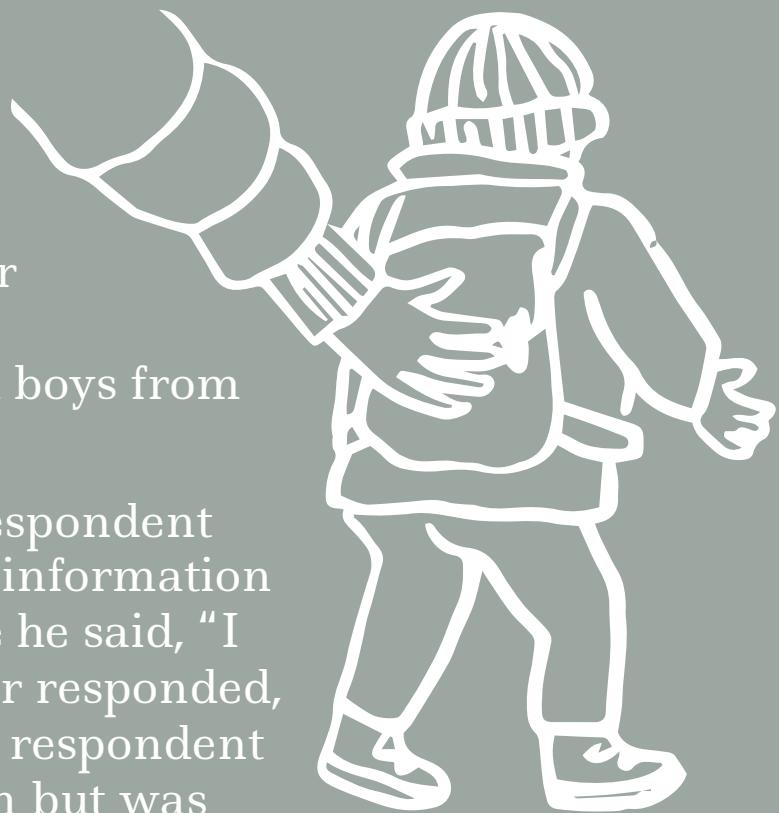
"They begged the police not to deport them, referring to the fact that they had a baby (5 months) and two small children (4 and 1 years), and that they wanted to ask for asylum in Croatia...They were driven back to Serbia and dropped at the border around midnight. It was the 2<sup>nd</sup> time they were pushed back."  
(September 2017, family with three children )

"Both minors expressed their intention to seek asylum in Croatia, but the police officers rejected their request."

(June 2018, two 17-year-old boys from Syria)

"At the police station the respondent was asked for his personal information and when asked for his age he said, "I am 17." The Croatian officer responded, "You are not a minor." The respondent expressed intent for asylum but was told no."

(November 2019, 17-year-old boy)



After the closure of the Balkan corridor in 2016, international and national civil society organisations warned about the growing number of refugees and other migrants experiencing inhumane and abusive treatment by Croatian police officers. What started as several testimonies in 2017, throughout several years turned into a government instructed practice of sealing the borders by executing unlawful pushbacks of individuals, families, and bigger groups from the territory of Croatia. The brutality of this practice was visible right away in 2017. Croatian police officers would beat men, women, and children, taking away their personal belongings and instructing them to go back to Serbia. With years, this practice of violent and unlawful pushbacks moved throughout Croatian borders, causing the spread and growth of violence.

In the winter of 2017, a six-year-old girl Madina became the first victim of a rigid border regime that does not refrain from violating human and children's rights. Madina's death will forever represent the injustice of current border regimes who closed the doors of human security to the ones who need it the most.

She died on November 21<sup>st</sup>, 2017, just meters from the Croatian border, after she and her family were pushed back by the Croatian police to Serbia. Madina's mother said she came to Croatia to seek asylum. That day she crossed the border with her six children, they walked around one hour after which they noticed Croatian police officer, and she expressed their intention to seek asylum. Instead of taking Madina's mother with her children to the nearest police station, Croatian police officers started yelling at her and ordering her to go back to Serbia. Madina's mother begged Croatian police officers to allow them to at least spend the night in Croatia since her children were exhausted. However, police officers ignored her intention to seek asylum and again ordered them to start walking towards Serbia. Several minutes later, a police vehicle arrived and Madina and her family were returned near the state border. After leaving the vehicle, police officers ordered them to walk back to Serbia, following the railways. Few minutes after the pushback, Madina was hit by a train and died.<sup>19</sup>

The little girl who was fleeing violence in her home country, lost her young life in a country that was supposed to shield her from

<sup>19</sup> Centre for Peace Studies supported Madina's family through court proceedings. Until today, Croatian institutions did not take responsibility for Madina's tragic death that is a direct consequence of pushbacks that are happening daily on Croatian borders. Madina's family decided to seek justice at the European Court of Human Rights. (M.H. and Others v. Croatia, Application no. 43115/18 )

the violence, abuse, and injustice. Instead, Madina became a victim of a border regime that heavily relies on pushbacks and continuous denial of access to the system of international protection.

Since 2017 numerous organisations<sup>20</sup> have warned about unlawful push backs and violence happening on Croatian borders. Years after it is clear that even the most vulnerable groups, such as children and unaccompanied children are not excluded from becoming victims of push backs and police violence. The 5th report on pushbacks and violence from the Republic of Croatia offers a detailed analysis<sup>21</sup> of the illegality of pushbacks and collective expulsions in general terms.

Through the ECtHR's case law, the content of the prohibition of torture and inhuman or degrading treatment or punishment was developed to an absolute non-refoulement norm. Absolute nature of this norm means that returning any person to a country where they might be subjected to torture, inhuman or degrading treatment or punishment is always prohibited – regardless of the circumstances. This presents an obligation on States to assess if the country of return is safe for a person concerned – making such assessments on a case-to-case basis. During such pushbacks authorities fail to provide any assessment of this kind and therefore breach this obligation – opening doors for breaching the very non-refoulement principle.

In the prior mentioned case, D.D. v. Spain, the Committee articulated the obligation of the state to respect the principle of non-refoulement in regards to children, and while doing this assessment pay particular attention to the assessment of the risk and irreparable harm that child might experience if transferred or returned. The Committee emphasized that the child, no matter the documentation or lack of it, has to have access to the territory and "be referred to the authorities in charge of evaluating their needs in terms of protection of their rights, ensuring their procedural safeguards."<sup>22</sup>

This principle has been implemented in the Croatian domestic law in Art. 6 of the Law on International Protection and Art. 126 of

20 Through the years several high-profiled international organisations reported on pushbacks happening on Croatian borders and within the Croatian territory. Some of them are Amnesty International, Human Rights Watch and Oxfam international, Save the Children and Danish Refugee Council.

21 Are You Syrious?, Centre for Peace Studies and Welcome Initiative, 5th report on pushbacks and violence from the republic of Croatia: illegal practices and systemic human rights violations at EU borders, 3 April 2019, Zagreb, p.21, ANNEX: Collective expulsion, or why the conduct of the Ministry of the Interior is against the European and national law, available here: [https://www.cms.hr/system/article\\_document/doc/597/5\\_5TH\\_REPORT\\_ON\\_PUSHBACKS\\_AND\\_VIOLENCE\\_20052019.pdf](https://www.cms.hr/system/article_document/doc/597/5_5TH_REPORT_ON_PUSHBACKS_AND_VIOLENCE_20052019.pdf)

22 The UN Committee on the Rights of the Child, D.D. v. Spain (No. 4/2016), para. 14.4.

the Law on Foreigners. Moreover, the later Article also stipulates an additional requirement to offer a higher level of protection for unaccompanied minors. It states an obligation to determine "whether a minor in the country of return will be handed over to a family member, designated guardian or appropriate reception institution."<sup>23</sup>

The collective manner of carrying out pushbacks shows a deep disregard of Croatian authorities to such fundamental obligation. Moreover, the illegality of such practices towards children lays also in failing to take into account the best interest of the child, family life, and the state of health – requirements to meet the threshold of returns. They are stipulated in EU Directive on common standards and procedures in the Member States for returning illegally staying third-country nationals<sup>24</sup>, as well as the Croatian Law on Foreigners.<sup>25</sup> Moreover, it is important to stress that ignorance of authorities is not an excuse since in case of doubt on one's age Croatian authorities must carry out an age estimation procedure<sup>26</sup> – according to the Law on Foreigners.<sup>27</sup>

That is why here we are not talking of returns (which correspond to legal obligations of States), but of pushbacks – which are by definition unlawful. The ECCHR defines a pushback 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"<sup>28</sup>. As such, they violate – among other rights guaranteed in international, European, and national laws – the prohibition of collective expulsions stipulated in the ECHR.<sup>29</sup>

23 Croatia, Law on Foreigners (Zakon o strancima), Article 126. Official Gazette (Narodne novine) NN 53/20, available at: <https://www.zakon.hr/z/142/Zakon-o-strancima>

24 DIRECTIVE 2008/115/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 16 December 2008 on common standards and procedures in Member States for returning illegally staying third-country nationals, Art.5.

25 Croatia, Law on Foreigners (Zakon o strancima), Article 101. Official Gazette (Narodne novine) NN 53/20, available at: <https://www.zakon.hr/z/142/Zakon-o-strancima>

26 Age estimation procedure, defined in Article 136 of the Law on Foreigners, is initiated in the cases when there is a suspicion that a person might or might not be a minor. The process relies on the available data on a minor gathered through the opinion of the minors guardian. If that data is not sufficient, age can be determined through a medical procedure. Medical procedure includes the x-ray of the teeth or the fist, and throughout the process the respect of minors dignity must be the priority. Both minor and his guardian must be informed in writing about the procedures and possible effect of those procedures on minors health, on the language that both of them understand. If the minor declines to go through the age determination procedure the authorities will identify him/her as an adult.

27 Croatia, Law on Foreigners (Zakon o strancima), Article 136. Official Gazette (Narodne novine) NN 53/20, available at: <https://www.zakon.hr/z/142/Zakon-o-strancima>

28 See in ECCHR glossary, available at: <https://www.ecchr.eu/en/glossary/push-back/>

29 The prohibition of such practice has been articulated in several ECtHR judgements, among which in Hirsi Jamaa and Others v. Italy from 23.02.2012.

## An even greater concern is required for the unaccompanied children

The vulnerability of children and the need for their greater protection is common-sensical, humane, and obligatory. When we talk about children fleeing from war – very human nature leads us to understand the even greater need for safeguarding their rights and safety. In that very vulnerable group – there is a subgroup in an extremely vulnerable position: children who are not in the presence of their adult family members (unaccompanied children). Therefore, States must prescribe special protection and assistance to them under the Art. 20 of the CRC. In D.D. v. Spain, the UN Committee on the Rights of the Child concluded that this obligation “extends to requiring States to take all necessary measures to identify children as being unaccompanied or separated at the earliest possible stage, including at the border.”<sup>30</sup>

The EU Directive on common standards and procedures in the Member States for returning illegally staying third-country nationals also recognizes the specific vulnerability of unaccompanied children and obliges the Member States “to secure the assistance of appropriate bodies other than the authorities enforcing return, with due consideration being given to the best interests of the child.”<sup>31</sup> Furthermore, before removing an unaccompanied child, the authorities are obliged to make sure that he or she will be returned to a member of his or her family, a nominated guardian or adequate reception facilities in the State of return.<sup>32</sup> Therefore, any return or rejection of entry of an unaccompanied child must be done in cooperation with bodies whose role is protecting children, all the circumstances must be assessed, and the authorities must be sure that they are acting in the best interest of the child. As demonstrated in this report, this is also an obligation Croatian authorities fail to comply with, which adds up to the illegality of their practices.

The Croatian Law on Foreigners also prescribes higher safeguards to ensure the highest level of protection and safety of unaccompanied children. The decisions on approval<sup>33</sup> and

30 The UN Committee on the Rights of the Child, D.D. v. Spain (No. 4/2016), para. 14.3.

31 DIRECTIVE 2008/115/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 16 December 2008 on common standards and procedures in Member States for returning illegally staying third-country nationals, Article 10.

32 Ibid.

33 Croatia, Law on Foreigners (Zakon o strancima), Article 35. Official Gazette (Narodne novine) NN 53/20, available at: <https://www.zakon.hr/z/142/Zakon-o-strancima>

rejection<sup>34</sup> of entry to Croatia can be reached only after hearing the unaccompanied child. These decisions and these hearings are widely absent in practice. In 2019, Croatia implemented the Protocol on the treatment of unaccompanied children, this protocol recognizes the specific vulnerability of unaccompanied children and prescribes specific safeguards that should be followed in case of unaccompanied children who expressed her/his intention to seek international protection. However, as it is the case with the overall practice of pushbacks, the law and the following protocols are not followed. Croatian authorities bluntly violate international, EU and national law and standards.

Push backs followed by torture,  
inhumane and degrading treatment

“Afterwards at about 7 am two of the police officers violently attacked him. One officer slapped him with an open hand and the other was kicking him in the lower back. The violent incident lasted a few minutes. The man had pain in his back for the next few days.”

(October 2017, 16 year-old boy from Pakistan)

“When the 4 minors asked for asylum they were kicked again. They were asked to write their names and when some didn't know how to write they were beaten.”

(March 2018, 14-16-year-old boys from Afghanistan)

“When the 14-year-old minor in the group showed the police a piece of paper from the camp he is registered in Bosnia that shows his age and that he is a minor, the police told him that they do not believe him and beat him.”

(July 2019, 14-year-old boy from Afghanistan)

<sup>34</sup> Croatia, Law on Foreigners (Zakon o strancima), Article 38. Official Gazette (Narodne novine) NN 53/20, available at: <https://www.zakon.hr/z/142/Zakon-o-strancima>

**“Six minors have been pushed back from Croatia, threatened with guns.”**  
**(March 2020, 14-17-year-olds boys from Egypt)**

When accessing the territory of Croatia children and unaccompanied children do not only become victims of pushbacks but often witness and experience torture, inhumane and degrading treatment. Testimonies collected by the BVMN show the rage of different methods used by the Croatian police with the goal of intimidating, hurting, and dehumanizing children and unaccompanied children who are in a search of security. In the following chapter, we will look into methods used by the Croatian police and show how such represent a direct breach of international and European standards. Every method will be followed by the testimony which in detail describes how such illegal practices are conducted.

Methods:

### **Excessive use of force**

Numerous testimonies of refugees and other migrants confirm that most pushbacks include excessive use of force. Croatian police officials continuously violate human rights of refugees and other migrants, often not refraining from physically assaulting children and unaccompanied children using police batons, other blunt implements, open palms, fists, and by kicking them. Testimonies collected by the BVMN show the systematic nature of this abuse that stands in violation of international, European and national legal standards. This blatant violation of basic human rights and children's rights indicates that the current Croatian border regime does not recognise the vulnerability of children and further inflicts violence and insecurity upon them.

The following testimony shows that children who travel with a group still suffer from the same physical assaults as adults in the same group.

The eight individuals were forced to the ground and the officers put their feet on their faces and backs to keep them in place. The 16-year-old minor remembers that, while the officer had his foot placed on his back, he struggled to breathe.

Shortly after, the group was taken to a police station in Karlovac which was about 10 minutes by car away from the bridge. Upon arriving there they were placed inside in a basketball hall, handcuffed, and hit again with batons and fists from muscular officers wearing balaclavas. The group was kept handcuffed and forced to stand in the basketball court for two hours before their processing. They ended up staying in the police station until the evening without water, food, or the possibility to use a toilet.

Then, around 1 am on November 14, they were taken with a van and driven for about 30 minutes to what they described as an “officer’s building”. There, they switched cars and were also made to sign several documents written in Croatian and without a translator.

*“We don’t know what [we signed].”*

At the police station, several individuals asked to apply for asylum in Croatia, but an officer responded:  
*“Asylum in Croatia is full.”*

At some point during the group’s time at the station, an officer approached the van and sucked in his breath rapidly. It was similar to Hannibal Lecter in the movie “Silence of the Lambs” and screamed:

*“We will kill you!”*

Then, another officer started rattling his baton against the side of the van, attempting to intimidate the passengers.

They stayed at this place for around one hour and were kept in complete darkness and unsure about their safety for the majority of the time.

*"We felt like maybe they would kill us."*

When the eight of them were finally brought back to the border, the officers there took them out of the van one by one, locked the door behind each, and then beat them up. Altogether, six officers with black balaclavas and black uniforms beat them, while one unmasked officer observed the scene. The eight of them were not able to provide a detailed description of the observer because the other officers pointed with flashlights in their eyes. The eight individuals were beaten for roughly five minutes each before being pushed across the border, at which point the next individual was taken out from the van.

The officers had formed a line with one officer standing every two meters. When the individuals were beaten, one officer was hitting them with a stick, two officers kicking them and also hitting them with batons, and one more officer punched them. They all were hit in their face and sides. Perhaps the most difficult part of their pushback was facing the last officers.

*"He was very big, the last one, and looks almost like a professional boxer."*

This large officer waited for them in the middle of the pathway that was formed by the line of the other officers and hit them in their kidneys and faces:

*"Everybody was beaten in the kidneys, we don't know why kidneys. It was like we are a punching bag."*

During this procedure, the eight individuals felt humiliated by the lighthearted nature with which the violence was conducted. While they were struck by the batons and cried out, all they could hear was laughter:

*"When we cry they laugh."<sup>35</sup>*

<sup>35</sup> The group included 8 individuals, among which there were two minors, one 16 years-old, and another one 17 years-old. Border Violence Monitoring Network (2018) "We will kill you". Testimony available at: <https://www.borderviolence.eu/violence-reports/november-13-2018-0600-road-d6-from-highway-e63-bridge-over-the-dobra-river-outside-of-karlovac-croatia/>

Families travelling with small children are also victims of physical assaults conducted by Croatian police officials. On their route to seek protection in Croatia, children witness and become direct victims of yelling and beatings, all for the purpose of intimidating them and their parents. Save the Children published a testimony of a little girl Ferhana\* who experienced 15 to 16 push backs from Croatian territory where she, together with her family, expressed their intention to seek asylum.<sup>36</sup> On one occasion Ferhana came into direct conflict with a Croatian police officer;

“One time a police officer raised his baton to hit us. I yelled that he should not do this because it is illegal to beat families and children. He got mad and wanted to hit me. His face was covered in a mask, but he wore a badge that had his name on it. “I saw your name,” I said, “and I will tell everyone, the media, the charities, that you hurt me. I think I was able to scare him because he stopped and turned to the other side.”<sup>37</sup>

## Inhumane treatment inside police vehicles

Differences in deterrence strategies used by the Croatian police officials to intimidate refugees from seeking asylum in Croatia show the systematic nature of these practices that not only violate the rights of refugees and other migrants but also put their human lives at risk. One method often mentioned in testimonies of refugees and other migrants is the confinement of larger groups of people in police vans without access to any adequate ventilation and extreme driving that makes people physically ill. Ultimately, children and unaccompanied children experience this treatment. Testimonies show that this strategy includes driving in circles around the same area to provoke disorientation, reckless and fast driving and this tactic is often used in so-called chained pushbacks.<sup>38</sup>

36 Save the Children (2020) "REKLA SAM DA JE NEZAKONITO TUĆI PORODICE I DECU". Available at: <https://nwb.savethechildren.net/bs/news/%E2%80%9Crekla-sam-da-je-nezakonito-tu%C4%87i-porodice-i-decu%E2%80%9D>

37 Save the Children (2020) "REKLA SAM DA JE NEZAKONITO TUĆI PORODICE I DECU". Available at: <https://nwb.savethechildren.net/bs/news/%E2%80%9Crekla-sam-da-je-nezakonito-tu%C4%87i-porodice-i-decu%E2%80%9D>

38 Term “chained pushbacks” describe pushbacks happening throughout the territory of two or more countries towards a third country. More explicitly, it means that country A pushed back a group or an individual to country B, who then pushed back the same group to country C etc. Oftentimes, the third country is a country which is outside of the territory of the EU.

The following testimony covers the modus operandi of chained push backs and shows the severity of inhuman treatment inside police vehicles towards children.

A group of six individuals in transit from Western Sahara were apprehended at approximately 11:00 in Novo Mesto (Slovenia) on 11<sup>th</sup> of September 2019. The group was traveling on foot when they entered a populated area of the town. The respondent asked a local man to call the police because he planned on asking the police for asylum, assuming he was following the proper procedure for seeking international protection. Six Slovenian police officers, five male authorities, and one female authority wearing blue uniforms appeared on site. The group complied with the authorities. The group was taken in a police van and brought to the Novo Mesto police station. They remained at the station for three hours.

At the station, the group was forced to sign documents without translation. One minor was present (aged 16 years old) and he was given the same documents and procedures as the five adults in the group. The respondent expressed intent for asylum. Referencing the lack of safety in his home country of Western Sahara, the respondent stated:

*“If you focus on our country you will see that there is a lot of conflicts.”*

The respondent noted the entire group's motive for seeking asylum. In the police station, the respondent spoke in English and attempted to express to the Slovenian authority that they wanted to seek international protection because of the issues they faced. The officers ordering them to sign the paperwork ignored this communication. After three

hours in the Novo Mesto police station, the group was transported to the border with Croatia.

From the border, Croatian police who had received the transfer of the group loaded them in a van with no windows and exposed them to extreme heat. The vehicle was driven recklessly and very fast, causing all members of the group to feel sick. The respondent reports that all six vomited inside the van. The vehicle brought them to a station in Croatia. Here the group was detained inside the station for four hours. They were denied water and the only toilet available was inside the detainment cell with no privacy. The cell was fitted with one bed but contained seven people. “It was like a horror movie. I have never seen something like this.”

An unspecified number of Croatian police in blue uniforms, with two police dogs, questioned the group about their ages. The youngest stated his age as 16 years and the authority responded:

*“No you were born in 2001.”*

The same male Croatian authority then used his fists and punched the minor in the face several times. The minor was processed like an adult, as was done earlier in the Slovenian station at Novo mesto. The respondent expressed intent again at the station in Croatia for asylum, but the request was denied. The group was then transported in a white police van and brought to the border. They were unloaded from the van and pushed back from Croatian territory into Bosnia (close to the town of Velika Kladuša).<sup>39</sup>

<sup>39</sup> The group included 6 individuals, among which was one 16-year old boy. Border Violence Monitoring Network (2019) “THE RESPONDENT SAID HE IS 16 YEARS OLD AND POLICE SAID ‘NO YOU WERE BORN IN 2001”. Testimony available at: <https://www.borderviolence.eu/violence-reports/september-11-2019-1100-novo-mesto-slovenia/>

## Arbitrary Detention

Throughout the past few years, the BVMN collected numerous testimonies of refugees and other migrants who were detained by Croatian police officials, oftentimes in provisional spaces without any legal basis. Since 2018, the BVMN reported on the continuous use of the so-called "Blue garage" placed in Korenica<sup>40</sup>, where refugees and other migrants were put for hours, without access to water, food, and toilet.<sup>41</sup> Inhumane treatment and arbitrary detention do not only happen in the "Blue garage" but also within facilities of different police stations across the country.



The picture shows a family sitting on the floor at the "Blue garage" in Korenica.  
Source: H-alter.hr.

40 Ivana Perić (2019) "Garaža za mučenje migranata", Halter.hr. Available at: <https://www.h-alter.org/vijesti/garaza-za-mucenje-migranata> "Torture garage for migrants", Halter.hr. Available at: <https://www.h-alter.org/vijesti/torture-garage-for-migrants>

41 Border Violence Monitoring Network (2019), ""YOU MUST NOT SPEAK. DON'T SPEAK, DON'T ASK. IF THEY ASK YOU, YOU JUST ANSWER "YES" OR "NO". IF YOU SAY SOMETHING, THEY HIT YOU." Testimony available at: <https://www.borderviolence.eu/violence-reports/april-15-2019-0000-korenica-croatia/>



The pictures show families and children detained. These pictures were leaked by a police officer who in his anonymous testimony explains the whole strategy used by the Croatian police when executing pushbacks. Source; Net.hr.

In March of 2020, Slovenian media wrote about the group of refugees found on a train coming from Serbia through Croatia. Slovenian officials stated that they transported the group back to Croatia, following the procedure of the readmission agreement. The following testimony of one of the members of that group shows how families with small children were detained for hours, without access to food and water, and later pushed back to Serbia.

After around twenty minutes of driving, the Slovenian authorities took the group to the border and delivered it back to the Croatian police, in another police station (exactly in Perkovčev ul. odv. 1, Harmica, Croatia).

Once there, they were divided by gender: the children and women were first brought out of the van and the men were brought second. The Croatian authorities took the group to another office where they were searched for another time: the police asked for their belongings: bags, mobile phones, and power banks. The group was then taken to another room where they were locked together with the 30 people that had been on the train with them originally, in other wagons.

The group and all the people were forced to leave their luggage outside the room without the possibility to take the food and the clothes they brought with them for the long travel. The room was completely empty, there were only a table and a few chairs.

All the people were forced to sleep on the floor in this empty room, with no mattresses or cots to lie on. Sometimes between 1:00 a.m. and 2:00 a.m., a policewoman entered the room and shouted: "Go sleep. No toilet". She turned off the light and locked the door. From that moment forward, no one could leave the room.

At some point, during the night, a child did not feel well but when his mother asked the police officers outside if she could go out to the bathroom, she did not receive an answer.

At this point, the respondent approached the window and, with one arm, tried to attract the attention of a policeman saying that a child was not feeling well and needed to go to the bathroom. It was only at this point that a police officer arrived and opened the door to let the mother out with her child. At this moment the respondent asked again if he could take his bag to get some water and some food but the answer of the police was:

*"No, you can't take anything, you have to leave everything here, don't touch nothing and go inside."*

The respondent obeyed the orders without objecting and accordingly for all the night they did not have access to food and water.

*"We spent all night in that room without sleeping, we couldn't breathe because of the large number of people who were there and we were all lying on the floor."*

The next morning the police entered the room and told the people inside to get ready and leave quickly in order to bring the big group back to Serbia. Then, they brought some bread to the big group and a small box of fresh cream for breakfast.

First, the police took the children and women out of the room and then the men. They divided all the people into groups and they ushered them in 3 vans.

The respondent was in the last van with the other 10 people, all men.

*"The van left very quickly and the whole trip seemed to be on a boat in a stormy sea. There was nothing to hold on to, and at every turn, I felt like I was going to fall."*

According to the respondent, the police were having fun braking abruptly and running fast with the vans all the way without ever stopping.

*"My daughter felt not well along the way and she threw up."*

At 3:30 p.m. on March 3<sup>rd</sup>, the respondent and the other people arrived at the border with Serbia where they were released from the officers. Their bags and phones were returned but the respondent did not receive his power bank back. The respondent and the group then took their luggage and walked back to Šid, following the rails.<sup>42</sup>

## Use of electric discharge weapons

Usage of electric discharge weapons to induce pain and suffering is another tactic used by the Croatian police officials. Electric discharge weapons cause severe and brutal injuries and it is extremely worrying that they are often used to intimidate and hurt refugees and other migrants, including children and unaccompanied children. In 2019, the Serbian Commissariat for Refugees accused the Croatian police officer of torturing a 16-year-old boy by ordering him to undress and step in a puddle, after which Croatian police officials used a shocker to electrocute him. The boy suffered serious injuries.<sup>43</sup> Unfortunately, his case is not an isolated case, but one of many. The

<sup>42</sup> Border Violence Monitoring Network (2020) ““WE SPENT ALL THE NIGHT IN THAT ROOM WITHOUT SLEEPING, WE COULDN’T BREATHE ...” Available at: <https://www.borderviolence.eu/violence-reports/march-3-2020-0000-harmica-croazia/>

<sup>43</sup> Zdravka Grund (2019) “Srpska Komisija optužila hrvatske policajce da su maloljetnog migranta natjerali u lokvu vode i puštali struju”. Telegram.hr. Available at: <https://www.telegram.hr/politika-kriminal/srpska-komisija-optuzila-hrvatske-policajce-da-su-maloljetnog-migranta-natjerali-u-lokvu-vode-i-pustali-struju/>

BVMN collected several testimonies that confirm the frequency of this practice.

The group of seven Afghans transited across Croatia before arriving at the Kolpa River which marks the Croatian border with Slovenia. On this day, April 6<sup>th</sup>, the group began to cross at which point four police officers in two cars, with two dogs, found two group members who were still on the Croatian side of the river.

The 18-year-old respondent's younger brother (a 15-year-old) was on the Croatian side with one other person. The police were aware that this boy was 15 years old, as they found and examined his papers from Bosnia. The respondent described that those police officers threatened to beat the 15-year-old minor if the others did not return. The respondent and his older brother swam back across the river, whereas the other three group-members had hidden from the police on the Slovenian side of the river. By the time the respondent and his older brother climbed out of the river, six more Croatian police officers had arrived in a van.

On the Croatian side of the river, the respondent described the ten officers as becoming violent with the group, including the 15-year-old. According to the respondent, they were all pushed to the ground, punched, kicked, hit with batons, and at some point administered electric shocks through a taser-like device to the group-members. The interviewee spoke in English to the officers and asked them to avoid his kidney as he has had long-term medical problems there. This resulted in the officers deliberately aiming for his kidneys while they were kicking him.

The respondent described telling the police officers that they were refugees and that they wanted to seek asylum in Croatia. The police officers continued to beat them and kept shouting "Why you come?" at the group members.

The officers accused the interviewee of being a smuggler because he could speak English, and the respondent inferred that they focused particularly on him during the violence. The respondent described that the violence lasted around five minutes, and resulted in a worsening of the interviewee's kidney problems, as well as multiple ribs broken. The others had severe bruising. After the beating, a number of the group's possessions were taken. €330 were stolen by the officers from the group, as well as their phones and chargers. Their jackets and jumpers were taken from them – the only clothes they were allowed to keep was one t-shirt, one pair of trousers and their socks and shoes. Their backpacks and the rest of their clothes were thrown into the forest.

The group was handcuffed and put in the van. Two of the group-members were wet from swimming across the Kolpa river, and now none of them had any extra clothing layers. The police officers subjected the group to extreme temperatures in the back of the van using the air conditioning system, switching regularly between extreme heating and extreme cooling for the four and a half hour journey to Zagreb.

At the police station in Zagreb, the respondent once again expressed the intention to seek asylum, saying: "I want to stay here in Croatia to seek asylum". The response from the police officer in charge of the police station was: "You cannot stay here". The respondent lodged a complaint with the police officer in charge, telling him that the group had had their phones and money stolen by the police officers who had found them. The police officer at the station responded by saying: "Do you have any more money?". The interviewee said: "No, they took everything." The police officer replied: "If you had more money, I would take it now."

At the police, the respondent described being slapped several times by police officers, again targeted because he spoke English. All four of the group were photographed at the police station. They had to write down where they come from and their parents' names.

They were detained in this station for two nights, before being collected from their cell on April 8th sometime between 3:00 and 4:00 am. They were driven in a van and followed by two cars filled with police officers. They were driven to the Bosnian-Croatian border, near Velika Kladuša. The back doors of the van were opened and there were six police officers on each side on the doors in a line (12 officers in total, plus 4 dogs). They were armed with batons. The group was pulled out of the van two at a time and chased back into Bosnia while being struck by police batons.<sup>44</sup>

<sup>44</sup> Border Violence Monitoring Network (2019) "THEY WERE ALL PUSHED TO THE GROUND, PUNCHED, KICKED, HIT WITH BATONS AND ELECTROCUTED WITH TASERS". Available at: <https://www.borderviolence.eu/violence-reports/april-6-2019-1800-in-the-forest-next-to-the-river-kolpa-on-the-croatian-side-of-the-river-kolpa-on-the-croatian-side-of-the-border-near-the-croatian-village-of-sracak/>

## Use of firearms

In 2019, on two different occasions, Croatian police officials shot two refugees, and one of them suffered life-threatening injuries. The Croatian Ministry of Interior described both events as isolated incidents which were the result of “misbehaving refugees” and slippery terrain that made the police officer trip and accidentally shoot a person. The reluctance of the Croatian Ministry of Interior to recognize their responsibility in both of these events does not come as a surprise. Examples such as the one dating from 2018, show that Croatian police openly prioritises the protection of borders over human lives. In 2018, Croatian police opened fire on a van full of people, and two small children were shot in their heads. Although Croatian police knew that the van was full of refugees and other migrants and that the driver was under the suspicion of smuggling people, they opted for the most dangerous tactic that almost resulted in two lost young lives. The frequency of these events where Croatian police officials rely on the use of firearms shows that the aforementioned cases were not isolated incidents but rather a consequence of everyday practice. Moreover, while the Ministry of Interior denies the use of weapons, hundreds of testimonies of refugees and other migrants confirm that police officers intimidate children and unaccompanied children by using weapons while threatening them to leave the territory of Croatia on an every-day basis.

Six minors aged between 14 and 17 years old, left from Bosnia-Herzegovina on March 9<sup>th</sup> into Croatia. Originating from Egypt, it was the first time that this group left from Bosnia to attempt to reach Italy.

After walking four days within the Croatian interior, on the 13rd of March, the group neared the town of Križevci (46°04'32.6"N 16°39'21.8"E HR). The group was walking along a forest path at which point six Croatian officers apprehended them. The respondents described six officers (five males and one female) wearing dark blue uniforms and ski masks. When the officers saw the group in transit walking, they shouted to them “*Sit down!*” and discharged two gunshots in the air.

Afraid, the respondents immediately stopped and sat on the ground. The policewoman called for back-up via her walkie-talkie. While waiting for the other authorities to arrive, the group was violently frisked. The personal belongings of the group were stolen (phones, power-banks) and put into a plastic bag. Their backpacks were emptied by the officers, who put the food inside into a plastic bag and then threw away the backpacks. The group was then forced to undress. Their jackets and jumpers were not returned to them. The minors only spoke Arabic and remarked at how difficult it was to understand what the authorities were saying to them.

After some time, one officially marked police van arrived to pick up the group members. They were unable to describe the officers inside the police van but recalled experiencing a rough and forceful drive within the van, which was dark, without windows, and had the air conditioning turned on. During the journey, one of the respondents vomited inside the van.

After roughly 30 minutes of driving, the young respondents were driven to a secluded section of the Croatia/Bosnia-Herzegovina border ( $45^{\circ}01'42.4''N$   $16^{\circ}20'39.5''E$  HR) near Novi Grad (BiH) where four Croatian officers were standing. Two of them wore dark blue uniforms (one male and one female) and the two others (both male) were dressed in black uniforms and ski-masks.

At the border, the respondents' mobile phones were destroyed by the authorities and before being given back. The respondents recalled that the officers were laughing at them as they did this.

The group of respondents also described seeing a fire when they arrived at the border. They inferred that some of their belongings that they did not receive back, the plastic bag the officers previously took from them, were burnt in this fire.

The group of respondents was ordered to go out of the van. The authorities shouted at them "Quick, quick, never come back, go back to Bosnia !". When the group members began to run, one of the policemen pulled a gun on the group to threaten them to be quicker. After crossing into Bosnia, the group embarked on a long walk back to Velika Kladuša.<sup>45</sup>

<sup>45</sup> Border Violence Monitoring Network (2020) "SIX MINORS BEEN PUSHED-BACK FROM CROATIA, THREATENED WITH GUNS". Available at: <https://www.borderviolence.eu/violence-reports/march-13-2020-0500-near-to-krizevci-croatia/>

## Legal Framework

Besides the fact that pushback itself can in many cases be characterized as torture as it may constitute a breach of the principle of non-refoulement - it is often accompanied by methods that solely constitute torture or inhuman treatment. All the above-reported methods, used by the Croatian authorities, could be characterized as such.<sup>46</sup>

Torture is certainly one of the most serious violations of human rights and represents a profound attack to human dignity. The prohibition of the torture and inhuman treatment has an absolute and non-derogable character and is codified in numerous universal and regional legal documents among which the Universal Declaration of Human Rights (Article 5) and the European Convention on Human Rights (Article 3) and is considered to be a part of customary international law. Croatian Constitution in Article 17 also establishes the absolute prohibition of torture, cruel or degrading treatment, or punishment.

Under its obligations as a Council of Europe member, Croatia must provide special protection of children and unaccompanied children in migration based on the Articles 3, 5, and 8 of the ECHR

In addition to its obligations under European law, as a member of the UN, Croatia must abide by the principles of the Universal Declaration of Human Rights, which, as mentioned above, expressly prohibits torture (Article 5) and entitles the child to special care and assistance (Article 25).

UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, as a more specific convention on torture, especially prescribes the protection of children from torture, degrading treatment, as well as an absolute prohibition of an arrest or detainment of a child (Article 37).

Regardless of the way a child enters the territory, the competent authorities in Croatia not only need to protect their right to life and dignity, but also human rights from the violation that can be caused by third parties, such as in the case of smuggling or human trafficking. Unfortunately, the practice at the Croatian borders shows not only that the dignity of children is not protected, but that the police treats them extremely violently, resorting to torture, and in a humiliating manner.

46 Border Violence Monitoring Network (2020) "Torture and cruel, inhumane or degrading treatment of refugees and migrants in Croatia in 2019. Available at: <https://www.borderviolence.eu/wp-content/uploads/CORRECTEDTortureReport.pdf>

In its case-law European Court of Human Rights regards as inhumane treatment, for example, violence during arrest or detention, serious medical negligence during detention, infliction of mental pain. Furthermore, acting or punishing can be considered degrading if it tends to humiliate an individual in front of others or leads to acts that are contrary to his or her will or conscience.

As seen throughout this report, pushbacks have become a horrifying practice of Croatian authorities used against refugees and other migrants and applied to these groups widely regardless of their age. Furthermore, these unlawful practices are in many cases followed by extreme violence and torture which can lead to deterioration of one's health or even to death. All of this is highly dangerous even for the strongest adults, so it is especially destructive when faced by a vulnerable child and/or unaccompanied child. Therefore, the cruel methods and practices are not only in breach of rights proclaimed by international, European and national laws but also have long-term negative consequences on children's mental and physical health and development, as the following chapter of this report will show.

## Effects of traumatic experiences on children and unaccompanied children in migration

Victims and witnesses of traumatic experiences have faced the real possibility of losing their lives or their health or being hurt. Our physical and psychological well-being are put in danger by a sudden dangerous event that is out of our control. Such events are usually rare in an average person's life, but they occur regularly (car accidents, fires, earthquakes, armed robberies, family and partner violence...). They can all be so dangerous and sudden that they overwhelm a person with a feeling of complete helplessness. Everyone who goes through a traumatic experience will be affected in the first few weeks up to the first several months. The reactions they go through will be specific for each person, but also a normal reaction to an experience that is not a normal part of their usual experience. After regaining safety, most of the victims will recover with the support of their close persons and with the help of the community. Only part of the affected will develop mental health problems from which it is also possible to recover. The recovery of affected people will be much more difficult when the traumatic experience was done on purpose by another person. When another human being tries to harm us, this challenges our basic beliefs that make us feel safe in the world. This change in the view of the world and of us as valuable (and therefore, safe) individuals make the recovery much more difficult because it makes regaining a sense of safety much more difficult. Children who flee their homes because of the danger or any other reason could be traumatized by this. The humanitarian neglect and dangers they face, in their transit, present a source of more traumatization, all done with intent by other human beings. The human trafficking, survival sex they are forced to do, the level of abuse, inhuman conditions they are exposed to, are all additional traumatic experiences with the additional risk factor of not being accidents, but the harm done by other humans. In this text, when we mention the humanitarian-political crisis we talk about millions of people leaving their homes (mostly from the Middle East, Africa, and Asia countries) and going through the horror of travelling as "irregular" people to what they perceive as safe destinations. In this text, we don't distinguish refugees and other migrants who have fled e.g. because of hunger - they are all running away from lives in which their basic human rights are not met.

## Identity and children

International protection regulations have changed so much in practice (not so much in writing) which led to many people having been denied the right to receive international protection, or even to seek it. People and families who migrate found themselves living in transit (very often in camps), moving between different places in Europe and neighbouring countries, trying to find a place to settle. They were forced to leave their homes and many important columns of their identity. So now, except for safety, security and a home, they seek something they can identify with: a community they will belong to, a profession, employment, a school for their children, a place they can practice their religion because this all was left in their homeland. Without settling anywhere for long period of time, many can only identify with being refugees, migrants, unwanted, rejected, a social problem, traumatized... Adult identities have already been formed and now they will re-form/adapt what they know about themselves. However, many refugee and other migrant children are now in the developmental phase of forming their identities, so what they and their families are going through and how they are treated will be a big part of their identity-forming process. Refugee/migrant life/ life in transit will be the predominant experience they have of themselves and their families. So, being uprooted and fleeing is not just about traumatization, it is about tearing apart and (re)building identities (both of those arriving to receiving communities and of those communities which receive new members). The identity for refugees and other migrants is torn between being victims of a perceived-as-hypocrite system (not seeing the helplessness or inefficiency of the same system), being unwanted in the communities they wanted to fit into, dealing with loss, and grieving and being extremely helpless and without autonomy. How else do you cope with this except for complying with the view that you are a less valuable human being? The other option usually is building a defense mechanism; Who needs them (the people me and my family wanted to fit in with)? They victimized my family and me, my anger/rage/irregular way of life is justified since the regular way of life is not attainable to me." How can we then talk about the integration of children in the long run?

The current humanitarian-political crisis has presented a long list of risk-factors for families being uprooted from their communities. Risk factors concerning mental health, functioning of the individual, and of the family system and personal well-being. Except for

contributing to the overall well-being of a person, protection of these is a basic human right. Here, these are not protected but even violated in multiple ways. This all presents a high risk for the development of refugee children. Violence against people on the borders, denying the right to ask international protection, young boys having to translate their mothers' gynecological exams because there are no interpreters within the health system, children having to attend schools in a language they don't understand, or being denied the possibility to attend schools at all, living in camps with a huge incidence of sexual violence where women and young girls wear diapers to avoid going to the bathroom in the night are all situations that refugee and other migrant children see and "take very personally" i.e. they form their identity and view of life and other people based on these experiences.

### Post-traumatic stress and children

Post-traumatic stress will interfere with both the adults' (parents and guardians') and the child's daily life and ability to function and interact with others. At no age are children immune to the effects of traumatic experiences. Even infants and toddlers can experience traumatic stress.<sup>47</sup> Exposure to traumatic events can cause many symptoms in children of all ages, like emotional symptoms (anger, irritability, fear), cognitive symptoms (lack of concentration, reduced memory capacity), behavioral symptoms (lack of desire to play with others, social isolation, behave in risky ways) and physical symptoms (intense non localized pain, difficulty sleeping and eating). "The impact of exposure to traumatic events on children may be different depending on the child's age and stage of development but prevailing reactions on trauma for every child are unwanted reliving, emotional avoidance, and arousal. The reliving of events is reflected in traumatic play and patterns of behavior, imposing thoughts, images, sounds or smells, traumatic dreams, and psychological response to reminders. Avoidance or psychological numbness refers to children beginning to avoid certain thoughts, locations, specific phenomena, people, and behaviors that remind them of traumatic an event. Increased arousal, in turn, includes sleep disorders, irritability, anger, difficulty concentrating, and others."<sup>48</sup>

47 More information on the traumatic stress and its impact on children is available here: <https://www.nctsn.org/what-is-child-trauma/about-child-trauma>

48 Bruna Profaca, Lidija Arambašić (2009) "Traumatski događaji i trauma kod djece i mladih", Klinička psihologija 2 (2009), p. 1-2, 53-74

Repeated childhood exposure to traumatic events can affect the brain and nervous system and increase health-risk behaviors if post-traumatic recovery is not supported. Child trauma survivors can be more likely to have long-term health problems or to die at an earlier age. Traumatic stress can also lead to increased use of health and mental health services and increased involvement with the child welfare and juvenile justice systems.

Adjustment of the personality to the trauma as a result of human rights violations is a complex process with different possible outcomes. One of the things that people recovering from trauma have in common is a long-term difficulty in overcoming the fact that it was possible that there was a time in their life when they were so utterly helpless in protecting themselves and their families.

"Psychological trauma is an affliction of the powerless. At the moment of trauma, the victim is rendered helpless by overwhelming force. When the force is that of nature, we speak of disasters. When the force is that of other human beings, we speak of atrocities. Traumatic events overwhelm the ordinary systems of care that give people a sense of control, connection, and meaning...Traumatic events are extraordinary, not because they occur rarely, but rather because they overwhelm the ordinary human adaptations to life. [...] They confront human beings with the extremities of helplessness and terror, and evoke the responses of catastrophe."<sup>49</sup>

### Trauma in the family

Here, it is important to remember that trauma is not individual, but also collective (whole communities have been uprooted and cultural heritage destroyed). Families have lost their stability, livelihood, heritage, each member's trauma is experienced by other members, along with their own trauma. Children will want to protect their parents from their traumatic events and will feel overwhelmingly helpless in this effort. Through their identity-forming process, they will identify with their parents' grieving process, with their post-traumatic narrative of how life used to look like for their family and what happened to them, they will identify with (the perception of) being victims and being less valuable than other human beings. Self-esteem will have a significant impact on how the person then participates in his/her local community. If I feel I am less worthy, then I will not try to contribute because I don't think I can do it. I

49 Herman, Judith Lewis (1997): Trauma and Recovery: The Aftermath of Violence - from Domestic Abuse to Political Terror, Ingram Publisher Services US.

will identify with other people who are feeling less valuable, less competent, and will find satisfaction in being connected to people similar to me. In identity theory, the verification of different bases of identities is linked to different self-esteem outcomes.<sup>50</sup> The verification of social/group identities provides a general sense of being found worthy and valuable, the verification of role identities provides a sense of efficacy or competency, and the verification of person identities generates the feeling that one is being one's true self.

For unaccompanied children who have had to leave their homes, families, and go through the dangerous journey by themselves or with peers, the pressure on identity and self-esteem is even harder. They are under pressure to find a way to provide for the basic conditions for their families left in their homeland. They are forced to live a much more adult life, compared to their developmental level.

Children travelling with their families will have to watch the stripping of the human dignity of their parents and will be more focused on protecting them than themselves, they will try to keep them from harm. If they don't succeed, smaller children will often find an explanation that makes them feel more in control of the situation, in other words, they will think it is somehow their fault for what happened. If they had behaved better, if they were more careful where they were walking during attempts to cross over the border, if they had applied more in the e.g. Austrian school, they wouldn't have been deported to Croatia and so on. They will grow up with feelings of guilt which is easier to cope with than already mentioned helplessness.

While in transit, families have proven hard to reach for providing psychosocial support that would help in preserving resilience needed until they reach safety. Their high mobility combined with mistrust towards strangers, usually needed for survival in transit conditions makes it difficult to provide traditional forms of psychosocial support that require establishing a relationship of trust, conditions for providing support and time for the process of counseling. Therefore, short psychoeducational interventions are needed to help families during transit. As an example of such interventions, here we provide a link to the storybooks about traumatic stress for youth.

50 Peter Burke, Jan E. Stets (2014) "Self-Esteem and Identities" Sociological Perspectives 2014, Vol. 57(4) p. 409–433

These storybooks are an open-source material, available for online reading, downloading, or printing to anybody interested. They can be used by children themselves, but also by their family members, helping professionals or volunteers working with refugee and other migrant children. They provide stories with which children can identify with, they explain traumatic stress in a language adapted to their age and ideas for coping with traumatic stress.<sup>51</sup>

Most of the persons affected by traumatic events recover because of their resilience. "Relatively few individuals go on to develop chronic psychopathology following exposure to a traumatic event. PTSD is typically observed in 5% to 10% of exposed individuals."<sup>52</sup> In other words, 90 to 95% of affected persons can recover with the help of natural social support systems. For children these are parental and family support, peer support (especially for the adolescents), schools, a well-established daily routine, predictability, and safety. Unfortunately for refugee and other migrant children, this is a luxury. Unsafe travel situations, traumatized parents with reduced capacity for support, the losses they face along the way, the long wait for asylum, the long process of integration with a society, rejections in the local community, exposure to violence are factors that not only help not recover from trauma but complicate it further.

### A look into the future

Communities, in which these children settle in, will expect them to forget about the monstrosities they went through<sup>53</sup>, for which the countries they managed to penetrate, often share the responsibility. It will be too terrible for those communities who were witnesses to the severe basic human rights violations, to remember them, and on the other side, it will also be too unbearable for the victims not to talk about them. This might make them even more different/dissociated from those communities, building up to already set cultural differences. All communities receiving families and unaccompanied minors need to face what refugees and other migrants have gone through and make sure to set mechanisms that will facilitate recovery from traumatic experiences through talking about the traumatic experiences and human rights violations

51 Psycho-educational Booklet-Series by the NOW Working Group Trauma Surviving are available here: <https://www.act-n-o-w.com/trauma-support/booklets/>

52 George Bonanno, Maren Westphal, Antonio Mancini (2011) "Resilience to Loss and Potential Trauma", Annual Review of Clinical Psychology, Vol. 7. p. 511-535.

53 Herman, Judith Lewis (1997): Trauma and Recovery: The Aftermath of Violence - from Domestic Abuse to Political Terror, Ingram Publisher Services US.

in safe spaces. They also need to plan their integration efforts taking into account the distinction between tolerating differences between people (as something challenging that they cope with) and celebrating, appreciating differences as an opportunity for growth through the exchange of different experiences for the whole community. Local communities can organise activities that connect local people and newcomers, that enable sharing of different cultures and experiences and that are based on multicultural values. These will help the recovery from trauma for children and families, they are crucial in the prevention of mental health issues and social exclusion. Storytelling groups where people can come and exchange stories about their culture and experiences, space for art where people can express themselves, training of trauma-informed care in social services, schools, health services and for interpreters, providing the local community with an understanding of transcultural communication are good examples that facilitate trauma recovery.

## Demands towards Croatia and the EU

Our wish for the future is that reports as this one are non-existent because there are no cases to report on.

The only way to prevent these practices and to protect children, women, men, and families from such cruelty and violations is that the Croatian Ministry of Interior complies with their current legal obligations and acts according to their alleged role of protection in a reliable manner.

To ensure this, the Croatian authorities must:

- 1** IMMEDIATELY end violence and illegal behaviors towards refugees and other migrants
- 2** Carry out an independent and thorough investigation into the illegal and violent pushbacks, hold accountable and sanction all those responsible
- 3** Establish reliable and effective complaint mechanisms - to ensure that the right of police officials to report illegal orders is respected
- 4** Offer a support mechanism and a system of recognition for police officers who behave in accordance with the law and reject executing illegal orders
- 5** Develop and sustain support trauma-sensitive and informed programme for children that are victims of pushbacks and violence
- 6** Ensure that the work of Ombudsperson office and NPMs is put in place without limitation and restrictions to her area of intervention

To ensure the protection of human rights, children's rights, refugee rights, and implementation of international and EU law on its external border, in Croatia, the European Union must:

- 1** Reform Common European Asylum System (CEAS) based on solidarity, to adequately respond to the real needs of refugees, sharing responsibility among the Member States and ensuring the equal level of protection throughout the EU
- 2** Insist that Croatia respects fundamental rights at its borders as a precondition to enter Schengen area
- 3** Evacuate children living in deplorable conditions, in and outside the camps on the fringes of the EU. Only in Bosnia and Herzegovina several hundreds of children without parental care live in abandoned buildings and factories, on streets. Stuck on the doorstep of EU they suffer from hunger, violence, and exploitation
- 4** Immediately end harmful cooperation with countries outside the European Union, which endanger the lives, security and human rights of refugees and other migrants - such as Afghanistan, Libya, and Turkey
- 5** Demonstrate solidarity with the countries on the Balkan Route (BiH, Serbia, Macedonia) and evacuate people who are stranded in deplorable camps
- 6** Provide and ensure respect of safe and legal routes for refugees in need of international protection

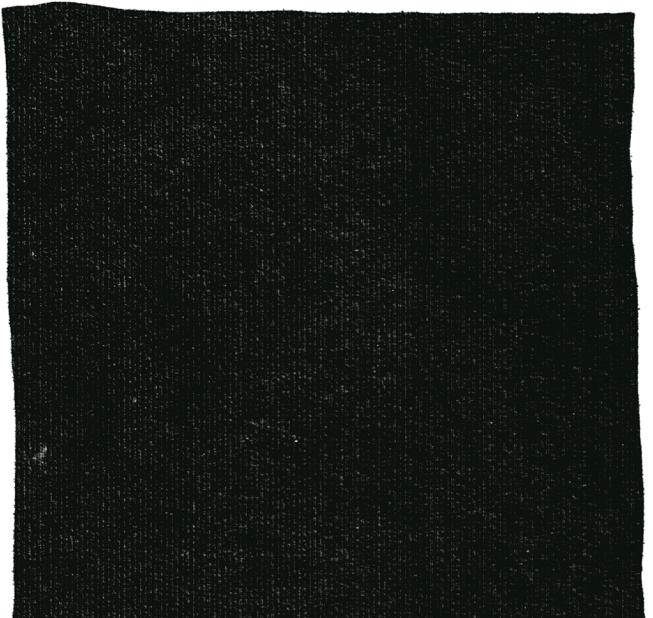
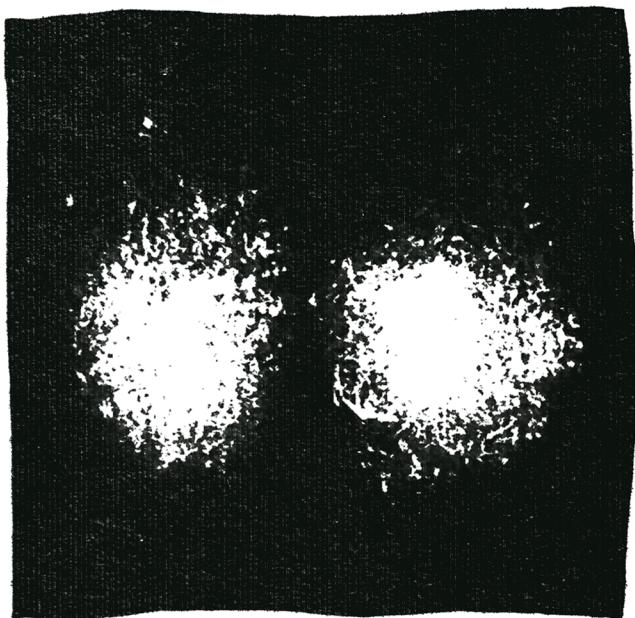
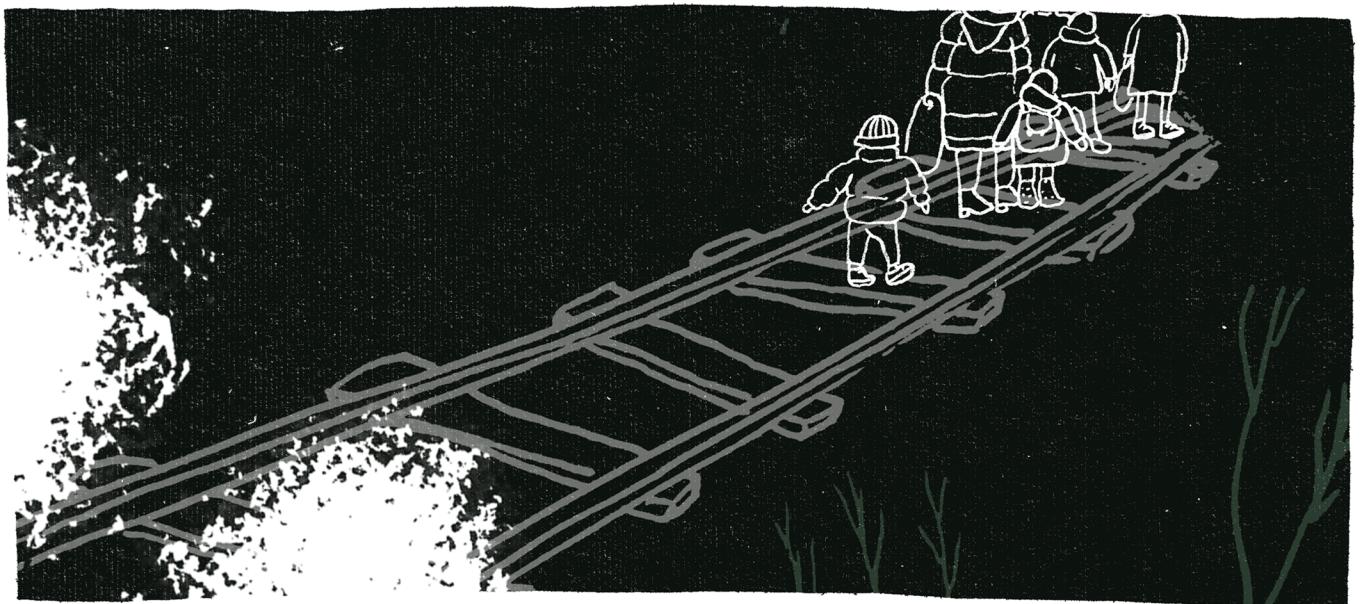


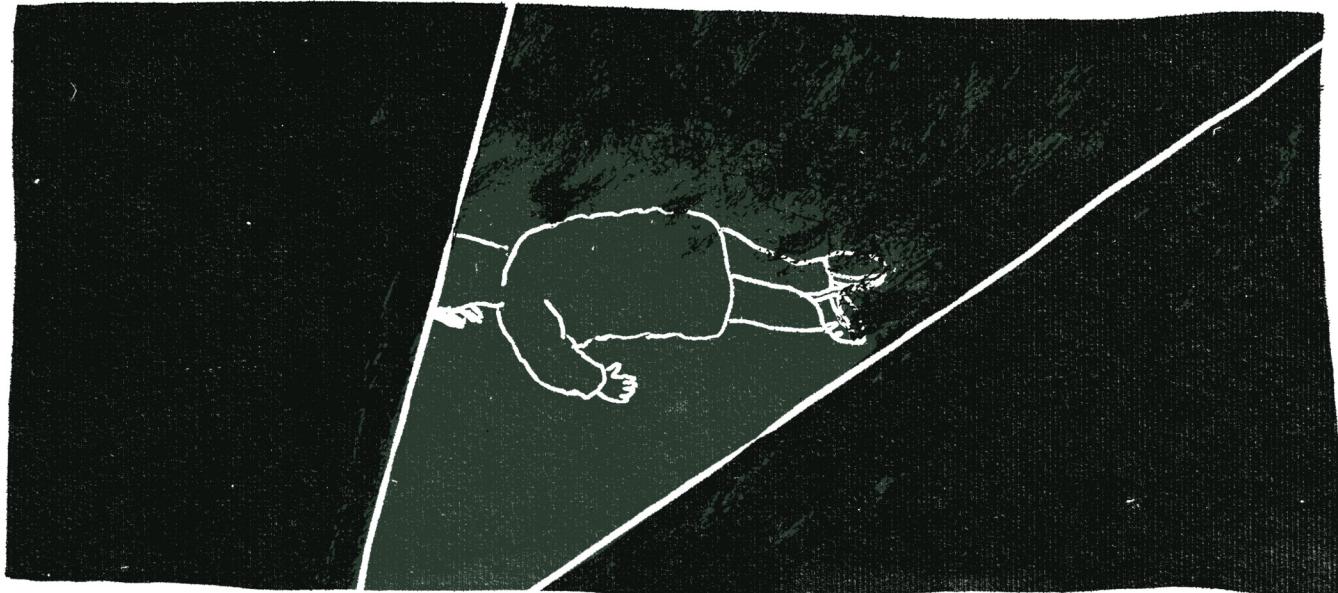
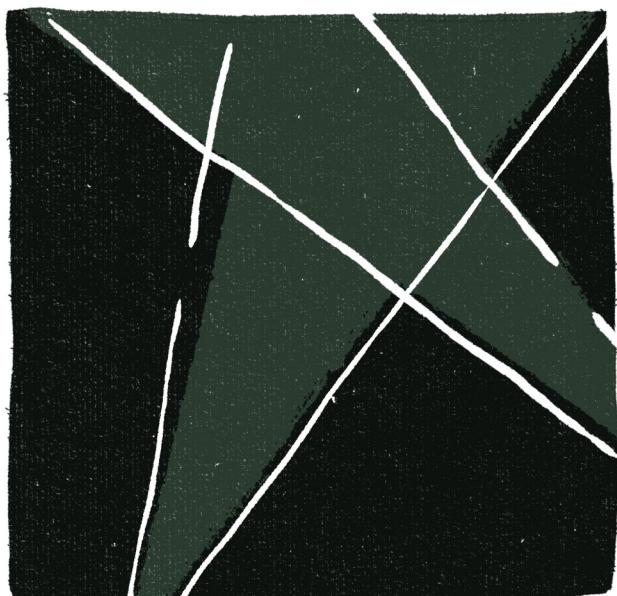
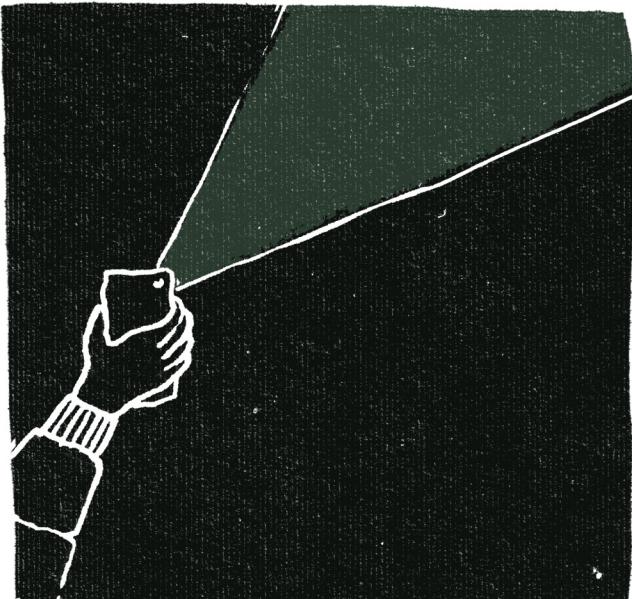
# Comic Book: Madina

# Madina









Six-year-old Madina Husiny, originally from Afghanistan, was killed on the night of November 21st, 2017 because Croatia refused to give her refuge. Her mother said the family entered Croatia and asked for an asylum, but the police ignored their request and made them go back to Serbia. The police had taken them, like so many others, to the railroad tracks at the border. In the middle of the night, they were forced to leave Croatia, tired, on foot.

Not long afterwards, a train came along that killed Madina.

Ena Jurov  
2020.

