



**SYSTEMATIC**



**HUMAN RIGHTS**



**VIOLATIONS**



**AT CROATIAN**



**BORDERS**



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# Introduction: Systematic and violent pushbacks from Croatian territory since 2016

- 1 AYS, CMS: 5TH REPORT ON PUSHBACKS AND VIOLENCE FROM THE REPUBLIC OF CROATIA: ILLEGAL PRACTICES AND SYSTEMIC HUMAN RIGHTS VIOLATIONS AT EU BORDERS, April 2019, 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);
- 2 <https://www.hrw.org/news/2018/12/11/croatia-migrants-pushed-back-bosnia-and-herzegovina>  
<https://www.amnesty.org/en/documents/euro05/9964/2019/en/>  
<https://www.msf.org/sites/default/files/serbia-games-of-violence-3.10.17.pdf>  
<https://www.borderviolence.eu/wp-content/uploads/CORRECTEDTortureReport.pdf>
- 3 Republic of Croatia, Ombudsperson's Office, Activity reports, available at: <https://www.ombudsman.hr/hr/izvjesca-puckog-pravo-braniteljja>
- 4 Council of Europe, Report to the Croatian Government on the visit to Croatia carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 10 to 14 August 2020, published on 3 December 2021, available at: <https://www.coe.int/en/web/cpt/-/council-of-europe-anti-torture-committee-publishes-report-on-its-2020-ad-hoc-visit-to-croatia>
- 5 Council of Europe, letter of the Commissioner for Human Rights: <https://rm.coe.int/0900016808d7db3>
- 6 UN, OHCHR: End of visit statement of the UN Special Rapporteur on the human rights of migrants, Felipe González Morales, October 2019, available at: <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25088&LangID=E>
- 7 <https://danas.hr/potruga/video-potruga-u-posjedu-ekskluzivnih-snimki-izivljavaju-se-na-migrantima-mlate-lh-palicama-i-tjeraju-iz-hrvatske-d278725a-b9f4-11ec-85d9-0242ac120064>  
<https://www.theguardian.com/global-development/2020/oct/21/croatian-police-accused-of-sickening-assaults-on-migrants-on-balkans-trail-bosnia>  
<https://www.spiegel.de/ausland/fluechtlinge-wie-eine-schattenarmee-an-europas-grenzen-menschen-misshandelt-a-131dc319-36e8-4204-8e57-7dco4b1d68f3>
- 8 <https://net.hr/danas/hrvatska/zastra-sujuca-devijacija-akcije-koridor-policija-sve-dogovara-na-whatsappu-a-poseban-zadatak-u-hvatanju-migranata-imaju-tak-sisti-ed34cc9e-b1c4-11eb-b01c-0242ac140013>

All the extensive evidence gathered in the past six years points in the same direction – major deliberate collective expulsions (pushbacks) accompanied by violence and ill-treatment at the EU's external borders in Croatia are a systematic practice.

Numerous reports from civil society organisations (national<sup>1</sup> and international<sup>2</sup>), Croatian independent institutions for the protection of human rights such as the Ombudsperson's Office<sup>3</sup>, but also international institutions such as the Council of Europe's European Committee for the Prevention of Torture<sup>4</sup>, the Council of Europe's Commissioner for Human Rights<sup>5</sup>, the UN's Special Rapporteur on the human rights of migrants<sup>6</sup>, as well as reports and video footage of domestic and foreign media<sup>7</sup>, and testimonies of people on the move and even police officers<sup>8</sup> prove that pushbacks in Croatia are a systematic, widespread and often brutal practice.

This report presents an overview of the ongoing efforts undertaken by numerous NGOs and investigative journalists to document and legally pursue human rights violations, with one case presented in detail below. The relentless work has led to an undeniable confirmation of the described extent and manner in which violent and unlawful refoulement is taking place at the Croatian EU external border. Still, at present, there have been no consequences for the ongoing human rights violations in Croatia at national or EU level. Instead, in December 2022, Croatia's accession to the Schengen area is imminent – a political process that is also seen as the EU's "award" to Croatia for consistently closing its borders.

## 2017 tragic “Madina case” and the ECHR ruling

Civil society organisations and activists started documenting pushbacks from Croatian territory at the end of 2016. In 2017 one of the most tragic pushbacks took place, where a six-year-old girl was hit by a train after the Croatian police collectively expelled her, her mother and her five siblings, ignoring their request for asylum and ordering them to follow the railway back to Serbia in the middle of the night. Little Madina Hussiny was hit by a train, which makes her death a direct consequence of illegal conduct of police officers. Instead of taking steps to investigate the human rights violation, Croatian authorities started intimidating organisations and activists providing support to the family, including Centre for Peace Studies. They also tried to prevent contact with the family and initiated criminal proceedings against the family’s lawyer, Sanja Bezbradica Jelavić. Four years after the death of Madina Hussiny, the European Court of Human Rights concluded that Croatia violated five human rights guaranteed under the Convention. Namely, Croatia collectively expelled part of the family from the Croatian territory, violated Madina's right to life by not carrying out an effective investigation into her death, treated children inhumanely by keeping them in detention, illegally deprived the whole family of their liberty, and ultimately prevented their access to a lawyer. Therefore, the European Court of Human Rights recognised Madina Hussiny and her family as victims of a pushback and the facts of the case demonstrated the involvement of several state bodies which failed in their task to safeguard the rule of law.

# Escalation of violence in 2020 and 2021

9 Danish Refugee Council, Border Monitoring Factsheet, December 2021, available at: [https://drc.ngo/media/gounjyvr/2021\\_12\\_drc\\_bih\\_border-monitoring-factsheet.pdf](https://drc.ngo/media/gounjyvr/2021_12_drc_bih_border-monitoring-factsheet.pdf)

10 Border Violence Monitoring Network, Monthly Report Archives, available at: <https://www.borderviolence.eu/category/monthly-report/>

The years 2020 and 2021 were marked by an escalation of violence and inhumane treatment of people on the move on Croatian borders and within its territory. In these two years, Croatian police officers tortured, humiliated and illegally pushed back thousands of refugees from Croatian territory.

The most brutal cases of torture and inhumane and degrading treatment included marking refugees with an orange spray over their scalps, rubbing mayonnaise, ketchup and sugar in the wounds policemen previously inflicted, tying refugees to trees, and inflicting them with bodily injuries, material damage, suffering and mental trauma, hitting people's heads against the door of a police vehicle and shooting at them, using whips and whip-like objects for torture, as well as robbing them of all their possessions – in many cases including clothes and shoes. Police brutality peaked by the end of 2020, when Croatian police officers not only tortured but also humiliated and illegally pushed back people on the move and even raped one person, the case which will be examined in detail later in this report. The Danish Refugee Council in Bosnia and Herzegovina (BiH) solely recorded more than 16,400 cases of pushbacks, among which 1,232 children, with more than 1,200 of these cases being chain pushbacks through Croatia from other EU countries in the course of 2020 alone.

Lack of response by competent institutions and lack of independent investigations allowed for these practices to continue in 2021. In 2021, victims of these brutal practices included families, and police misconduct involved a pushback of a four-month pregnant woman and her four children.

In 2021, the Danish Refugee Council recorded a total of 9,114<sup>9</sup> cases of pushbacks from Croatia to BiH, while the Border Violence Monitoring Network reported 2,279 persons pushed back from Croatia to BiH and 159 from Croatia to Serbia, with 367 persons expelled in chain pushbacks through Croatia to BiH, and 27 through Croatia to Serbia.<sup>10</sup>

A total of 68 international protection statuses were granted in Croatia in 2021, which include persons who were evacuated from Afghanistan. Considering that only nine international protection statuses were granted by the end of June 2021, it can be concluded that most of the approved requests for international protection refer to evacuated individuals.<sup>11</sup> The figures demonstrated that the right to access the asylum system has become one of the most endangered human rights in the EU, Croatia included.

	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Total
<b>2020</b>	754	1,765	396	1,641	1,361	1,646	1,761	1,622	1,661	1,934	1,128	756	<b>16,425</b>
<b>2021</b>	213	334	513	697	859	1,290	769	1,245	1,283	925	662	324	<b>9,114</b>

<sup>11</sup> Human Rights House Zagreb, Human Rights in Croatia: Overview of 2021, page 123, para 356 and 357, available at: [https://www.kucaljudskihprava.hr/wp-content/uploads/2022/07/KLJP\\_Gl2021-EN\\_Online.pdf](https://www.kucaljudskihprava.hr/wp-content/uploads/2022/07/KLJP_Gl2021-EN_Online.pdf)

<sup>12</sup> [https://www.spiegel.de/ausland/kroatien-videos-dokumentieren-systematische-pushbacks-a-4463a93d-0467-4960-814a-6d959e1df193?fbclid=IwAR2e9Ks-FirPtnTs4i\\_6A7B-xbwsfx3j-xiesUdhpXOH-2kQ2FXjoXlh-3Yrw](https://www.spiegel.de/ausland/kroatien-videos-dokumentieren-systematische-pushbacks-a-4463a93d-0467-4960-814a-6d959e1df193?fbclid=IwAR2e9Ks-FirPtnTs4i_6A7B-xbwsfx3j-xiesUdhpXOH-2kQ2FXjoXlh-3Yrw)

<sup>13</sup> <https://lupiga.com/vijesti/njemacki-medi-ji-imaju-snimke-hrvatska-policija-protjeruje-bebe-trudnice-i-djecu-s-invaliditetom>

<sup>14</sup> <https://www.rtl.hr/vijesti/potruga/mjestani-u-karlovackoj-zupaniji-skrivali-iranku-s-dvoje-djece-koja-tvrdi-da-ih-je-policija-22-puta-iz-bacila-iz-zemlje-potruga-donosi-njihovu-pricu-9543469e-b9f4-11ec-bd01-0242ac120015>

In June 2021, a team of journalists consisting of ARD Wien/ Südosteuropa, Lighthouse Reports, SRF Schweizer Radio und Fernsehen, DER SPIEGEL and Novosti recorded<sup>12</sup> a total of six illegal collective pushbacks involving approximately 65 people, including around 20 children. Their reports also included interviews<sup>13</sup> with families that were pushed back – fathers, pregnant women, children, elderly and disabled persons, who all confirm that they had been denied access to asylum and to medical assistance. Journalists from RTL show ‘Potraga’ filmed<sup>14</sup> an Iranian family requesting asylum. Their story is one of many – they tried to enter Croatia and request asylum 22 times, and they were expelled from the country each and every time. “We’ll always remember what the police did to us. Can you imagine a seven-year-old girl telling her brother and mother that they should all jump off a mountain and end their lives”, a 14-year-old boy told the journalists.

## “Men in black”: special police force notorious for its brutality

<sup>15</sup> Border Violence Monitoring Network, *Launch Event: The Black Book of Pushbacks*, published on 18 December 2020, available at: <https://www.borderviolence.eu/launch-event-the-black-book-of-pushbacks/>

<sup>16</sup> Article containing the testimony of an anonymous police officer, available in Croatian: <https://net.hr/danas/hrvatska/zastrasujuca-devijacija-akcije-koridor-polici-ja-sve-dogovara-na-whatsappu-a-poseban-zadatak-u-hvatanju-migranata-imaju-tak-sisti-ed34cc9e-b1c4-11eb-b01c-0242ac140013>

What almost all testimonies by tortured, humiliated and illegally pushed back people on the move have in common is the description of persons who mistreated them. Namely, the majority of victims of human rights violations in 2019, 2020 and 2021, and a great majority of victims whose testimonies were published in the *Black Book on Pushbacks*<sup>15</sup>, the biggest collection of testimonies about violent pushbacks across the external borders of the EU, refer to police officers in **unmarked black uniforms with balaclavas on their heads**.

For years, activists assumed that these were the officers of a unit called “Koridor”, described in 2019 as a special police unit by a policeman whistle-blower who revealed how the pushbacks from the Croatian territory are being ordered and carried out.<sup>16</sup> In the interview, the policeman shared some important points regarding violence, trends and timeline that correspond to other evidence about pushbacks. Namely, the policeman revealed that the so-called “Koridor” operation was formed in 2017 with an aim to prevent irregular migration, without its own memorandum or formal command hierarchy, and that it is organised according to the principle of operational groups. With the route changing, Koridor operation focused exclusively on “capturing” – both smugglers and people on the move. The policeman also stated that the recruited officers are very often “persons who have a reputation for being aggressive, problematic, but also those who come through connections or acquaintances”. The policeman further explained that the unit works “in civilian clothes, in civilian vehicles not equipped with adequate systems for stopping other vehicles, which they do at their own discretion, mostly larger cars and vans.” He added that the communication goes through their private “WhatsApp and Viber groups”, and that they operate throughout the Croatian territory, which means they move as a real mobile unit. Finally, the policeman said he believes “it is already clear within the system that whenever they come to a certain area, soon there is information about police shootings, robbery, beating...”.

Although the Ministry of the Interior (Mol) dismissed all the tes-

<sup>17</sup> Border Violence Monitoring Network, Re-constructing a Violent Pushback of Asylum Seekers from Croatia to BiH | BVMN Border Investigations, published on 18 November 2020, available at: <https://www.youtube.com/watch?v=rtEDbuDbqzU>

<sup>18</sup> <https://www.spiegel.de/ausland/kroatien-vid-eos-dokumentieren-systematische-pushbacks-a-4463a93d-0467-4960-814a-6d959e1df193>

<sup>19</sup> CoE, Report to the Croatian Government on the visit to Croatia carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 10 to 14 August 2020, available at: <https://rm.coe.int/1680a4c199>

timonies, clear proof was presented to them and to the public, to which it was hard or almost impossible to turn a blind eye. In 2020, the Border Violence Monitoring Network published a video analysis showing the act of illegal and violent pushback conducted by Croatian police officers in standard uniforms, but also police officers in black uniforms with balaclavas on their heads.<sup>17</sup> Minister of the Interior once again dismissed the allegations without conducting an adequate investigation, arguing that the presented footage was not real evidence. However, this was just the tip of the iceberg.

In 2021, Lighthouse Reports journalists played a vital role in protecting the rights of people on the move. Evidence they gathered saved human lives at the borders and made important strides towards holding accountable those ordering and carrying out illegal pushbacks.<sup>18</sup> Lighthouse Reports videos captured the perpetrators and corroborated descriptions compiled in the above-mentioned Black Book of Pushbacks a year before. Along with policemen in official uniforms, “men in black uniforms, with balaclavas on their heads without any symbols” started appearing as perpetrators in 2019, while such perpetrators are mentioned in over 200 cases described in the Black Book of Pushbacks. The footage once again confirms credibility of the victims’ testimonies, which described what the public saw in the media, years ago.

The European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) conducted a mission to Croatia from 10 to 14 August 2020 to investigate torture related to pushbacks from Croatian territory specifically. Several cases of pushbacks investigated and reported by CPT mention officers in black uniforms with balaclavas on their heads as perpetrators. The CPT Report concluded: “The allegations of severe physical ill-treatment and other abuses inflicted by police officers on intercepted migrants in the remit of the “Koridor” operation must be addressed immediately. The delegation’s forensic medical findings include, in many instances, injuries indisputably compatible with police ill-treatment, such as characteristic “tram-line” hematomas to the back of the body, which could only have been sustained as a result of the infliction of truncheon/stick blows. Further, other aspects of the treatment of migrants such as their transportation in cramped and unsafe conditions, ignoring their asylum requests and denying them access to the fundamental safeguards to which they are legally entitled, are practices that have no place in a State that respects its human rights commitments and abides by the rule of law.”<sup>19</sup>



<sup>20</sup> <https://www.theguardian.com/global-development/2020/oct/21/croatian-police-accused-of-sickening-assaults-on-migrants-on-balkans-trail-bosnia>

Moreover, three criminal complaints filed by Centre for Peace Studies in 2020 involved perpetrators dressed in the same way, whom the victims described as heavily armed and extremely brutal, including the case that will be described in more detail below. No perpetrators have yet been identified in any of these cases.

It is important to note that the Danish Refugee Council documented a series of very brutal pushbacks on the Bosnian-Croatian border in the period from 12 to 16 October 2020. Charlotte Slente, DRC Secretary General, said that “more than 75 persons in one week have all independently reported inhumane treatment, savage beatings and even sexual abuse.”<sup>20</sup>

Centre for Peace Studies, PRO ASYL, Dutch Council for Refugees and European Centre for Constitutional and Human Rights provide support for one of these cases in the form of legal representation of the victims by lawyer Lidija Horvat. This particular case embodies many of the brutalities and human rights violations faced by refugees and other victims in Croatia: from extremely violent pushbacks and torture, to attacks by “men in black” and finally an ineffective pre-investigation that has been ongoing for almost two years, being far from prompt.

# Short history of the Independent Monitoring Mechanism (IMM)

**21** European Commission, Managing Migration EU Financial Support to Croatia, published in January 2021, available at: [https://ec.europa.eu/home-affairs/system/files/2021-01/202101\\_managing-migration-eu-financial-support-to-croatia\\_en.pdf](https://ec.europa.eu/home-affairs/system/files/2021-01/202101_managing-migration-eu-financial-support-to-croatia_en.pdf)

**22** European Commission, Commission awards additional 305 million to Member States under pressure, 20 December 2018, available at: [https://ec.europa.eu/commission/press-corner/detail/en/IP\\_18\\_6884](https://ec.europa.eu/commission/press-corner/detail/en/IP_18_6884)

**23** <https://foreignpolicy.com/2019/12/06/croatia-is-abusing-migrants-while-the-eu-turns-a-blind-eye/>

In addition to unlawfulness of police actions and violence, what is particularly worrying is the absence of independent and effective investigation into all circumstances, evidence and witnesses of claims of illegal actions within a reasonable time.

Since 2015 Croatia has received 163.13 million EUR of EU support for “managing migration”.<sup>21</sup> In December 2018, the European Commission awarded Croatia with 6.8 million EUR to help reinforce border management at EU's external borders by covering operational costs of ten border police stations providing for daily allowances, over-time compensation and equipment. In a press release announcing this emergency assistance (EMAS) to Croatia, the Commission explicitly referenced the establishment of a monitoring mechanism “to ensure that all measures applied at the EU external borders are proportionate and in full compliance with fundamental rights and EU asylum laws.”<sup>22</sup> According to European Commission sources, a sum of 300,000 EUR was earmarked for the mechanism, but they could not assess its performance before Croatia's report due in early 2020.<sup>23</sup> The Ministry of the Interior and the European Commission claimed that the monitoring is jointly conducted by the Ministry of the Interior, Croatian Law Centre and UNHCR. However, both the Croatian Law Centre and the UNHCR spokesperson in Croatia publicly denied any involvement in the mechanism. Nevertheless, in December 2019 the European Commission awarded Croatia with an additional 11.35 million EUR, and the decision to allocate funds was obviously based solely on the information provided by the Ministry of the Interior.

By February 2020, inquiries conducted by human rights organisations, the media and the European Parliament revealed that of the sum of 300,000 EUR foreseen for the monitoring mechanism, 215,000 EUR was used for equipping the border police, and 85,000 EUR was used for border police training and conferences. This means that none of the mentioned sum was used for the purpose foreseen by the EC. However, throughout 2020, both the Commissioner for Home Affairs Johansson and

<sup>24</sup> Foreign Policy, *ibid.*; see also: The Guardian, where the UNHCR urged the Government to establish an independent monitoring mechanism, available at: <https://www.theguardian.com/global-development/2020/may/12/croatian-police-accused-of-shaving-and-spray-painting-heads-of-asylum-seekers>

<sup>25</sup> <https://www.theguardian.com/global-development/2020/jun/15/eu-covered-up-croatias-failure-to-protect-migrants-from-border-brutality>

<sup>26</sup> European Ombudsman, Ombudsman inquiry opened on how European Commission seeks to ensure protection of fundamental rights in border management operations by Croatian authorities, published on 6 November 2020, available at: <https://www.ombudsman.europa.eu/en/news-document/en/134797>

<sup>27</sup> NGOs' letter to Commissioner Johansson, March 2021, available at: <https://www.ecre.org/wp-content/uploads/2021/05/NGO-Letter-Croatia-Border-Monitoring-Mechanism-March-2021.pdf>

Croatian authorities continued to refer to the monitoring mechanism established by EMAS 2018 and the role of UNHCR and the Croatian Law Centre in the project, although both organisations publicly denied that their cooperation represents what the Ministry and the Commission present as an independent monitoring mechanism.<sup>24</sup>

The EC acknowledged that it relied on the EMAS 2018 monitoring mechanism to guarantee the respect of fundamental rights when allocating funds and giving Croatia the green light to join Schengen. The fact that the Commission did not insist on the existence and proper functioning of the monitoring mechanism, did not effectively employ and use monitoring to ensure fundamental rights compliance and did not separately investigate the likely use of EU funds for unlawful practices, along with the lack of full transparency when communicating on this issue<sup>25</sup>, prompted the EU Ombudsman to open an inquiry into the possible failure of the Commission to ensure that Croatian authorities respected fundamental rights while conducting EU-funded border operations against migrants and refugees.<sup>26</sup>

In June 2021, Croatian authorities announced the establishment of the Independent Monitoring Mechanism (IMM) which is meant to provide for independent human rights monitoring of border-related operations involving migrants and asylum-seekers. However, the mechanism's mandate seems to be limited to an administrative review of files and paper trails concerning closed cases of complaints about alleged police misconduct and an analysis of the legislative and judicial system that regulates the borders, without access to victims of alleged human rights violations during the monitoring process. Furthermore, there was no public call for the participating organisations and members nor information about the selection criteria. Members of the IMM lack political and financial independence from the Ministry of the Interior, and the mechanism's financial independence is undermined by the EU's 2021 Emergency Funding (EMAS) grant being processed through the Ministry of the Interior, instead of being directly granted to the mechanism, as demanded by human rights organisations<sup>27</sup>.

One week after a working version of the *First semi-annual report of the independent mechanism for monitoring the conduct of police officers of the Ministry of the Interior in the field of illegal migration and international protection* was published on the website of the Croatian Public Health Institute on 3 December and disappeared just a day later, the final version was released on Human Rights Day, 10 December. The working ver-

- 28** Centre for Peace Studies, First semi-annual report of the Independent Monitoring Mechanism, published on 21 December 2021, available at: <https://www.cms.hr/en/azil-i-integracijske-politike/prvo-polugodisnje-izvjesce-nezavisnog-mehanizma-nadzora>
- 29** Croatian Red Cross, First annual report of the independent mechanism for monitoring the conduct of police officers of the Ministry of the Interior in the field of illegal migration and international protection, July 2022, available at: <https://www.hck.hr/novosti/nezavisni-mehanizam-nadzora-objavio-prvo-godisnje-izvjesce/11387>
- 30** European Commission, Making Schengen stronger: Bulgaria, Romania and Croatia are ready to fully participate in the Schengen area, published on 16 November 2022, available at: [https://ec.europa.eu/commission/presscorner/detail/en/ip\\_22\\_6945](https://ec.europa.eu/commission/presscorner/detail/en/ip_22_6945)
- 31** Ministry of the Interior of the Republic of Croatia, *Potpisan Sporazum o suradnji radi provedbe nezavisnog mehanizma nadzora zaštite temeljnih ljudskih prava u postupanju policijskih službenika Ministarstva unutarnjih poslova u području zaštite granica, nezakonitih migracija i međunarodne zaštite*, published on 4 November, available at: <https://mup.gov.hr/vijesti/potpisan-sporazum-o-suradnji-radi-provedbe-nezavisnog-mehanizma-nadzora-zastite-temeljnih-ljudskih-prava-u-postupanju-policijskih-sluzbenika-ministarstva-unutarnjih-poslova-u-podrucju-zastite-granica-nezakonitih-migracija-i-medjunarodne-zastite/289002>

sion stated that "the police carry out illegal deterrence (pushbacks) and do not record deterrence allowed under Article 13 of the Schengen Borders Code." In the final version, however, it stated that "the police carry out permissible deterrence under Article 13 of the Schengen Borders Code, although they do not record them, and in areas which might contain mines, in isolated cases, they also allow illicit deterrence."<sup>28</sup>

The IMM annual report<sup>29</sup> for the past year was published in July 2022, illustrating all the shortcomings of the established monitoring system. The Independent Monitoring Mechanism is ineffective because it does not have access to precisely those places where pushbacks occur – primarily green border areas where, according to relevant reports, about 90% of pushbacks in the last six years took place. The Cooperation Agreement, published within the IMM report, clearly states that activities of the monitoring mechanism include "announced visits to the green border". By announcing the visit, of course, the IMM gives heads up to the body subject to monitoring, making any visit to the green border useless, ineffective and jeopardising the core purpose of the mechanism. The few instances of pushbacks that the IMM recorded were "on the basis of information received from the MoI" and from television, referring to the RTL footage of pushbacks and beatings of people on the move at the Croatian border. Based on the information obtained from the bodies subject to monitoring, the IMM determined police officers illegally expelled people in mine-suspected areas, a fact it then tried to downplay by describing these as situations in which the "MoI misinterprets relevant regulations."

Regardless of all that, the Commission stated that "Croatia has made considerable efforts to ensure that controls of external borders comply with fundamental rights obligations. In particular, Croatia set up an Independent Monitoring Mechanism in June 2021, which provides for independent human rights monitoring of border-related operations involving migrants and asylum-seekers. The Mechanism directly involves Croatian stakeholders and is guided by an independent Advisory Board. Croatia was the first Member State to put in place such a mechanism. A new agreement extending and reinforcing the Independent Monitoring Mechanism was signed on 4 November 2022. This new agreement fully reflects all the recommendations issued by the Advisory Board on 27 October 2022."<sup>30</sup>

In November 2022, the Ministry of the Interior really did announce<sup>31</sup> the signing of the new Cooperation Agreement for

the Independent Monitoring Mechanism. Croatian Minister of the Interior announced that the activities specified in the Agreement will be carried out for a period of 18 months with automatic extension, through announced and unannounced visits carried out by monitoring implementors to police stations, police administrations of the Republic of Croatia, the external border, including the green border, border crossings with Bosnia and Herzegovina, Montenegro, and the Republic of Serbia, as well as reception centres for asylum seekers and reception centres for foreigners.

We are yet to see whether the new Agreement really expands and specifies the mandate of the mechanism, or if it is just another attempt by the Ministry of the Interior to convince the European Commission of the mechanism's effectiveness, without any real improvements made.

## Case study: Violent pushback from the Croatian court

<sup>32</sup> <https://www.jutarnji.hr/vijesti/hrvatska/cetvorica-migranata-privedeni-su-kao-svjedoci-na-sud-u-karlovcu-a-onda-su-predani-policiji-15035080>

<sup>33</sup> <https://www.theguardian.com/global-development/2020/oct/21/croatian-police-accused-of-sickening-assaults-on-migrants-on-balkans-trail-bosnia>

In October 2020 the general public learned about a horrific case of pushback from Croatia to Bosnia and Herzegovina, which included severe torture and rape. The testimony about the pushback was collected by the Danish Refugee Council and was covered by the media on both national<sup>32</sup> and international level<sup>33</sup>.

According to victims' testimonies, in October 2020 they, in a group of five persons, crossed the border from Bosnia and Herzegovina to Croatia – as did many others in their pursuit of safety and security. When they were about 20 kilometres into the territory of Croatia, the persons were stopped by a policeman who called for backup. One of the apprehended persons unsuccessfully tried to escape, aware of the risk of pushbacks from the Croatian territory, while others sat on the ground being slapped in the face by other policemen. After that, four persons were taken to the police station where they were detained for approximately two days without any formal decision being issued on their detention. They were not given food, and they were allowed to go to the toilet twice a day only. Two persons from the group reported being mistreated during detention. Afterwards, they were taken to the Karlovac County Court as witnesses in the case related to the fifth member of the group. The fifth person was accused of trying to escape, resisting arrest, physically attacking a policeman, and smuggling. Therefore, a hearing was organised for the judge to decide whether to keep the fifth person in detention awaiting trial. Before the judge, the victims denied that the fifth member attacked the policeman and witnessed that he was not their smuggler. They also mentioned that the policeman fired gunshots when the accused member tried to escape. The judge found there are no relevant indicators as to what kind of force the suspect used against the police officer, and immediately ordered his release. The names of the persons, date and place where they were apprehended are visible from the court decision – which confirms their statements. Also, this proves that they were **under the direct control of the Croatian public bodies when on the same day, following the hearing,**

**the Croatian police transported them to an unknown location without any procedure and handed them over to armed men in black uniforms with balaclavas on their heads.** Those armed men in black uniforms brutally tortured the victims and pushed them back to Bosnia and Herzegovina – injured and almost completely naked.

Namely, according to the statements given to the Danish Refugee Council after the pushback, two police officers took the victims after they witnessed at the court to an unknown location. They handed the group of four to a group of armed men dressed in black with balaclavas on their heads and wearing army boots – a description corresponding to many other testimonies, as mentioned beforehand. Their money was stolen, and the “men in black” torched all their belongings and forced them to strip to their underwear. The description of torture and ill-treatment that these victims suffered is horrific. They explained how they were forced to lie face down on the ground, and then severely beaten while being held down. The “men in black” were using hands, boots and an object that looked like a whip. Medical reports confirm that the injuries are consistent with the use of a whip. Torture also included the act of rape using a branch, while other perpetrators laughed at this crime. According to The Guardian, a doctor in Bosnia and Herzegovina who examined the victim stated: “The patient had wounds all over the back of his body, on his back and legs. I can confirm the signs of clear sexual violence ... I have never seen anything like it. Even if it isn’t the first time as a doctor [that] I have seen signs of sexual violence on migrants, which, according to the asylum seekers’ accounts, were perpetrated on Croatian territory by Croatian officials dressed in black uniforms.”<sup>34</sup>

After this horrific torture, the victims were pushed back to Bosnia and Herzegovina wearing nothing but underwear. There they shared their testimonies with the Danish Refugee Council, which reported on the case and contacted Centre for Peace Studies.

After all the relevant information was collected, Centre for Peace Studies filed a criminal complaint on 10 December 2020, on Human Rights Day, for crimes that the State Attorney should investigate *ex officio*. The crimes included abuse of power, criminal organisation, torture and other ill-treatment, rape, unlawful deprivation of liberty, and robbery. Although the law prescribes a deadline of six months to reach a decision on the criminal complaint, the initial pre-investigation phase is still ongoing, which means that no decision on official opening

of an investigation has been brought yet and, accordingly, no perpetrators of reported crimes have been identified, prosecuted or sanctioned. Victims in this case are represented by lawyer Lidija Horvat. In a case where so much evidence has been presented and available from the very beginning, there is no justification for an unreasonably long period that passed without any decision reached. Although the victims' representative filed a complaint to the senior State Attorney, even they did not answer within legal deadline. The victims have been waiting for justice for two years now, while the relevant authorities have not even taken the initial steps to conclude the case. As mentioned above, this is sadly a regular practice, especially with pushback cases.

As the four men suffered severe human rights violations and were victims of crime committed in Croatia, Croatia for them, as for thousands of other victims of pushbacks, cannot be deemed safe. The practice of pushbacks in Croatia is long-lasting, ongoing and in some cases extremely brutal.

As there are no adequate reception conditions for people on the move in Bosnia and Herzegovina, the four men tried everything to leave the region. Eventually, they managed to reach Germany to request asylum, but they still suffer from the violence they experienced in Croatia. One of them who was in psychological treatment said, "I still have nightmares until today but I try to forget what happened in Croatia". Another one was diagnosed with post-traumatic stress disorder but is currently driven by the hope of finally finding safety in Germany.

All four men want to start a new life in Germany and to see justice being served in their legal case in Croatia.



## 2022: Alleged change in pushback practice

**35** Danish Refugee Council, Border Protection Monitoring, January-August, available at: <https://drc.ngo/our-work/where-we-work/europe/bosnia-and-herzegovina/>

[https://pro.drc.ngo/media/5ood-vhxx/2022\\_10\\_border-monitoring-factsheet.pdf](https://pro.drc.ngo/media/5ood-vhxx/2022_10_border-monitoring-factsheet.pdf)

**36** Border Violence Monitoring Network, Balkan Regional Report - September 2022, published in October 2022, available at: <https://www.borderviolence.eu/balkan-regional-report-september-2022/>

In 2022, CPS started noticing a change in approach of the police towards people on the move in the form of issuing more return decisions. Also, CPS noticed fewer, but still a very alarming number of pushback cases – meaning that the practice is still ongoing.

Since spring 2022, Croatian police have started excessively issuing most persons entering Croatian territory with the so-called 7-day papers, that is return decisions ordering them to leave the European Economic Area (EEA). A return decision can, when certain requirements have been met, legally be issued to persons who enter Croatia, do not have regulated stay and do not wish to ask for international protection. Based on that document, the persons can stay in Croatia for a maximum of seven days, the state is obliged to guarantee their human rights from the European Convention, and they are obliged to leave its territory, i.e. the EEA, within the specified period.

The circumstances in which these decisions are being issued are however still taking place in Croatia under inhumane conditions. In recent months, Centre for Peace Studies has noticed that more people are passing through Croatia and staying in public areas, sleeping in unsafe buildings, with no humanitarian response from competent institutions.

Further on, there are also testimonies of persons who were denied access to asylum and were handed this document in exchange, as well as those who were illegally expelled across the green border after their return decision was issued.

Nonetheless, the practice of pushbacks is still ongoing, as proven by the data from organisations in BiH and Serbia. For example, by the end of October 2022 the Danish Refugee Council in BiH alone recorded<sup>35</sup> 3,196 pushback cases, including 589 children. According to the Border Violence Monitoring Network<sup>36</sup>, as well as victims and other volunteers in BiH,

a new practice started taking place this autumn. People are detained in police vans for up to eight hours without access to food, water or toilet, sometimes with strong air-conditioning on (cooling).

	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Total
<b>2022</b>	306	363	399	328	282	159	156	606	222	375	<b>3,196</b>

# Conclusion

Extensive evidence collected in the past six years proves that major deliberate collective expulsions (pushbacks) accompanied by violence and ill-treatment at the EU's external borders in Croatia are a systematic practice.

Collective expulsions were first documented at the end of 2016, reaching the peak of torture that accompanied them in the course of 2020 and 2021. In 2022, the practice started to be less brutal in terms of fewer pushback cases. However, illegal and violent methods remain to be a systematic practice of the authorities, with no effective investigation conducted and no independent and effective border monitoring implemented so far.

The practice of illegal and violent pushbacks is not only a direct violation of the Schengen Borders Code but also a violation of international law, including the Geneva Convention relating to the Status of Refugees and other provisions of EU law, such as the right to asylum. Such violations must be effectively stopped in countries that are already part of the Schengen area. A clear message must be sent that no country violating human rights can be assessed to comply with the Schengen acquis.

Yet, we are witnessing opposite developments. Despite all the evidence, Croatia's accession to the Schengen zone is imminent. There has been no political or practical response by the Croatian government or by EU representatives to the suffering of the victims or to strong evidence presented.

When justifying Croatia's Schengen accession, EU institutions refer to the establishment of an independent border monitoring mechanism in Croatia although, as shown in this report, the existing mechanism established by the Croatian Ministry of the Interior has been until now not more than a fig leaf. On the other hand, in the last years Croatian and European civil society

did independently monitor human rights violations at Croatia's borders. There are numerous reports by NGOs, intergovernmental organisations and international media about pushbacks and violence, but this practice continues with impunity.

With the end of 2022 and the approaching Schengen accession for Croatia, fear rises that illegal and violent practices will intensify again. The general worrying direction of European migration and asylum policies, such as amendments to the Schengen Borders Code, the "Instrumentalisation Regulation" and the adoption of proposals of the EU Commission's "New Pact on Migration and Asylum" will definitely affect future practices of Croatian authorities.

# Impressum

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