



PUSHED TO THE EDGE

VIOLENCE AND ABUSE AGAINST REFUGEES AND MIGRANTS ALONG
THE BALKANS ROUTE

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Cover photo: Hammad, 17, from Pakistan, with his lips wounded and swollen, injuries sustained by a baton used by the Croatian police, 9 November 2018.

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MAP OF WESTERN BALKANS



Map of Slovenia, Croatia, Bosnia and Herzegovina and Serbia, https://d-maps.com/carte.php?num_car=69052&lang=en

1. EXECUTIVE SUMMARY

The northwestern Bosnian towns of Bihać and Velika Kladuša, nestled at the very border with Croatia, have become a temporary refuge for some 5,500 refugees and migrants fleeing conflict, persecution and poverty. They arrived via the so-called “Balkans route”, passing through Greece, Bulgaria and Serbia, and are now on what they hope will be the last leg of their long journey. Very few people will decide to stay in Bosnia and Herzegovina, as the vast majority will try to reach the European Union (EU) by crossing into neighbouring Croatia – braving unfamiliar, and often inhospitable, terrain and unwelcoming police on its borders. While a member of the European Union, Croatia is not a Schengen area country, but is eager to demonstrate its readiness to join the border-free area in 2020 by decisively protecting the EU’s external borders from irregular migration.

Owing to its mountainous terrain and underdeveloped road and rail infrastructure, Bosnia and Herzegovina had previously remained largely outside of the established refugee route. As Hungary erected impenetrable fences along its borders with Serbia and Croatia in 2015 and virtually choked off a key access point to EU territory, and Slovenia fortified its borders, people stranded in Serbia, Bulgaria and Greece gradually forged a new route to Western Europe - through Bosnia and Herzegovina and Croatia. The two countries share a 950 km long border, much of it on the so-called “green area” outside of official crossings. The porous border is not a significant obstacle for most refugees and migrants. But in order to reach Italy or Slovenia, where the EU Schengen open border regime begins, they have to navigate an unfamiliar and challenging terrain through Croatia, lined with dense forests, fast moving rivers, and live minefields - a legacy of the wars from 1990s. The multi-day track becomes more dangerous in winter, as the heavy snowfall and low temperatures render the unmarked forest paths virtually impassable. Those who make it into Croatia are not welcomed. Instead, they are routinely denied an opportunity to seek international protection and are often violently pushed back by the Croatian police to Bosnia and Herzegovina. But even this combination of dangerous journeys and border violence does not deter people from making multiple attempts at what migrants and refugees ironically call “the game” - a risky undertaking that for some ends badly. At least 12 people died in the Western Balkans in the first ten months of 2018; most of them drowned trying to cross the border from Croatia to Slovenia. Dozens more died in other ways, including after being hit by trains or cars while walking in remote areas.

Amnesty International’s research that was carried out between June 2018 and January 2019 found that systemic and deliberate pushbacks and collective expulsions - sometimes accompanied with violence and intimidation – are a regular occurrence at the border between Croatia and Bosnia and Herzegovina. Among the 94 interviewed refugees and migrants stranded in the temporary accommodation camps in Bihać and Velika Kladuša, nearly all confirmed being returned from Croatia, often multiple times and after having been held in police stations deep inside Croatian territory, without due process and without access to asylum procedures. One third of those interviewed had experienced violence at the hands of the Croatian police. Many described how they were beaten and intimidated and had their documents and mobile phones stolen or destroyed in what appears to be a deliberate practice by Croatian authorities designed to deter and discourage future attempts to enter the country.

Raif from Gaza told Amnesty International how Croatian police drove a group of people they found on the Croatian territory back in the vicinity of the border with Bosnia. “They made us get out of the car one by one and started beating us with batons.” He then described how they were sprayed in the face with what he thought was pepper spray: “I couldn’t see anything. My eyes were burning. Then they told us to go and never come back to Croatia.” Raif’s account echoes many similar stories.

Others reported how Croatian police took their shoes, warm clothes and sleeping bags and forced them to walk barefoot for kilometers through freezing rivers and streams towards the Bosnian border. These returns

regularly took place at night and in remote areas outside of the regular border crossings and without the presence of Bosnian border guards.

As the allegations of violent pushbacks on the borders have mounted, Croatian authorities have increasingly tried to discourage public scrutiny of the country's migration practices. Croatian Ombudsperson has been denied access to migrant-related information and Croatian non-governmental organizations (NGOs), which provide help to refugees and migrants, have been targeted by the authorities. The Ministry of Interior has repeatedly attempted to discredit the NGOs by accusing them of "facilitating illegal migration", while their volunteers have been harassed, held for hours by police without formal charges and threatened with criminal prosecution for speaking out about police violence. This has had a chilling effect on all those working to support refugees, but also on those who want to call out the government for its human rights violations.

Amnesty International shared its findings with the Croatian authorities and requested their feedback, but did not receive their response in advance of the publication of this report.

While the violent border practices of Croatian police have received considerable international attention in recent months, the collective expulsions from other countries located on the EU's external border have continued more quietly. Slovenia and, to some extent, Italy, also summarily return people who have entered irregularly through the Balkans route and ignore their asylum claims. Some people who succeed, against all odds, to reach Slovenia or Italy are handed over to Croatian police and forcibly pushed back once again, this time to the other side of the EU border. These chain collective expulsions ultimately deliver people back to squalid and unsafe camps in Bosnia and Herzegovina.

The 5,500 men, women and children currently stranded in Bihać and Velika Kladuša occupy defunct former factories without basic amenities. Limited capacity and resources, along with the political stalemate and institutional dysfunction that has paralyzed the country since the end of the war in 1995, mean that Bosnia and Herzegovina has been ill-prepared to provide adequate protection or living conditions to refugees and migrants. The conditions in the camps are below the standard and the people Amnesty International interviewed had serious concerns about their safety and security. Many of them spoke of inadequate hygiene and lack of hot water, insufficient food and difficult-to-access medical care.

Local authorities and the European Commission (EC) documented over 24,000 arrivals in Bosnia and Herzegovina in 2018, a marked increase from the previous year, when fewer than 800 people were recorded in the country. Most people had arrived from Pakistan, Iran, Syria, Afghanistan, and Iraq, but also Algeria, Bangladesh and Eritrea. The arrivals, which peaked over the summer and autumn months, somewhat subsided over the winter. The authorities in Bosnia and Herzegovina are well aware that the number of people trying to cross into Croatia will gradually increase with each warmer day this spring. Moreover, the continued – and seemingly coordinated – pushbacks and collective expulsions from Croatia, but also Slovenia and Italy, to Bosnia and Herzegovina threaten to turn the country that is still reeling from a devastating conflict into a new crisis point.

This report aims to shed light on human rights violations along the Western Balkans route, focusing on the part of the route that traverses through Bosnia and Herzegovina, Croatia and Slovenia. Pushbacks, collective expulsions and border violence discussed in this report, however, are not solely a by-product of these countries' singlehanded anti-migration practices. Indeed, they are just as much a consequence of the broader EU's policy to reduce irregular crossings and keep people outside of EU by tightening border security and externalizing migration processes. They also reflect the systemic failures of the European asylum system, including the inability of countries of first entry, such as Greece and Bulgaria, to improve their dysfunctional asylum systems or of European governments to agree on a Dublin reform that is fair for asylum-seekers and for the states. These failures encourage the very secondary movements [from one EU country to the next], the EU would like to contain and ultimately push people into a legal limbo in one of the poorest and most politically volatile countries in Europe.

The determination of individual states on the EU's periphery to avoid responsibility towards people fleeing conflict, persecution, and poverty, and the EU's failure to decisively call out and stop such practices, represent a structural threat to the rule of law and fundamental values in Europe and should be robustly challenged. If the example of Hungary's intransigence can instruct, it shows how unchecked policies and measures that aim to fully close the door to migration, in violation of international and EU law, do not only lead to an increase in smuggling and the emergence of new and more dangerous routes, but also to the existence of squalid and hopeless camps in transit states that cannot guarantee human rights. Such practices also threaten to further undermine the EU's ability and its commitment to hold its Member States accountable and aligned with its fundamental values.

European Union must show leadership and decisively call on its Member States – Croatia, Slovenia and Italy – to immediately halt collective expulsions of refugees and migrants and take measures to prevent an emergence of a new humanitarian crisis at its doorstep.

KEY RECOMMENDATIONS:

TO CROATIAN AUTHORITIES

- Immediately instruct border police and local police to stop using force and intimidation to prevent migrants and refugees from accessing Croatian territory;
- Promptly, effectively and impartially investigate the allegations of excessive use of force by the police against migrants and refugees at its borders and take appropriate action against the perpetrators;
- Stop the campaign that seems to be deliberately designed to target and harass the organizations promoting refugee and migrant rights and their activists and instead provide safe and enabling environment for their work.

TO AUTHORITIES IN CROATIA, SLOVENIA AND ITALY

- Immediately halt the pushbacks and collective expulsions of refugees and migrants;
- Ensure that all asylum-seekers have access to fair and effective asylum procedure, including an assessment of their claims for international protection on their merit through an individualized procedure;
- Refrain from returning persons to other countries without providing the necessary human rights and safeguards and guarantees against returns that could put people at risk of human rights violations in the country to which they may be directly or indirectly returned.

TO THE AUTHORITIES IN BOSNIA AND HERZEGOVINA

- Take concrete steps, including seeking additional financial and technical assistance from EU and improving internal coordination, to ensure that the country is better prepared to adequately respond to the needs of refugees and migrants transiting through or staying on the territory of Bosnia and Herzegovina, including by providing them with adequate and safe accommodation, food sanitation, primary education, medical care and legal aid, as required by national and international law;
- Take over from International Organization for Migration (IOM) the full control and management of temporary accommodation centres for refugees and migrants.

TO THE EUROPEAN UNION

- Decisively call on Croatia to immediately halt police violence at its borders and use appropriate measures to ensure Croatia's full compliance with international and European Union law;
- Put in place an effective monitoring and oversight to ensure that the funding provided to Croatia for the purposes of border protection does not encourage or contribute to human rights violations;
- Provide additional financial, logistical and technical assistance to Bosnia and Herzegovina to ensure dignified reception of those arriving in the country.

2. METHODOLOGY

The findings in this briefing are based on field and desk research carried out by Amnesty International between June 2018 and January 2019. The primary purpose of this research was to investigate the allegations of widespread pushbacks and police violence at the borders between Bosnia and Herzegovina and Croatia, and less visible – yet persisting – collective expulsions of refugees and migrants from EU Schengen space countries, such as Slovenia and Italy, back to Croatia. The seemingly well-coordinated and decisive action of EU Member States to reduce irregular entries to the EU results in people being expelled back to Bosnia and Herzegovina, where they have no alternative but to stay in squalid and unsafe temporary camps and without effective access to asylum. By focusing on human rights abuses facing people on this part of the Balkans route, the research sought to highlight the dangerous effects of EU’s determination to tighten external borders at any cost, but also of the collective failure of EU governments to address the shortcomings of the European asylum systems. As such, it aims to contribute to Amnesty International’s growing body of work on human rights risks of European external migration policies¹ and its long-term advocacy urging the reform of European asylum system.

A trend of persistent pushbacks and violence has been observed on other borders in the Western Balkans, in particular on the Serbian borders with Bulgaria, Hungary and Croatia. Like Bosnia and Herzegovina, Serbia hosts over 4,500 refugees and migrants who have been prevented from entering the EU.² However, this report will not focus on the violations that occur at this part of the Balkans route, as they have been well-documented by other organizations.³

In the course of this research, Amnesty International interviewed 94 refugees, migrants and asylum-seekers, including 81 men and 13 women, stranded in Bosnia and Herzegovina. They come from Afghanistan, Algeria, Egypt, Iran, Iraq, Morocco, Pakistan, Palestine, and Syria. The interviews were conducted during two separate visits: On 26-28 June, the organization interviewed 67 individuals living in informal camps at the time; On 11-13 December, Amnesty International was granted access to International Organization for Migration (IOM) – operated temporary accommodation centers of Bira and Miral, where the researchers had an opportunity to inspect the areas inside the centers and freely and privately speak with the 27 residents.

¹ Under “externalization of migration policies,” Amnesty International considers a broad spectrum of measures implemented outside of the territory of the state that people are trying to enter, usually through enhanced cooperation with other countries. Such measures could include shifting of responsibility for border control or asylum processing to other countries, or cooperation between two or more countries with the goal of preventing irregular entries often through punitive or preventing measures that raise the possibility of human rights risk. For broader discussion, see Amnesty International, *The human rights risks of external migration policies*, 13 June 2017, POL30/6200/2017, Amnesty International, *A blueprint for despair: Human rights impact of the EU-Turkey Deal*, 14 February 2017, EUR25/5664/2017, Amnesty International, *Libya’s dark web of collusion*, 15 March 2017.

² United Nations High Commissioner for Refugees (UNHCR), *Serbia Snapshot*, February 2019, <https://data2.unhcr.org/en/documents/download/68249>

³ Save the Children, *Hundreds of children report police violence at EU borders*, 24 December 2018, <https://www.savethechildren.net/article/hundreds-children-report-police-violence-eu-borders>, Human Rights Watch, *Croatia: Asylum-seekers forced back to Serbia*, 20 January, 2017, <https://www.hrw.org/news/2017/01/20/croatia-asylum-seekers-forced-back-serbia>; Oxfam, *Belgrade Center for Human Rights, Macedonian Young Lawyers Association, “A Dangerous Game”*, April 2017, https://www-cdn.oxfam.org/s3fs-public/file_attachments/bp-dangerous-game-pushback-migrants-refugees-060417-en_0.pdf; No Name Kitchen, *Border Violence Reports*, January 2019, available at: <http://www.nonamekitchen.org/wp-content/uploads/2019/02/January-2019-Violence-Reports.pdf> Humanitarian Center for Integration and Tolerance, *“Forcible irregular returns to the Republic of Serbia from Neighboring Countries”*, 2017, available at: <http://hcrit.rs/wp-content/uploads/2017/05/HCIT-report-on-expulsions-to-Serbia-ENG-version.pdf>

The vast majority of interviews with refugees, migrants and asylum-seekers took place in Pashto, Dari/Farsi and Arabic with the assistance of interpreters, while several interviews were conducted in English without interpretation. Unless otherwise indicated, the names of the persons interviewed were changed to protect their identity and privacy. The interviewees have given their informed consent to the inclusion of their stories, or photographs, in this report.

In addition to refugees, migrants and asylum-seekers, Amnesty International also interviewed representatives of NGOs, activists and volunteers, and official representatives of authorities in Bosnia and Herzegovina, and Slovenia, as well as representatives of international organizations.

Amnesty International shared its findings with the authorities in Bosnia and Herzegovina, Croatia, Slovenia and Italy and sought their written feedback on specific allegations ahead of the publication of this report. Their responses, where available or received prior to the publication, were included or reflected in the text.

Amnesty International would like to thank all those who assisted with the research and the preparation of this briefing, including all the individuals who spoke with the organization, and especially migrants, asylum-seekers and refugees who were so generous with their time and testimony.

3. CROATIA: THE LATEST BRICK IN EUROPE'S WALL

3.1 PUSHBACKS, COLLECTIVE EXPULSIONS AND DENIED ACCESS TO ASYLUM

“We managed to cross into Croatia twice, but were detained both times. Although we told police that we would like to apply for asylum, we were told that there was no more space in Croatia. They kept us in a police station for hours and then drove us in a van back to Bosnian border. They didn't give us any papers. They just dropped us, together with a group of other people, close to Bihać and told us to walk towards the border.”

Fatima, Afghanistan.⁴

The principle of *non-refoulement* is absolute and non-derogable and also applies to people who are not refugees, as international human rights law does not allow anyone, including migrants, to be transferred to a place where they would be at real risk of torture or other serious human rights violations.⁵

Pushbacks is the expression commonly used to describe coercive practices in which authorities summarily refuse entry to people seeking protection or return individuals who have already entered the country's territory back to the country from which they came. Pushbacks often take place at or in proximity of an international border and may involve the threat or use of force by border officials with the objective of preventing or deterring people from approaching or crossing the border.⁶

Pushbacks often involve a group of people.

The deportation of a group of people, without the application of legally established procedures and an objective examination of each case individually, is known as **collective expulsion** and is prohibited under

⁴ Interview conducted by Amnesty International in Miral, Velika Kladuša, 13 December 2018.

⁵ Amnesty International, *Human Rights Risks of External Migration Policies*, 13 June 2017, <https://www.amnesty.org/en/documents/pol30/6200/2017/en/>, p.7.

⁶ Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment to the Human Rights Council, A/HRC/37/50, 26 February 2018, https://www.ohchr.org/Documents/Issues/Torture/A_HRC_37_50_EN.pdf

international law. Collective expulsions amount to a violation of the principle of *non-refoulement*. States are obliged to refrain from collective expulsions, regardless of whether the expulsion is carried out towards a country where risks would not exist upon return, simply due to the risks inherent in the failure to consider individual circumstances and in the denial of the right to remedy.⁷

When individuals are being transferred from the jurisdiction of a state to that of another state, they have the **right to both substantive and procedural safeguards**. Substantively, the principle of *non-refoulement* prohibits states from transferring anyone, whether directly or indirectly, to a place where they would have a well-founded fear of persecution or would face a real risk of other serious human rights violations or abuses. To ensure that, states have an obligation to examine each individual's case separately and determine specific risks of his or her transfer to another state and the risk of potential *refoulement*. Procedurally, states are obliged to give the individuals concerned information about accessing asylum procedures, translation and legal assistance and an effective opportunity to challenge negative asylum decisions and deportation orders.

The testimonies given to Amnesty International by refugees and migrants in Bosnia and Herzegovina point to a practice of systemic summary expulsions, or pushbacks of people, from the borders of Western Balkan countries without consideration of their individual circumstances. All 94 persons interviewed in the temporary accommodation camps in Bihać and Velika Kladuša have been pushed back to Bosnia and Herzegovina from Croatia or Slovenia, at least once. Many have made several unsuccessful attempts to reach Schengen borders only to encounter Croatian police who promptly returned them to Bosnia and Herzegovina without registering their asylum claims. Those intercepted on the Croatian territory were told that “there was no asylum in Croatia”, shouted at and frequently beaten and detained for hours without food or water, before being transported in overcrowded, windowless and poorly ventilated police vans and delivered back to Bosnian border.

Ahmed from Iran made four attempts to reach Western Europe in hope to get asylum. The last time he went, which was a few days before Amnesty International spoke with him in December, he reached the Croatian town of Rijeka, on the border with Slovenia, before being caught by police. “While I was detained in a police station in Rijeka, I told the officers that I wanted to apply for asylum. Instead, they forced me to sign a deportation order. My friend refused and was badly beaten. Then they drove us back and dropped us off close to the border with Bosnia.”⁸

Most people reported being searched, questioned and detained by Croatian police. **Samim** from Afghanistan, who is traveling with his family, including three small children, was summarily returned from Croatia twice. The second time, they were arrested almost immediately after they crossed the border.

“I told them [Croatian police] that we wanted to apply for asylum, but then, they separated me from my family and left me in a room alone for six hours. They gave me no food or water. Except for the phone, which was hidden in my child's jacket, they destroyed all our phones and tore up all our documents, including the ‘white paper’ [registration document] from Bosnia. Then they collected all people they found that day, put us in a van and drove back to Bosnia.”⁹

Alaz, a Kurdish man from Iraq traveling with his wife and a year-old baby, made seven attempts to reach Germany via Croatia. He described how Croatian police held him and his family for hours without giving them any food. “We told them we were hungry, but they didn't give us any. We offered them money and asked them to buy some food for us, but they refused. Only when it got dark outside, they put us in vans and drove to the border.”¹⁰

The narrow and windy roads between Croatia and Bosnia and Herzegovina traverse mountainous terrain and the trips in often crowded and unventilated police vans are stressful for most people. Women and children, in particular, frequently reported experiencing panic attacks and nausea or vomiting while being driven back to the border.

⁷ European Court of Human Rights, *Georgia v Russia*, App no 13255/07 (ECtHR 03 July 2014). See also Amnesty International, AIRE Centre, ECRE, ICJ, *Third party intervention before European Court of Human Rights, N.D. & N.T v. Spain*, 17 September, 2018, (EUR 41/9109/2018), <https://www.amnesty.org/en/documents/eur41/9109/2018/en/>, and Amnesty International, *Human cost of fortress Europe: Human rights violations against migrants and refugees at Europe's borders*, 9 July 2014, (EUR 05/001/2014), <https://www.amnesty.org/en/documents/EUR05/001/2014/en/>

⁸ Interview conducted by Amnesty International in Bira, Bihać, 12 December 2018.

⁹ Interview conducted by Amnesty International in Miral, Velika Kladuša, 13 December 2018.

¹⁰ Interview conducted by Amnesty International in Miral, Velika Kladuša, 13 December 2018.

These forcible returns typically take place at nighttime, adding to the sense of disorientation and fear among the people being pushed back and abandoned in remote areas they are not familiar with. **Fareed**, a young man from Afghanistan, described to Amnesty International how Croatian police delivered him to the edge of a forest and ordered him to walk.

“They brought me close to the border. It was 2 a.m. It was nighttime, it was so bad, so dark... I said ‘do not make me go, there’s a forest. I cannot go alone. I don’t have any light. Maybe there are animals in there, they could hurt me’. He [police officer] said ‘you just go. This is the only way to go.’ I had to go. I was alone, running sometimes. It was 3 a.m. when I finally saw a village. I waited until the morning, and then I approached one of the houses and asked villagers for some food.”¹¹

BiH Border Police publicly acknowledges receiving groups of people who are being returned from Croatia. A BiH Border Police official in Velika Kladuša/Maljevac border crossing described the simplicity of the process. “Croatian border police notifies us when groups of people are brought close to the border and requests that they be readmitted. We always take them back and normally transport them to Miral reception camp for registration and accommodation. These returns take place without any formal process, and not under the Readmission Agreement between Bosnia and Croatia.”¹²

The Croatian Ministry of Interior is the main body for the implementation of asylum policy in Croatia and the competent authority in the initial, first instance, asylum procedure.¹³ According to Croatia’s Law on International and Temporary Protection, immediately after a person expresses an intention to apply for asylum before the border police or the local police, police officials from the Reception Centre for Applicants for International Protection within the Ministry should process the application, including establishing the identity of the applicant, taking his/her photograph and finger prints and assessing personal circumstances to determine the special reception and ensure procedural safeguards.¹⁴ Following this, the applicants are issued a certificate of registration and have up to 15 days to submit a full application for asylum, which is decided by the Asylum Department of the Ministry of Interior.¹⁵

The accounts of returns cited above, however, indicate that Croatian police does not implement these provisions in practice. Moreover, they show that pushbacks and collective expulsions to Bosnia and Herzegovina of persons irregularly entering Croatia are widespread and are realized summarily, without the guarantees required by international and EU law. The practice documented at the borders does not include any safeguards against *refoulement*: it does not include any assessment of the individual circumstances and risks each individual would face upon their return of. As people are returned automatically and outside of any formal process, they are not provided legal assistance nor given an opportunity to challenge the expulsion, while at the same time they are denied the right to seek asylum. The failure to objectively examine individual circumstances during the expulsions that Amnesty International documented, amounts to a violation of the prohibition on collective expulsions and is in violation of the principle of *non-refoulement*. Because these collective expulsions resulted in people being returned to the country of last departure without a proper assessment of potential risks upon their return, they are in breach of the EU and international law.¹⁶

Amnesty International considers that Croatia must immediately halt summary pushbacks, including collective expulsions, of people who enter the country irregularly, and ensure objective and individualized assessments of each case, as required by international law. This includes ensuring individuals’ rights to challenge any decision as to their deportation in a due process. Moreover, Croatia must provide asylum-seekers with a meaningful opportunity to apply for international protection through fair and efficient asylum procedures. The authorities also must conduct independent, prompt and effective investigation of pushbacks and collective expulsions and guarantee effective remedies for such violations.

¹¹ Interview conducted by Amnesty International in Velika Kladuša, 26 June 2018.

¹² Interview conducted by Amnesty International at border crossing Velika Kladuša/Maljevac, 12 December 2018.

¹³ Law on International and Temporary Protection, Official Gazette 70/2015 and 127/2017, Art. 32(1).

¹⁴ Law on International and Temporary Protection, Official Gazette 70/2015 and 127/2017, Art. 33 (8).

¹⁵ Law on International and Temporary Protection, Official Gazette 70/2015 and 127/2017, Art. 40 (1).

¹⁶ Pushbacks could be in breach of international conventions, including Article 13 of the International Covenant for Civil and Political Rights (ICCPR), Article 33 of the 1951 Refugee Convention, Article 3 of the European Convention on Human Rights (ECHR), and Article 4 of Protocol 4 and Article 1 of Protocol 7 to the ECHR. They are also in violation of EU legislation, including the Schengen Borders Code, the Asylum Procedures Directive as well as Articles 18 (right to asylum), 19 (protection in the event of removal, expulsion or extradition), and 47 (right to an effective remedy and to a fair trial) of the Charter of Fundamental Rights of the European Union.

3.2 EUROPE'S GATEKEEPERS: VIOLENCE AND INTIMIDATION BY THE CROATIAN POLICE

“We were told to take our clothes off. One man in our group was ordered to remove all his clothes and stand naked like that. That was wrong; we were standing on the street! When I told the policeman that he could search me, but I would not take my clothes off, he started hitting me.”

Rashid, Morocco¹⁷

Any act committed against a person by a public official that inflicts severe pain and suffering, whether physical or mental, in order to punish or intimidate him or her, amounts to a torture.¹⁸ The UN Convention against Torture also prohibits other acts of **cruel, inhuman or degrading treatment or punishment** that do not amount to torture.

Cruel, inhuman or degrading treatment or punishment in the course of border control operations is a serious human rights violation and it is a breach of a non-derogable international human rights norm, as foreseen, inter alia, by the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), International Covenant on Civil and Political Rights (ICCPR) and European Convention on Human Rights (ECHR).

Intentionally inflicting severe pain and suffering “for any reasons based on discrimination of any kind”, including based on migration status, amounts to torture.¹⁹

States have an obligation to take all measures to prevent acts of torture and ill-treatment²⁰ and must refrain from engaging in any such acts when they exercise their power and authority.

A third of those interviewed in the camps in Bosnia and Herzegovina, mostly men,²¹ directly experienced violence by Croatian police or Croatian Border Police, including being kicked, hit with police batons or pushed, while many others witnessed excessive force being used against men traveling in their groups. They identified Croatian local police, border police or men wearing black uniforms and facemasks, a “special police”, as perpetrators.

Abdurrahman, a young man from Algeria, told Amnesty that he encountered the same abusive policeman twice. “We walked for seven days to Slovenia. We had to cross the river on the border and I almost drowned. Croatian policemen did not try and help; they just kept shouting and making fun of me. A Slovenian policeman helped me and covered me with a blanket. When we were sent back to Croatia [the following day], the same policemen who were laughing at me started beating us. My tooth was broken and my friend was beaten on his back.”²²

Raif from Gaza described how police caught a group of nine refugees and migrants that he was traveling with. “After they picked us up, they drove us to the border with Bosnia. They made us get out of the car one by one, and started beating us with batons and their fists. I felt a strong pain in my stomach.” He said police

¹⁷ Interview conducted by Amnesty International in Velika Kladuša, 26 June 2018.

¹⁸ Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, (UN CAT), Art. 1.

¹⁹ Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment to the Human Rights Council, A/HRC/37/50, 26 February 2018, Art. 14 https://www.ohchr.org/Documents/Issues/Torture/A_HRC_37_50_EN.pdf

²⁰ Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, (UN CAT), Art. 2 (1).

²¹ While Amnesty International's interviews with refugees and migrants found that mostly young men had been a victim of direct violence by Croatian police, other organizations and volunteer groups based in Velika Kladuša and Bihać, as well as Medicines sans Frontiers (MSF) which provides medical assistance to people in the camps, had documented cases of women and children who have suffered injuries as a result of police violence.

²² Interview conducted in Velika Kladuša, 26 June 2018.

sprayed his face with what he thought was a pepper spray. “I couldn’t see anything. My eyes were burning. Then they told us to go and never come back to Croatia.”²³

Sami from Algeria told Amnesty that the Croatian police handed him and the group of other men they detained to officers wearing black uniforms and facemasks. One by one, they were made to stand in a circle made by policemen and were then beaten with batons. He said one officer had a baseball bat. “Then they took our money and the phones and told us to go towards Bosnia. We had to walk 6 km in the middle of the night.”²⁴ Amnesty International observed the signs of injuries sustained to his leg and his shoulder.

Many, mostly younger men, shared similar stories of abuse and violence by Croatian police. A group of eight men from Pakistan, all showing visible bruises on their heads and bodies, described how Croatian police formed a circle and started kicking and hitting them. “One policeman was in a car and other three asked us to approach them. Then they started beating us with black batons. They kicked me in the chest,” said **Abdullah**.²⁵

Medicines sans Frontieres (MSF), who had been providing medical care for refugees and migrants accommodated in Miral camp until January 2019, told Amnesty International that between June and November, their staff treated close to 80 patients with severe physical trauma, including broken limbs and ribs, serious cuts and bruises, that they reportedly suffered in the hands of Croatian police.²⁶

Similarly, Jesuit Refugee Service organization, which is responsible for providing medical escort for people accommodated in Bira and Miral told Amnesty International that in November and December, nearly every other case they had to deal with involved persons alleging being either beaten, humiliated or robbed by the Croatian police.²⁷

Testimonies consistently point to a widespread practice of Croatian police confiscating or destroying migrants’ phones and power banks and taking all or some of their money. Broken telephones with smashed screens are a norm among migrants in Velika Kladuša and Bihać. “They [Croatian police] smash the phone screen and battery circuit with screw drivers. Sometimes they drive cars over them,” a group of Syrian boys, who had five violent encounters with Croatian police, told Amnesty International.²⁸ Smartphones with GPS capability are essential in helping to find a way through the wilderness of Croatian mountains and especially important to those who travel on their own, instead with groups – including smugglers - already familiar with the terrain.

Naseem, a young man from Algeria, has made ten unsuccessful attempts to reach France, where he has family. But Croatian police stopped him each time, including two days before Amnesty International interviewed him. “They pushed me around, shouted at me and cursed: ‘Fuck your mother’, ‘Your mother is a whore’. They also took my phone and money, 200 EURO. This is a normal practice here.”²⁹

Several people, mostly young men, interviewed in December reported that Croatian police took their shoes, warm clothes and sleeping bags and burnt them before forcing them to walk on subzero temperatures, barefoot and in inadequate clothing, for kilometers and sometimes through freezing cold rivers and streams towards Bosnian border.³⁰ Organizations monitoring the situation on the borders reported that this has become a widespread practice in January 2019; they suggest that Croatian police has strategically used adverse weather conditions to subject refugees and migrants to this new type of physical trauma.³¹

The allegations of violent pushbacks on Croatian borders go well beyond the NGO community. Croatia’s Ombudsperson³² as well as the Council of Europe High Commissioner for Human Rights,³³ United Nations

²³ Interview conducted by Amnesty International in Miral, Velika Kladuša, 13 December 2018.

²⁴ Interview conducted by Amnesty International in Miral, Velika Kladuša, 13 December 2018.

²⁵ Interview conducted by Amnesty International in Velika Kladuša, 28 June 2018.

²⁶ Interview conducted by Amnesty International in Miral, Velika Kladuša, 13 December 2018.

²⁷ Interview conducted by Amnesty International in Bihać, 12 December 2018.

²⁸ Interview conducted by Amnesty International in Velika Kladuša, 27 June 2018.

²⁹ Interview conducted by Amnesty International in Miral, Velika Kladuša, 13 December 2018.

³⁰ These reports are also corroborated by recent documentary aired by Italian Public Radio Television, RAI, TG3, 7 March 2019, <https://www.facebook.com/tg3rai/videos/434141940751417?v=434141940751417>

³¹ No Name Kitchen, *Border Violence Reports*, January 2019, available at: <http://www.nonamekitchen.org/wp-content/uploads/2019/02/January-2019-Violence-Reports.pdf>

³² Novi list, “Pravobraniteljica: Policija i dalje krši ljudska prava migranata. Krije kako ih tretiraju,” 18 October 2018, <http://www.novilist.hr/Vijesti/Hrvatska/Pravobraniteljica-Policija-i-dalje-krsi-ljudska-prava-migranata.-Kriju-kako-ih-tretiraju>.

³³ Council of Europe, *Commissioner calls on Croatia to investigate allegations of collective expulsions of migrants and of violence by law enforcement officers*, 5 October 2018, <https://www.coe.int/en/web/commissioner/-/commissioner-calls-on-croatia-to-investigate-allegations-of-collective-expulsions-of-migrants-and-of-violence-by-law-enforcement-officers>

High Commissioner for Refugees (UNHCR) and a group of Members of European Parliament (MEPs)³⁴ have all voiced concern over growing reports of systemic pushbacks and violence and called on Croatia to investigate the allegations.

The Minister of Security of Bosnia and Herzegovina also openly accused Croatian police of using physical violence against refugees and migrants and forcibly expelling them to BiH.³⁵ Indeed, the authorities in BiH have been registering such incidents throughout 2018. Local Police Chief in Bihać, as well as BiH Border Police in Velika Kladuša, told Amnesty International that they documented around 100 cases of forcible returns each day in December.³⁶ “We also receive regular reports of violence, including beatings and even shots being fired in the air, though we haven’t witnessed any incidents ourselves. The people we find near the border are often beaten up and in need of medical help,” the Una-Sana Canton Police Chief told Amnesty International. Bosnian Border Police assistant commander shared similar findings: “People we receive on our side of the border are usually scared, beaten, sometimes bloody, and report having had their phones destroyed or taken away. Quite often, there are people with serious injuries who need to be taken to a hospital for treatment.”³⁷

The accounts of abusive practices are sufficiently frequent to point to a potentially systematic and deliberate policy of Croatian authorities designed to discourage new arrivals and deter future attempts to cross the country’s borders. The documented cases of police beating or intimidating people, burning their shoes and warm clothes and forcing them to walk barefoot in sub-zero temperatures and through nearly-frozen rivers, could amount to cruel, inhuman and degrading treatment. Even when used in the course of border control operations, such treatment is contrary to non-derogable provisions of international law.³⁸

Croatian authorities should immediately stop using physical violence and intimidation at the border, and promptly and impartially investigate all allegations of abuse and ill-treatment and take action against perpetrators.

3.3 CONSEQUENCES OF PUSHBACKS: CHOOSING MORE DANGEROUS ROUTES

“The river was flooded, as it rained for three days. I saw Croatian police and I decided to jump into the river and swim. I felt really scared. It was a dramatic scene. Nobody wanted to give me a helping hand, to help me out of the water. No, they just watched me. If I die, it would be better for them. If I survive and make it to the other side, they will get me back. That made me feel horrible. If there was an animal struggling in the water, someone would try to get it out.”

Raif, Gaza ³⁹

³⁴ InfoMigrants, “EU Parliament members demand interrogation of Croatia’s treatment of migrants,” 11 September 2018, <https://www.infomigrants.net/en/post/11895/eu-parliament-members-demand-interrogation-of-croatia-s-treatment-of-migrants>.

³⁵ Jutarnji list, “Bruka i sramota od jedne europske države, članice EU! Ministar sigurnosti BiH tvrdi da posjeduje dokaze vraćanja i zlostavljanje migranata,” 16 Decembar 2018, available at: <https://www.jutarnji.hr/vijesti/hrvatska/bruka-i-sramota-od-jedne-europske-drzave-clanice-eu-ministar-sigurnosti-bih-tvrdi-da-posjeduje-dokaze-vracanja-i-zlostavljanje-migranata/8183861/>

³⁶ Interview with Una-Sana Canton Police Commissioner, 12 December 2018, Bihać.

³⁷ Interview conducted by Amnesty International in Velika Kladuša-Maljevac, 13 December 2018.

³⁸ The UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), International Covenant on Civil and Political Rights (ICCPR) and European Convention on Human Rights.

³⁹ Interview conducted by Amnesty International in Miral, Velika Kladuša, 13 December 2018.

The increasingly abusive and restrictive practices at the Croatian border have pushed growing numbers of refugees and migrants to take even greater risks. Refugees and migrants are forced to embark on traveling the less travelled obscure routes, and through thick forests and rapid mountain rivers - all to avoid the inevitable return to Bosnia and Herzegovina if caught.

Khoulsum, a young woman from Afghanistan, explained that she and her family did not have the money to pay to the smugglers, so they travelled on their own, often outside of well-established routes. "We've had to walk through a neck-deep river and we've seen bears, wild boars and other animals in the forest. There were mines too." She pointed to another woman from Afghanistan and explained how she had just lost a baby. "Twenty days ago, we saw a bear in a forest in Croatia. She got scared so much that she delivered a stillborn baby. She was six months pregnant."⁴⁰

For some, these desperate attempts to reach safety have been deadly. Since 2017, when the numbers of attempted crossings from Serbia and Bosnia and Herzegovina into Croatia surged, UNHCR documented 26 deaths along the Western Balkans route, many of which occurred on the Croatia-Slovenia border.⁴¹ Some of these deaths occurred after people were pushed back from Croatian or Slovenian borders. In November 2017, Madina Hussiny, a six-year-old girl from Afghanistan was struck by a train and killed after she and her family were allegedly pushed back from the Croatian border and told to follow train tracks back into Šid in Serbia in the middle of the night.⁴² Although Croatian authorities denied that the family ever entered Croatia, the incident took place in an area where human rights organizations have documented frequent and violent pushbacks.⁴³ Medina's family insists that they were turned back from the Croatian border minutes before her death.⁴⁴

Nusret from Algeria described to Amnesty International how a 24-year-old Algerian man, Naseem, who was traveling in his group in November 2018 had fallen into a river that was gorged after heavy rains. "He slipped and fell in. None of us was able to do anything. The river was so fast and we lost sight of him in only a few moments. I was not able to help him."⁴⁵ Nusret showed Amnesty International geo-location pointing to the river Kolpa on the border with Slovenia where his friend went missing. Later, when Croatian police caught them, Nusret and his friends reported the incident and showed the coordinates to officers. They never found out Naseem's fate.

Twelve people have drowned trying to cross the borders, most of them on the border between Croatia and Slovenia between January and October 2018.⁴⁶ While this is an official figure, organizations assisting refugees and migrants in Croatia argue that many more incidents go unrecorded.⁴⁷ Such deaths represent an avoidable human cost of the punitive measures at Europe's external borders that cause refugees and migrants to deliberately put themselves, and their families, in harm's way.

3.4 CROATIAN RESPONSE: DENIAL OF VIOLENCE

Despite overwhelming evidence, including credible reports and video footage, of systemic and frequently violent pushbacks, Croatian authorities have denied any wrongdoing and maintained that their actions at their external borders have been within the bounds of national and European law and in line with current EU policy.

⁴⁰ Interview conducted by Amnesty International in Bira, Bihać, 12 December 2018.

⁴¹ United Nations High Commissioner for Refugees (UNHCR), *Desperate journeys: Refugees and migrants arriving in Europe and at Europe's borders, Jan-Aug 2018*, September 2018, p. 25. The numbers are likely higher at the time of publication, as the reported figures pertain to the period January 2017 to August 2018.

⁴² Information about the case obtained through the interview conducted by Amnesty International with Are You Syrious? in Zagreb, 11 December 2018. See also: The Guardian: " 'They treated her like a dog': tragedy of the six-year-old killed at Croatian border," 8 December, 2017, <https://www.theguardian.com/world/2017/dec/08/they-treated-her-like-a-dog-tragedy-of-the-six-year-old-killed-at-croatian-border>.

⁴³ Information about the case obtained through the interview conducted by Amnesty International with Are You Syrious? in Zagreb, 11 December 2018.

⁴⁴ Information about the case obtained through the interview conducted by Amnesty International with Are You Syrious? in Zagreb, 11 December 2018. See also: The Guardian: " 'They treated her like a dog': tragedy of the six-year-old killed at Croatian border," 8 December, 2017, <https://www.theguardian.com/world/2017/dec/08/they-treated-her-like-a-dog-tragedy-of-the-six-year-old-killed-at-croatian-border>.

⁴⁵ Interview conducted by Amnesty International in Miral, Velika Kladuša, 13 December 2018.

⁴⁶ United Nations High Commissioner for Refugees (UNHCR), *Desperate journeys: Refugees and migrants arriving in Europe and at Europe's borders, Jan-Aug 2018*, September 2018, p. 25

⁴⁷ No Name Kitchen, SoS Team Kladuša, & Balkan Info Van, *Border violence on the Balkan route*, 14 December 2018, p. 14. Also: Interview with Centar za mirovne studije conducted by Amnesty International in Zagreb, 11 December 2018.

Croatian Minister of Interior Davor Božinović argued that the practice at the borders constituted a “refusal of entry”, rather than a pushback or collective return, and was fully in line with the EU Schengen Border Code.⁴⁸ Similarly, Croatia’s assistant police chief Zoran Ničeno suggested that the practice of Croatian police was fully condoned by the EU. “Croatia did not receive one billion KUNA [Croatian currency] from Brussels for border control to have its police just stand idly.”⁴⁹ While the Schengen Border Code indeed provides for the possibility for Member States to refuse entry to those who do not meet criteria for regular entry, they cannot do so outside of formal procedures and without ensuring the necessary safeguards.⁵⁰

Moreover, reports from other organizations which are corroborated by Amnesty International findings here, indicate that people who enter Croatia from Bosnia and Herzegovina are typically not stopped outside of Croatian territory and refused entry. Rather, they are frequently arrested and detained deep inside Croatian territory, while their declared intentions to apply for asylum are routinely ignored, and they are ultimately returned to Bosnia and Herzegovina without due process, individual assessments, the right to appeal their transfer or any formal documents, including the deportation decisions. In February, the Bihać mayor accused Croatian police, including Croatian special forces, of illegally entering Bosnia and Herzegovina in order to deliver refugees and migrants found on its territory. “Every single day, Croatian police brings 30, 40, or 100 migrants and returns them [to Bosnia] outside of the official border crossings. As a Bosnian citizen, I am offended that someone from another state can simply walk onto the territory of Bosnia and Herzegovina and do as they please.”⁵¹

Croatian interpretations of these practices being in line with the Schengen Agreement would render such measures in contravention of the European Convention for Human Rights, which prohibits collective expulsions⁵² and the EU Returns Directive, which clearly states that return measures do not apply to people whose requests for international protection have not been resolved.⁵³ Croatia’s policy of preventing people from entering the EU or forcibly returning them to Bosnia and Herzegovina, with its deeply inadequate protection system [see under “Bosnia – an emerging legal limbo for EU’s unwanted asylum-seekers”], undermines people’s right to seek and enjoy asylum.

The Croatian Ministry of Interior has also repeatedly dismissed allegations of violence and theft on external borders arguing that the reports have not included the necessary detail to start criminal investigation against any police officers.⁵⁴ It remained unmoved even after, in December 2018, the Border Violence Monitoring watchdog published a secretly filmed footage showing 54 separate incidents of collective expulsions and pushbacks by Croatian police that allegedly took place between 29 September and 10 October 2018 in a forest on the border between BiH and Croatia.⁵⁵ The footage provides a visual proof of multiple counts of what appear to be collective expulsions conducted outside of official border crossings and without the presence of BiH Border Police. The footage corroborates Amnesty International’s findings and reports by other organizations and volunteer groups in Croatia who have been documenting cases of human rights violations on Croatian borders since 2017. Following the publication of the video, Zagreb-based Center for Peace Studies (CMS) filed an official complaint against unidentified police officials shown in the footage.⁵⁶ Amnesty International wrote to the Croatian Ministry of Interior requesting information as to whether the Ministry has initiated internal disciplinary procedure against its officers, however, it has not received the response before the publication of the report.

The Minister of Interior Božinović suggested that the victims of the alleged police violence concocted incriminating details in hope that this would help them in their next attempt to enter Croatia and continue their travel to final destinations in EU.⁵⁷ Božinović has regularly portrayed the people attempting to cross

⁴⁸ Index.hr, “Božinović odgovorio Vijeću Europe o nasilju policije nad migrantima,” 5 October 2018.

⁴⁹ HRT, *Otvoreno: Ugrožavaju li migranti sigurnost u Hrvatskoj*, 18 December 2018, <https://vijesti.hrt.hr/478672/otvoreno-ugrozavaju-li-migranti-sigurnost-u-hrvatskoj>

⁵⁰ Schengen Agreement, Article 3, 4, 14 and Annex VI.

⁵¹ Index.hr, “Gradonačelnik Bihaća: Hrvatski specijalci ilegalno vraćaju migrante u BiH,” 20 February 2019, <https://www.index.hr/vijesti/clanak/gradonacelnik-bihaca-hrvatski-specijalci-ilegalno-vracaju-migrante-u-bih/2065531.aspx>

⁵² ECHR, Art. 4, Protocol 4, which Croatia ratified in 1997.

⁵³ EU Directive (2008/115/EC).

⁵⁴ N1, Croatia dismisses CoE claims of violence against migrants, 5 October 2018, <http://hr.n1info.com/English/NEWS/a337402/Croatia-dismisses-CoE-claims-of-violence-against-migrants.html>.

⁵⁵ Border Violence Monitoring, “Unverifiable information from unknown migrants? – First footage of push-backs on the Croatian-Bosnian border,” 16 December 2018, available at: <https://www.borderviolence.eu/proof-of-push-backs/>

⁵⁶ InfoMigrants, “Human rights group files complaint against Croatian police,” 20 December 2018.

⁵⁷ N1, “Croatia dismisses CoE claims of violence against migrants”, 5 October 2018, <http://hr.n1info.com/English/NEWS/a337402/Croatia-dismisses-CoE-claims-of-violence-against-migrants.html>.

Croatian borders as economic migrants, rather than “genuine refugees”, to justify the policy of forceful border control, including the country’s refusal to properly consider asylum applications.

Throughout the year, the authorities have prevented attempts of public institutions, including Croatia’s Office of the Ombudsperson, to exercise the necessary oversight over migration practices at the border and denied her access to information. The country’s Ombudsperson officially complained that her numerous requests for information about pending investigations into the death of Madina Hussiny and the allegations of police violence have been ignored by the Ministry of Interior and that several local police stations have denied her access to migrant-related data.⁵⁸ She said that she conveyed specific concerns pertaining to the behavior of Croatian police to the Croatian Attorney General requesting further investigation.⁵⁹ However, to Amnesty International’s knowledge, the Attorney General has not taken any action as of the time of publication of this report.

By denying the Office of the Ombudsperson access to information and preventing her from exercising independent oversight over police behavior at the borders, Croatian authorities are not only acting in violation of the country’s Law on Office of Ombudsperson⁶⁰ and the Law on National Preventive Mechanism,⁶¹ but also in contravention of the Optional Protocol to the UN Convention against Torture (CAT), which requires state parties, of which Croatia is one, to allow their National Preventive Mechanism bodies full access to information and the places of detention.⁶²

3.5 CRIMINALIZATION OF SOLIDARITY

As the allegations of violent pushbacks on the Croatian border have mounted, Croatian authorities have increasingly discouraged public scrutiny of its migration practices and engaged in a targeted campaign to undermine the credibility of these reports and discredit the organizations working on migrant and refugee rights.

Throughout 2018, well-established organizations, including Are You Syrious⁶³ and Center for Peace Studies (Centar za mirovne studije – CMS)⁶⁴, who provide integration programs, legal aid and advocacy on migrant rights, have come under direct attack from the Ministry of Interior. This has included attempts to publicly defame and delegitimize the organizations’ activities by suggesting that they assisted migrants and refugees to “illegally enter” Croatia and tried to undermine the country’s efforts to join the Schengen zone.⁶⁵ It has also involved frequent intimidation and harassment of their staff and volunteers, some of whom were held in police stations without formal charges and were directly threatened because they criticized police activities at the borders.⁶⁶

⁵⁸ Ombudsman of Republic of Croatia, “Human rights of migrants: complaints regarding police treatment still not investigated,” 18 October 2018, available at: <http://ombudsman.hr/en/all-news/npm/npm-article/1498-migracije-prituzbe-na-policijsko-nasilje-i-dalje-nisu-istrazene>

⁵⁹ Ombudsman of Republic of Croatia, *Letter to Chief State Attorney of the Republic of Croatia concerning Madina Hussein and police action against irregular migrants*, available at: <http://ombudsman.hr/en/all-news/npm/npm-article/1498-migracije-prituzbe-na-policijsko-nasilje-i-dalje-nisu-istrazene>

⁶⁰ Zakon o pučkom pravobranitelju Republike Hrvatske (NN 76/12), Arts. 9 and 25, <https://www.zakon.hr/z/128/Zakon-o-pu%C4%8Dkom-pravobranitelju>

⁶¹ Zakon o nacionalnom preventivnom mehanizmu Republike Hrvatske, (NN 18/11, 33/15), Art. 5, <https://www.zakon.hr/z/440/Zakon-o-nacionalnom-preventivnom-mehanizmu-za-spre%C4%8Davanje-mu%C4%8Denja>

⁶² Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, A/RES/57/199, 22 June 2006, Arts. 17-23, <https://www.ohchr.org/EN/ProfessionalInterest/Pages/OPCAT.aspx>

⁶³ <https://www.facebook.com/areyousyrious/>

⁶⁴ <https://www.cms.hr/>

⁶⁵ NetHR, “Božinović teško optužuje udruge: CMS i ASY davali novac migrantima i poticali ih na ilegalni ulazak u Hrvatsku,” 20 April 2018, <https://net.hr/danas/hrvatska/ministar-bozinovic-tesko-optuzuje-udruge-cms-i-asy-davali-novac-migrantima-i-poticali-ih-na-ilegalni-ulazak-u-hrvatsku/>

⁶⁶ Findings included herein are based on interviews with the staff of Are You Syrious? and Center for Peace Studies conducted on 11 December in Zagreb, Croatia, the organizations’ Letter to the Members of the European Parliament, December 2018 (full text available to Amnesty International), as well as reports in the press (see, for example, Euractiv, “Spurned by authorities, humanitarian NGOs feel unsafe in Croatia,” 21 November 2018, <https://www.euractiv.com/section/justice-home-affairs/news/wed-spurned-by-authorities-humanitarian-ngos-feel-unsafe-in-croatia/> or Telegram, “Mučna priča o ljudima koji pomažu migrantima i MUP-u koji traži da se njihova udruga zabrani,” 5 October, 2018, <https://www.telegram.hr/price/mucna-prica-o-ljudima-koji-pomazu-migrantima-i-mup-u-koji-trazi-da-se-njihova-udruga-zabrani/>). Specific cases and accounts of increasingly hostile environment for the organizations promoting rights of migrants, refugees and asylum-seekers in Croatia will be included in greater detail in the forthcoming Amnesty International Europe report on the subject.

The steady smear campaign⁶⁷ has not only made it difficult for these organizations to carry out their work, but it has also significantly harmed their reputation among the public and has had a strong chilling effect on their activists and other human rights defenders. According to Are You Syrious and CMS, a concerted effort by Croatian authorities to promote the narrative of fear about people on the move and publicly challenge the credibility of NGOs supporting them has gradually turned public opinion against migrants. “In the past, Croatian citizens, used to show a great deal of generosity and solidarity with refugees and migrants; they were actively involved in providing support, including cooking meals, supplying clothes and offering them a place to shower. Even police had shown a high degree of solidarity and fairness. They used to work with us to support the migrants,“ a staff of Are You Syrious told Amnesty International.⁶⁸ “But all this has changed after our organization started calling out for the investigation of little Madina’s death [see page 16] and demanding accountability from the Croatian police about the allegations of police brutality at the border. Now, the citizens who used to help are the ones who call police when they see someone of different skin color.”⁶⁹

CASE STUDY: CENTER FOR PEACE STUDIES AND ARE YOU SYRIOUS

Pressure on human rights defenders and organizations providing assistance to refugees and migrants in Croatia has taken many different forms. Are You Syrious (AYS) and Center for Peace Studies (CMS) are emblematic examples of organizations that have experienced threats, harassment and restrictions to their activities, as well as targeted public disqualification.

For the CMS, the fallout due to its public criticism of the government’s handling of the arrival of refugees and migrants in Croatia was the loss of access to official centers for accommodation of asylum-seekers and detention centers for foreigners. With its large network of volunteers, CMS has supported integration activities for recognized asylum-seekers for over 15 years, but abruptly lost access to the government-run centers in November 2018, when the Ministry of Interior refused to extend their mutual cooperation agreement, stating that the organizations’ activities “were not adding value”.⁷⁰ While the authorities insisted that the decision was not politically motivated,⁷¹ the move came after a protracted public debate between the CMS and the Ministry of Interior over the allegations of police violence at the borders, as well as the Ministry’s efforts to delegitimize CMS’s work by linking its activities to people smuggling.⁷² Most recently, the Ministry of Interior has also delayed signing the extension of its agreement with AYS who has been managing children’s’ integration activities in the refugee center in Porin for several years now.⁷³

AYS had to fight against allegations of illegal conduct in courts. In April, the Croatian Ministry of Interior pressed misdemeanor charges for “facilitating illegal migration” against an AYS volunteer who was present at a time when a large family from Afghanistan, including several small children, were about to approach the Croatian police and request international protection. Observing such instances is a key part of the organization’s activities, as many migrants and refugees, fearing imminent push back once on the country’s territory, request NGOs to be present when they meet the police. The AYS volunteer was accused of giving signals to the family in order to assist their crossing from Serbia into Croatia. According to AYS, who had shared detailed accounts, written evidence, and recorded geo-locations related to the specific event with police, the Office of the Ombudsman and Amnesty International, the charges were proven false by the organization during the court hearing. “We are very aware of our delicate position and

⁶⁷ The smear campaign has not been limited to the authorities. CMS, for example, has waited for nearly two months to receive an official apology and the retraction of incorrect information from the public broadcaster Hrvatska Radio Televizija (HRT), which during a popular show “Otvoreno” provided space for multiple speakers who accused CMS of criminal offences of fraud and deception, facilitating illegal migration and undermining national security of Croatia, while failing to give CMS an opportunity to respond. Only after the CMS filed official complaint against the editor of HRT did the broadcaster issue an apology. See Centar za mirovne studije, HRT napokon objavio ispravak netočnih informacija objavljenih u emisiji OTVORENO, 12 February 2019, <https://www.cms.hr/hr/novosti/hrt-napokon-objavio-ispravak-netocnih-informacija-objavljenih-u-emisiji-otvoreno>. Also, see HRT, Otvoreno: Ugrožavaju li migranti sigurnost u Hrvatskoj?, 18 December 2018, <https://vijesti.hrt.hr/478672/otvoreno-ugrozavaju-li-migranti-sigurnost-u-hrvatskoj>

⁶⁸ Interview with representatives of CMS and Are You Syrious? conducted by Amnesty International in Zagreb, 11 December 2018.

⁶⁹ Interview with representatives of CMS and Are You Syrious? conducted by Amnesty International in Zagreb, 11 December 2018. See also: Euractiv, “Spurned by authorities, humanitarian NGOs feel unsafe in Croatia,” 21 November, 2018, available at: <https://www.euractiv.com/section/justice-home-affairs/news/wed-spurned-by-authorities-humanitarian-ngos-feel-unsafe-in-croatia/>

⁷⁰ Euractiv, “Spurned by authorities, humanitarian NGOs feel unsafe in Croatia,” 21 November, 2018, available at: <https://www.euractiv.com/section/justice-home-affairs/news/wed-spurned-by-authorities-humanitarian-ngos-feel-unsafe-in-croatia/>

⁷¹ Jutarnji list, “MUP odbacio optužbe Centra za mirovne studije: ‘Njihove tvrdnje u potpunosti su netočne i nedopustive,’” 12 November 2018, available at: <https://www.jutarnji.hr/vijesti/hrvatska/mup-odbacio-optuzbe-centra-za-mirovne-studije-njihove-tvrde-u-potpunosti-su-netocne-i-nedopustive/8050238/>

⁷² Interview with CMS representatives conducted by Amnesty International in Zagreb, 11 December 2018. See also, Euractiv, “Spurned by authorities, humanitarian NGOs feel unsafe in Croatia,” 21 November, 2018, available at: <https://www.euractiv.com/section/justice-home-affairs/news/wed-spurned-by-authorities-humanitarian-ngos-feel-unsafe-in-croatia/>

⁷³ Email exchange with Are You Syrious conducted by Amnesty International, 11 March 2019.

the fact that our every move is under rigorous scrutiny, so we take extra precautions to ensure that everything we do is always and fully in compliance with the law and procedures. We also diligently document everything. Our volunteer that night did not violate the law. He had proactively approached police to inform them about a large family that was on Croatian territory and wishing to apply for asylum, as we had done on numerous occasions before,” AYS told Amnesty International.

The family in question was the family of the little Madina Hussiny, who was killed by a train after she and her family were allegedly pushed back by Croatian police [see page 16]. AYS believes that the pressure and other punitive actions against their organization are in retaliation for the fact that they have supported the family in their court case against Croatian police which was initiated after Madina’s death.

In their official charges against AYS, the Ministry of Interior recommended the highest prescribed penalty, including an imprisonment, a EUR 43,000 fine and the ban of Are You Syrious’ work. In September, however, the court found the volunteer guilty on the grounds of “unconscious/inadvertent negligence”, but rejected the recommended penalties, issuing a smaller EUR 8,000 fine. Nevertheless, AYS has challenged this decision and is awaiting the outcome of the appeal.

In a separate incident in April, police issued summons to several representatives of the organization⁷⁴ and asked them to appear at a police station at the exact time of the previously announced press conference during which the activists from AYS and CMS were supposed to speak about the undue pressures from the Ministry of Interior. “This was an obvious attempt to intimidate our staff and prevent us from speaking publicly about what we have been experiencing,” the organization told Amnesty International. “Police showed up at our colleagues’ private homes at night and after official working hours to deliver the summons, causing them and their families a great deal of distress.”⁷⁵ The scheduled press conference did take place, but the Minister afterwards issued a statement accusing the organizations of undermining Croatia’s goal of joining Schengen zone and of encouraging illegal migration, charges often cited against NGOs working on migrant rights.

Indeed, the Ministry of Interior has often suggested that the organizations speaking for the rights of refugees and migrants are engaged in illegal activities, including facilitating illegal crossings or working with smugglers. In a letter to the Croatian Parliament,⁷⁶ Minister Božinović drew a parallel between AYS and Center for Peace Studies and Italian NGOs currently under investigation by Italian authorities and who – in his words – “have been involved in financing boats transporting tens of thousands of illegal migrants from North Africa”.⁷⁷ Such statement was both incorrect and tendentious. Although a public prosecutor in Sicily and various Italian authorities had publicly accused NGOs of “colluding with smugglers”, no criminal charges have yet been brought against any of them.⁷⁸ European Union has also distanced itself from these investigations, warning about the risks of prosecution of those who provide humanitarian assistance.⁷⁹ In March 2019, while addressing the increasing trend of criminalization of solidarity and proliferation of myths on migration by Hungarian authorities, European Commission stated that “there was no evidence of NGOs working with criminal smuggling networks to help migrants enter the EU.”⁸⁰

Are You Syrious told Amnesty International that their volunteers were being harassed and held for hours by police without formal charges and threatened with criminal prosecution if they continued speaking out about police violence at the border. The public defamation, they believe, has only encouraged anonymous

⁷⁴ The summons were issued to four members of CMS, one member of AYS, as well as an immigration lawyer frequently working on cases of refugees and migrants.

⁷⁵ Interview conducted by Amnesty International in Zagreb, 11 December 2018.

⁷⁶ Minister of Interior letter to the Croatian MP Pedja Grbin, 29 March, Novi list, “Teške optužbe: Ministar Božinović tvrdi da su CMS and AYS u Srbiji davali migrantima novac i upute za ilegalni ulazak u Hrvatsku,” 20 April, 2018, available at: <http://www.novilist.hr/Vijesti/Hrvatska/TEŠKE-OPTUŽBE-Ministar-Bozinovic-tvrdi-da-su-CMS-i-ASY-u-Srbiji-davali-migrantima-novac-i-upute-za-ilegalni-ulazak-u-Hrvatsku>.

⁷⁷ NetHR, Božinović teško optužuje udruge: CMS I ASY davali novac migrantima I poticali ih na ilegalni ulazak u Hrvatsku, 20 April 2018, <https://net.hr/danas/hrvatska/ministar-bozinovic-tesko-optuzuje-udruge-cms-i-asy-davali-novac-migrantima-i-potalici-ih-na-ilegalni-ulazak-u-hrvatsku/>

⁷⁸ Furthermore, two parliamentary inquiries in Italy failed to uncover any wrongdoing by NGOs dedicated to rescue at sea. See: Charles Heller and Lorenzo Pezzani, *Blaming the rescuers: Criminalizing solidarity, re-enforcing deterrence*, 9 June 2017, <https://blamingtherescuers.org/>; Matteo Villa, Elena Corradi, Antonio Villafranca, *Fact checking: Migrazioni 2018*, 7 May 2018, www.ispionline.it/it/publicazione/fact-checking-migrazioni-2018-20415; Amnesty International, *Europe’s sinking shame: The failure to save refugees and migrants at sea*, April 2015, <https://www.amnesty.org/en/documents/eur03/1434/2015/en/>

⁷⁹ European Union Agency for Fundamental Rights (FRA), *Fundamental rights considerations: NGO ships involved in search and rescue in the Mediterranean and criminal investigations*, October 2018.

⁸⁰ European Commission, *Facts Matter: Debunking myths about migration*, March 2019, https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/policies/european-agenda-migration/20190306_managing-migration-factsheet-debunking-myths-about-migration_en.pdf

attacks on their organization and its staff, who have recently faced serious threats, including death threats and threats of violence, on social media and in person. One of these threats resulted in the Public Attorney's office having to issue a restraining order against an individual. "Our van was smashed by a cinder block and we had the windows on our office broken. Someone spray-painted insulting graffiti over our van and our center. We have reported most of these incidents to the police, but they were never able to identify perpetrators," AYS told Amnesty International.⁸¹

Such blatant attempts to silence the organization and publicly disqualify its work have left Are You Syrious in a precarious position – its activists and volunteers continue providing assistance to migrants and refugees in Croatia and monitoring police activities at the border, while at the same time fighting off attempts by the authorities to delegitimize, and potentially criminalize, their work.

The organization told Amnesty International that the Ministry of Interior's smear campaign and direct intimidation have taken a toll; some of the AYS staff and volunteers have had to stop working due to fear of reprisals and concerns for their and the safety of their families.

In light of the activities undertaken by AYS and the Centre for Peace Studies to denounce human rights violations against refugees and migrants in compliance with international law, Amnesty International considers them as human rights defenders (HRDs). As such, they fall under the Declaration on Human Rights Defenders,⁸² which states that "each State has the responsibility and duty to protect, promote and implement all human rights and fundamental freedoms" and "to ensure that all persons under its jurisdiction, individually and in association with others, are able to enjoy all those rights and freedoms in practice".⁸³ The Declaration also recognizes that everyone, individually or collectively, has a role to play in making human rights a reality, by campaigning and advocating for human rights, sharing information, holding those in power to account, and demanding justice, equality, dignity and freedom. States also have a specific obligation to "respect and support the activities of human rights defenders who promote and protect the human rights of migrants."⁸⁴

It is essential that public officials and representatives of institutions in Croatia refrain from hindering and undermining the human rights activities of NGOs and instead recognize and publicly support them and take urgent measures to facilitate and protect their work. Croatian authorities must immediately stop stigmatising the work of organizations and human rights defenders and to criminalize solidarity with migrants and refugees. The Croatian Ministry of Interior's seemingly deliberate campaign to feed negative narratives about Are You Syrious and Center for Peace Studies and intimidate their activists and volunteers goes against the spirit of the Declaration on Human Rights Defenders. Furthermore, Croatian authorities should not misuse laws and procedures to prosecute, target and harass the organizations speaking for human rights of migrants and refugees, and should instead ensure that they are able to carry out their work in a safe and enabling environment, free from fear of reprisals.⁸⁵

⁸¹ Interview conducted by Amnesty International in Zagreb, 11 December 2018.

⁸² Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, 1999, A/RES/53/144, <https://www.ohchr.org/Documents/Issues/Defenders/Declaration/declaration.pdf>

⁸³ Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, 1999, A/RES/53/144, Art. 2.1, 1999, <https://www.ohchr.org/Documents/Issues/Defenders/Declaration/declaration.pdf>

⁸⁴ Office of the High Commissioner for Human Rights, Report of the United Nations High Commissioner for Human Rights to the Human Rights Council on Principles and Practical Guidance on the Protection of the Human Rights of Migrants in Vulnerable Situations – Addendum, U.N. Doc. A/HRC/37/34/Add.1, 7 February 2018, http://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/37/34/Add.1, Principle 18. See also: Office of the High Commissioner for Human Rights, Report of the Special Rapporteur on the Situation of Human Rights Defenders, Margaret Sekaggya, U.N. Doc. A/HRC/25/55, 23 December 2013

⁸⁵ United Nations General Assembly, A/Res/53/144, Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, March 8, 1999, Article 1. See also Office of the High Commissioner for Human Rights, Report of the United Nations High Commissioner for Human Rights to the Human Rights Council on Principles and Practical Guidance on the Protection of the Human Rights of Migrants in Vulnerable Situations – Addendum, U.N. Doc. A/HRC/37/34/Add.1, 7 February 2018, available at: http://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/37/34/Add.1, Principle 18, and Office of the High Commissioner on Human Rights, Report of the Special Rapporteur on the Situation of Human Rights Defenders, Margaret Sekaggya, U.N. Doc. A/HRC/25/55, 23 December 2013, <http://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session25/Pages/ListReports.aspx>. In 2018, UN Special Rapporteur on the situation of human rights defenders said that "defenders of people on the move are currently facing unprecedented threats and restrictions to their work, as well as pervasive disqualification and criminalization and called on states to protect human rights defenders. See "States Must Protect Human Rights Defenders Assisting People on the Move – UN Expert," 1 March 2018, available at: <https://reliefweb.int/report/world/states-must-protect-human-rights-defenders-assisting-people-move-un-expert>

3.6 EU'S FAILURE TO HOLD CROATIA TO ACCOUNT

Croatia's draconian response to the increasing number of migrants and refugees entering the country has been roundly criticized, including by UNHCR and Council of Europe.⁸⁶ However the reaction of EU institutions has been less unequivocal. Only following an intervention of a group of Members of European Parliament (MEPs) who expressed concerns about the allegations of border violence,⁸⁷ did Dimitris Avramopoulos, the European Commissioner for Migration, Home Affairs and Citizenship, directly address the issue. In December 2018, Avramopoulos said that Croatia must police external borders "in full compliance with the Charter of Fundamental Rights of the European Union and relevant international law related to access to international protection, including the 1951 Geneva Convention, in particular the principle of *non-refoulement*,"⁸⁸ and further stressed that "Article 7 of the Schengen Borders Code required border guards to fully respect human dignity".⁸⁹ Also in December, the European Commission announced that the European Border and Coast Guard Agency (Frontex) reinforcement would soon be deployed on the border between Bosnia and Herzegovina and Croatia "in response to the pressure of migrants traveling westwards," and confirmed that it had asked Croatia to address the reports of pushbacks and violence.⁹⁰

Nevertheless, European response to Croatia's handling of border policing has not been consistent. In fact, politicians in Croatia argue that the country is facing a paradoxical situation. As Croatian MEP Tonino Picula put it, "On one hand, Croatia was being called out because of alleged mistreatment of incoming migrants, while on the other hand, it was expected to protect EU external border."⁹¹ A Member of Croatian Parliament from the ruling Croatian Democratic Union (Hrvatska demokratska zajednica - HDZ) Tomislav Sokol expressed similar view. "One of the EU goals is to protect its borders. This is also a requirement for Croatia's entry into Schengen area. I don't see anyone from the EU criticizing Croatia or suggesting that it has engaged in illegal activities".⁹² Indeed, over the course of the year, European politicians have sent mixed messages to Croatia. In a bilateral meeting with country's Prime Minister Andrej Plenković in September, in the hiatus of border crisis in the Western Balkans, German Chancellor Angela Merkel complimented Croatian police for making "great progress in protecting the external EU borders".⁹³ According to the Croatian Minister of Interior, various EU bodies have also commended Croatia's efforts in curbing irregular flow of migrants into the EU.⁹⁴

Moreover, as the reports of troubling practices at the border increased, the European Union continued to allocate significant funds to assist Croatia in improving its border security. In December, the Commission announced an additional assistance of EUR 6.8 million earmarked for the "strengthening of [Croatia's] border management at the EU's external border", bringing the overall emergency funding to strengthen border surveillance and management allocated to Croatia to over EUR 23 million.⁹⁵ The new funds are meant to cover the operational costs, including daily allowances, overtime compensation and equipment, in 10 border police stations.⁹⁶ This assistance comes on top of nearly EUR 108 million allocated to Croatia under the Asylum Migration and Integration Fund (AMIF) and Internal Security Fund for 2014 -2020,

⁸⁶ Council of Europe, Commission for Human Rights, "Commissioner calls on Croatia to investigate allegations of collective expulsions of migrants and of violence by law enforcement officers," 5 October 2018, available at: <https://www.coe.int/en/web/commissioner/-/commissioner-calls-on-croatia-to-investigate-allegations-of-collective-expulsions-of-migrants-and-of-violence-by-law-enforcement-officers?inheritRedirect=true>

⁸⁷ InfoMigrants, "EU Parliament members demand interrogation of Croatia's treatment of migrants," 11 September 2018, available at: <https://www.infomigrants.net/en/post/11895/eu-parliament-members-demand-interrogation-of-croatia-s-treatment-of-migrants>

⁸⁸ Answer given on behalf of European Commission by Commissioner Dimitris Avramopoulos to a parliamentary question, no. P-005648/2018, 22 December 2018, http://www.europarl.europa.eu/doceo/document/P-8-2018-005648-ASW_EN.pdf

⁸⁹ Answer given on behalf of European Commission by Commissioner Dimitris Avramopoulos to a parliamentary question, no. P-005648/2018, 22 December 2018, http://www.europarl.europa.eu/doceo/document/P-8-2018-005648-ASW_EN.pdf

⁹⁰ N1, EU border agency Frontex to be deployed on Croatia-Bosnia border, 13 December 2018, available at:

<http://ba.n1info.com/English/NEWS/a303291/EU-border-agency-Frontex-to-be-deployed-on-Croatia-Bosnia-border.html>

⁹¹ N1, EU border agency Frontex to be deployed on Croatia-Bosnia border, 13 December 2018, available at:

<http://ba.n1info.com/English/NEWS/a303291/EU-border-agency-Frontex-to-be-deployed-on-Croatia-Bosnia-border.html>

⁹² HRT, *Otvoreno: Ugrožavaju li migranti sigurnost u Hrvatskoj?*, 18 December 2018, <https://vijesti.hrt.hr/478672/otvoreno-ugrozavaju-li-migranti-sigurnost-u-hrvatskoj>

⁹³ Jutarnji list, "Merkel nahvalila Hrvatsku: 'Hrvatska policija radi odličan posao na granicama, ali postupak za Schengen je više nego jasan,'" 28 September 2018, available at: <https://www.jutarnji.hr/vijesti/hrvatska/merkel-nahvalila-hrvatsku-hrvatska-policija-radi-odlican-posao-na-granicama-ali-postupak-za-schengen-je-i-vise-nego-jasan/7768209/>

⁹⁴ Jutarnji list, "Božinović odbacio optužbe Human Rights Watcha: 'Hrvatska policija štiti granicu na profesionalan način, da nije tako, ne bi dobila pohvale,'" 11 December 2018, available at: <https://www.jutarnji.hr/vijesti/hrvatska/bozinovic-odbacio-optuzbe-human-rights-watcha-hrvatska-policija-stiti-granicu-na-profesionalan-nacin-da-nije-tako-ne-bi-dobila-pohvale/8161640/>

⁹⁵ European Commission, Migration and borders, "Commission awards additional 305 million Euro to Member States under pressure," 20 December 2018, available at: http://europa.eu/rapid/press-release_IP-18-6884_en.htm.

⁹⁶ European Commission, Migration and borders, "Commission awards additional 305 million Euro to Member States under pressure," 20 December 2018, available at: http://europa.eu/rapid/press-release_IP-18-6884_en.htm.

whereby the funding earmarked for border security and management dwarfs that designated for integration activities, which amounts to approximately EUR 17,133.000 of the overall funding.⁹⁷ The additional emergency funding to enhance border security comes despite credible evidence indicating that the beneficiaries of the funds have engaged in increasingly repressive measures in violation of international and EU law and standards.

It is not clear what degree of oversight the European Commission will exercise over the use of these funds. When announcing the new package of assistance, the EC committed to putting in place a monitoring mechanism to “ensure that all measures applied at the EU external borders are proportionate and are in full compliance with fundamental rights and EU asylum laws.”⁹⁸ It remains to be seen whether these measures would force a change in the country’s approach to people seeking international protection at its borders.

⁹⁷ European Commission, *Migration and Home Affairs, Country Page – Croatia*, https://ec.europa.eu/home-affairs/financing/fundings/mapping-funds/countries/croatia_en

⁹⁸ European Commission, Migration and borders, “Commission awards additional 305 million Euro to Member States under pressure,” 20 December 2018, available at: http://europa.eu/rapid/press-release_IP-18-6884_en.htm. This assistance comes on top of nearly 108 million Euro allocated to Croatia under the AMIF (Asylum Migration and Integration Fund) fund between 2014 -2020.

4. CHAIN PUSHBACKS AT EU SCHENGEN BORDERS

While the behavior of the Croatian police has received a great deal of attention in recent months, pushbacks, collective expulsions and automatic refusal to acknowledge asylum claims appear to be a silent, yet persistent, policy in other European countries on the EU external border. The plight of migrants and refugees who succeed in their dangerous undertaking to cross Croatia does not end once they enter Slovenia. Amnesty International research found that a significant number of people (67 out of 94 interviewed individuals) currently stranded in Bosnia and Herzegovina have been a victim of chain pushbacks from EU Schengen borders, in particular Slovenia but also, in some cases Italy.⁹⁹ NGOs operating in Italy confirm that these coordinated collective expulsions occur in cooperation with Slovenian and Croatian police, so that refugees and migrants found on the Italian territory are sent back to Bosnia and Herzegovina within 24 or 48 hours.¹⁰⁰ In recent weeks, Italian media aired a series of reports about persons either pushed back or forcibly expelled from Italy.¹⁰¹

Over 70 percent of the people Amnesty International interviewed in Bihać and Velika Kladuša reported that in one or more of their attempts they succeeded in reaching Slovenia, while several went as far as Trieste in Italy. Although nearly all those interviewed said that they had expressed the intention to apply for asylum in Slovenia or Italy, their requests were ignored; none of them had their individual situation assessed to determine the risks to the person if returned or to establish their asylum needs. Often, they were fingerprinted, and in the case of those who found themselves in Slovenia, were issued a EUR 500 fine (reduced to EUR 220 if paid on the spot) for an “illegal border crossing”, before being handed over to Croatian police.¹⁰² Many described how Slovenian authorities had told them that they would be taken to an asylum center, but instead, transported them back to the border and handed them over to the Croatian police.

“The police officers told us that they would take us to the asylum camp, but they did not. First, we were in a smaller van, and then they put us in a bigger one that was already transporting people from Pakistan and Bangladesh. There were about 25 people in total in there. When they took us to Croatia, the driver was driving like mad,” **Balghiri**, a 17-year-old from Algeria told Amnesty.¹⁰³

⁹⁹ No Name Kitchen, *Border Violence Reports*, January 2019, available at: <http://www.nonamekitchen.org/wp-content/uploads/2019/02/January-2019-Violence-Reports.pdf>. See also: La Stampa, “Caricati nei furgoni: così la polizia italiana riporta a forza i migranti nei Balcani”, 03 November 2018, available at: <https://www.lastampa.it/2018/11/02/italia/caricati-a-forza-nei-furgoni-cos-la-polizia-italiana-riporta-i-migranti-nei-balcani-K775KFcYpdofE4r0eNJTFI/premium.html>

¹⁰⁰ Interview with Gianfranco Schiavone of the Italian Consortium of Solidarity (ICS) conducted by Amnesty International, 1 March 2019. ICS – Ufficio Rifugiati Trieste has collected numerous testimonies of chain collective expulsions between Italy, Slovenia and Croatia taking place particularly in the second part of 2018. See also: Radio Onda d’Urto, “Migranti: rimpatri illegali in Slovenia. La denuncia di ICS Trieste”, 03 November 2018, available at: <http://www.radiondadurto.org/2018/11/03/migranti-rimpatri-illegali-in-slovenia-la-denuncia-di-ics-trieste/>

¹⁰¹ RAI, *TG3*, 10 March 2019, <http://www.rai.it/dl/RaiTV/programmi/media/ContentItem-185d7a30-d322-4650-b350-e6928a864d77.html>, and RAI, *TG3*, 7 March 2019, <https://www.facebook.com/tg3rai/videos/434141940751417/?v=434141940751417>

¹⁰² In Pushbacks and denial of access to asylum, Amnesty International stressed that such fines were contrary to the Slovenian International Protection Act, which stipulates that individuals who declare the intention to file an application for international protection are exempt from liability to for any fines for crossing the border irregularly. See Amnesty International, *Pushbacks and denial of access to asylum*, p.11 and International Protection Act (ZMZ-1), Art. 35.

¹⁰³ Interview conducted by Amnesty International in Velika Kladuša, 26 June 2018.

Ahmad, a minor from Syria, shared a similar story. “They found us in the third village in Slovenia, 15 km from Črnomelj, and took us to a police station. Then they took us to the river so that we can show them where we had crossed. They locked us up in Metlika, where they took our fingerprints. We all asked for asylum. At the beginning, the interpreter said that we would not be returned, that we had evidence that we were from Syria.” Ahmad and his friends were fined for irregular entry and told that they would not be returned to Croatia. “They said there was 70 percent chance that we would not be returned. But when they took our money [fine for irregularly crossing the border], they said they would return us. Our interpreter said there was no longer asylum in Slovenia.”¹⁰⁴

While the testimonies documented by Amnesty International, do not point to violent or abusive police practices in Slovenia, people who spoke with the organization frequently complained about unprofessional and inappropriate conduct of individual interpreters in Slovenia who, in some cases, refused to translate and intimidated and bullied migrants and refugees. Many of them said they were forced to sign papers they did not understand before being deported to Croatia and then onward to Bosnia and Herzegovina.

A family from Iran described how they were threatened with deportation. “When we were given papers to sign, the interpreter said that if we didn’t sign, we would go to prison for six months. So we signed. We didn’t really know what we were signing; it was all in Slovenian.”¹⁰⁵

The returns from Slovenia to Croatia take place under the existing Readmission Agreement between the two countries,¹⁰⁶ which provides for so-called “informal returns” of third-country nationals to Croatia if it can be determined that they had entered Slovenia irregularly from Croatia. The Slovenian General Directorate of Police told Amnesty International that this procedure was used in cases of people who had entered Slovenia irregularly and did not express an intention to apply for asylum there.¹⁰⁷ Such returns must take place within 72 hours of the suspected irregular crossing and do not require any formal procedure. However, due to their informal nature and the lack of necessary safeguards, the summary procedures used to execute these returns are contrary to international law. Amnesty International has urged Slovenian authorities on several occasions to stop using this procedure.¹⁰⁸

Amnesty International findings also suggest that over the summer months of 2018, when the numbers of entries to Croatia and Slovenia sharply increased, the number of recorded intentions to apply for asylum in Slovenia declined. Simultaneously, the number of persons “informally returned” to Croatia showed a steep increase. These figures are consistent with organization’s research showing that the vast majority of those who entered Slovenia over the summer were pushed back to Croatia without the necessary safeguards.

The Slovenian government vehemently denied reports about summary pushbacks and said that the country fully recognized the rights of foreigners, including the right to international protection.¹⁰⁹ The Ministry of Interior insisted that it “informally returned” only those who entered irregularly from Croatia and did not apply for asylum. This is in contradiction to the accounts provided to Amnesty International, which indicate that the vast majority of those who reached Slovenia and were pushed back to Croatia and onwards to Bosnia and Herzegovina expressed intention to apply for asylum, but had their requests ignored. Sixty out of 67 interviewed people who managed to enter into Slovenia between June and December 2018 reported explicitly expressing intention to apply for asylum before Slovenian authorities.

While the returns from Slovenia to Croatia take place under the Readmission Agreement, the pushbacks and collective returns from Croatia into Bosnia and Herzegovina appear to take place completely informally, most often without the presence of Bosnian authorities. This is confirmed by the vast majority of the testimonies of people who were forced to enter the country through areas other than the formal border crossings, in the middle of the night, and without an official transfer.

Indeed, not one person Amnesty International spoke with crossed the Bosnian border in the presence of the Bosnian Border Police. “They drop you from the car near a steep sloped terrain and tell you to go down, but

¹⁰⁴ Interview conducted by Amnesty International in Velika Kladuša, 27 June 2018.

¹⁰⁵ Interview conducted by Amnesty International in Velika Kladuša, 26 June 2018.

¹⁰⁶ See Art 2 (3) of the Agreement between the Government of the Republic of Slovenia and the Government of Republic of Croatia on the readmission of persons whose entry is illegal, accessible at: <https://www.uradni-list.si/glasilo-uradni-list-rs/vsebina/2006-02-0040?sop=2006-02-0040>.

¹⁰⁷ General Police Directorate reply to a query by Amnesty International; emailed on 10 July 2018

¹⁰⁸ See Amnesty International Slovenia, *Pushbacks and denial of access to asylum*, July 2018, p. 7.

¹⁰⁹ Slovenia General Directorate of Police letter to Amnesty International Slovenia, 10 July 2018.

it's dark and you can't see anything. I thought I would break my leg running," **Raif** from Gaza told Amnesty International.¹¹⁰

BiH Ministry of Security confirmed that in 2018 and under the Readmission Agreement between Bosnia and Herzegovina and Croatia, Croatia returned fewer than 500 people to Bosnia and Herzegovina, a half of whom were Turkish nationals,¹¹¹ and likely not a part of the refugee contingent currently stranded in the northwestern part of the country.

EU Commissioner for Health and Food Safety Vytenis Andriukaitis stressed that Croatia must apply the Readmission Agreement with Bosnia and Herzegovina for migrants who cross EU borders irregularly and provide the necessary safeguards. "[Readmission Agreement] should be applied without questioning the right to asylum and the obligations that arise from international law, particularly the principle of banning forced re-admission."¹¹²

The research carried out by Amnesty International and other organizations show that pushbacks and collective expulsions on Slovenian and Croatian borders deny people the right to access asylum procedures and do not include guarantees required under EU and International Law, including the right to an appropriate assessment of a person's individual circumstances, right to interpretation and legal aid, and the right to lodge an appeal against a return. Slovenia and Croatia are bound by the principle of *non-refoulement*, which obliges them to ensure an appropriate examination of whether an individual may be at risk of serious human rights violations if transferred to another country.

Migrants and refugees who are denied entry to Slovenia and returned to Croatia before being pushed back to Bosnia and Herzegovina risk being trapped without legal status in a country that cannot offer them adequate protection or reception conditions. The practices of forcibly returning refugees and asylum-seekers to Bosnia and Herzegovina are meant to shift the responsibility for providing access to a prompt and effective asylum procedures to a third country with limited capacity, and relieve Slovenia and Croatia of their international obligations. Although countries have the prerogative to control the access of people to their territory and a legitimate interest in doing so, they must do so in conformity with their obligations to respect the rights of those seeking international protection under international human rights and EU law.¹¹³

Slovenia and Croatia should immediately stop the practice of pushbacks and collective expulsions, including "informal returns" through their bilateral Readmission Agreements and outsourcing their responsibility to provide international protection to third, less-equipped, countries. European Commission should urge its Member States with external EU borders to police their borders in full compliance with international and EU law and must take action against Member States if they continue to violate their obligations under EU law.

¹¹⁰ Interview conducted by Amnesty International in Miral, Velika Kladuša, 13 December 2018.

¹¹¹ Ministry of Security, Information on persons returned under Readmission Agreement with Croatia, as quoted by Human Rights Watch, *Croatia: Migrants pushed back to Bosnia and Herzegovina*, 11 December 2018, <https://www.hrw.org/news/2018/12/11/croatia-migrants-pushed-back-bosnia-and-herzegovina>

¹¹² N1, "EU border agency Frontex to be deployed on Croatia-Bosnia border," 13 December 2018, available at: <http://hr.n1info.com/English/NEWS/a355509/EU-border-agency-Frontex-to-be-deployed-on-Croatia-Bosnia-border.html>

¹¹³ Articles 3(b); 5(4)(c); 13(1) of the Schengen Border Code; Articles 3,6 and 9 of the Procedures Directive (Recast)

5. BOSNIA – AN EMERGING LEGAL LIMBO FOR EU’S UNWANTED ASYLUM-SEEKERS

Since the opening of the new route through Bosnia and Herzegovina in early 2018, two small towns in the country’s far northwestern corner, Bihać and Velika Kladuša, have become a refuge for thousands of people fleeing conflict, persecution and poverty. It is here where - for many of them - their final attempts to reach Western Europe in hope of finding protection and better life start and often end.

Local authorities and the European Commission (EC) documented over 24,000 arrivals in Bosnia and Herzegovina in 2018,¹¹⁴ a marked increase from the previous year, when fewer than 800 people were recorded in the country. Most people had arrived from Pakistan, Iran, Syria, Afghanistan, and Iraq, but also Algeria, Bangladesh and Eritrea.¹¹⁵ Owing to its mountainous terrain and underdeveloped road and rail infrastructure, Bosnia and Herzegovina had previously remained largely outside of the established refugee route. As Hungary erected impenetrable fences along its borders with Serbia and Croatia in 2015 and virtually choked off a key access point to EU territory, and Slovenia fortified its borders, people stranded in Serbia, Bulgaria and Greece gradually forged a new route to Western Europe - through Bosnia and Herzegovina and Croatia.

A small minority of people attempts to apply for asylum and stay in Bosnia and Herzegovina. Out of 24,000 refugees and migrants who transited through the country in 2018¹¹⁶, some 23,000 expressed intention to apply for asylum, with less than seven percent (1,579) actually managing to do so.¹¹⁷ Numerous bureaucratic obstacles for registration, lack of adequate legal assistance, limited capacity within the Ministry

¹¹⁴ BiH Council of Ministers, Information on migration, December 2018, and European Commission, Bosnia and Herzegovina, Factsheet, available at: https://ec.europa.eu/echo/where/europe/bosnia-and-herzegovina_en

¹¹⁵ BiH Council of Ministers, Information on migration, December 2018, and European Commission, Bosnia and Herzegovina, Factsheet, available at: https://ec.europa.eu/echo/where/europe/bosnia-and-herzegovina_en

¹¹⁶ BiH Council of Ministers, Information on migration, December 2018, and European Commission, Bosnia and Herzegovina, Factsheet, available at: https://ec.europa.eu/echo/where/europe/bosnia-and-herzegovina_en

¹¹⁷ Inter-agency operational update Bosnia and Herzegovina, January 2019, <http://ba.one.un.org/content/dam/unct/bih/PDFs/UNCTBiHSitReps/Inter-agency%20refugee%20and%20migrant%20operational%20update-%20January%202019.pdf>. See also, BiH Council of Ministers, Report from the 160th session, 4 December 2018, http://www.vijeceministara.gov.ba/saopstenja/sjednice/saopstenja_sa_sjednica/default.aspx?id=29623&langTag=en-US

of Security and scarce support for potential asylum-seekers¹¹⁸ cause many refugees and migrants to proceed to other European countries.

The number of arrivals to Bosnia and Herzegovina peaked in the summer and autumn months of 2018, with a record of over 5,000 arrivals recorded only in October.¹¹⁹ The numbers dropped somewhat over the winter, as the treacherous conditions and low temperatures render the difficult track through the Western Balkans even more perilous. At present, some 5,500 people – many of whom have been pushed back from Croatia or Slovenia – occupy three improvised accommodation centers operated by IOM. The centers, housed in giant halls of defunct factories, were hastily set up with EU funding assistance in November 2018 in an effort to provide shelter for people who had been rough-sleeping before the temperatures plummeted and winter set in. As of January 2019, refugees and migrants are cramped in heated tents and containers inside of the two factories – Bira in Bihać, which accommodates close to 2500 people¹²⁰, and Miral in Velika Kladuša, which currently houses 900 people [although its estimated capacity is approximately 700]¹²¹. Families and unaccompanied minors, about 130 people, are housed separately in a refurbished former dormitory Borići, while an estimated 500-800 persons are accommodated in private homes.¹²²

At the time of Amnesty International's visit in December, the camps were still undergoing improvements. Although the estimated number of people in country at the time was significantly lower than in the previous months, the centers were running at capacity and struggling to accommodate new arrivals. The transient nature of the camps was evident; throughout the day, the groups of people were returning from unsuccessful attempts to cross Croatia, exhausted and cold, while others were preparing for an uncertain track ahead. IOM management confirmed a high turnover in the camps.

EU allocated EUR 9.2 million in assistance to support management of a growing humanitarian situation in BiH; EUR 2 million was granted in humanitarian aid and additional 7.2 million through special measures and funding was disbursed through IOM, UNHCR and UNICEF to set up the centers.¹²³ Together with a number of NGOs, IOM provides the residents with a basic shelter, three meals a day, portable shower facilities and some access to elementary medical care and legal advice. Nevertheless, the conditions in the centers are inadequate. In addition to safety concerns, the people who spoke to Amnesty International complained about the poor hygiene, lack of hot water, long queues for meals and inaccessible medical care.

Bira and Miral are equipped with portable toilet and shower facilities, but they were insufficient for the number of people living there. Dozens of toilets were meant to serve hundreds of people accommodated there, but at the time of Amnesty International's visit, many, especially in Miral, were blocked or out of use. According to residents, hot water was hard to come by, as the showers with 70l water heaters would quickly run out of water. **Raif** from Gaza, interviewed in Miral was exasperated. "There is no soap, no shampoo, no hot water. They [IOM staff] give us lessons about staying clean, but how can we!"¹²⁴

Women interviewed by Amnesty International reported having particularly difficult time accessing the showers and toilets. Although families had separate facilities, many women in Bira complained that they were not sufficient and that single men from other parts of the camp force their way into the family section to use their showers. **Fatima** from Afghanistan told Amnesty that she had not have a shower for weeks. "There is only one toilet for families and you have to wait in a long line if you want to use it. Makes it very difficult for us to keep up with hygiene, especially for the children".¹²⁵ In Miral, women from Syria and Iraq Amnesty

¹¹⁸ United Nations High Commissioner for Refugees (UNHCR), Refugee and migrants situation in Bosnia and Herzegovina: The multi-clustered/sector initial rapid assessment (MIRA) report, May 2018, <https://data2.unhcr.org/es/documents/download/63869>

¹¹⁹ Interagency operational update Bosnia and Herzegovina, 31 January 2019, <http://ba.one.un.org/content/dam/unct/bih/PDFs/UNCTBiHSitReps/Inter-agency%20refugee%20and%20migrant%20operational%20update-%20January%202019.pdf>

¹²⁰ The latest figures taken from Interagency operational update Bosnia and Herzegovina, 31 January 2019, <http://ba.one.un.org/content/dam/unct/bih/PDFs/UNCTBiHSitReps/Inter-agency%20refugee%20and%20migrant%20operational%20update-%20January%202019.pdf>. This number in December was 2067 persons; as documented by Amnesty International interview conducted with the IOM camp manager in Bira in Bihać, 12 December 2018.

¹²¹ Interagency operational update Bosnia and Herzegovina, 31 January 2019, <http://ba.one.un.org/content/dam/unct/bih/PDFs/UNCTBiHSitReps/Inter-agency%20refugee%20and%20migrant%20operational%20update-%20January%202019.pdf>. According to IOM camp manager in Miral, the number was somewhat lower in December, standing at 700 persons. Interview with IOM camp manager in Miral conducted by Amnesty International in Velika Kladuša, 13 December 2018.

¹²² Interview with Una-Sana Canton Police Commissioner conducted by Amnesty International in Bihać, 12 December 2018.

¹²³ European Commission, Bosnia and Herzegovina Factsheet, https://ec.europa.eu/echo/where/europe/bosnia-and-herzegovina_en, N1, "EU border agency Frontex to be deployed on Croatia-Bosnia border," 13 December, 2018, <http://ba.n1info.com/English/NEWS/a303291/EU-border-agency-Frontex-to-be-deployed-on-Croatia-Bosnia-border.html>.

¹²⁴ Interview conducted by Amnesty International in Miral, Velika Kladuša, 13 December 2018.

¹²⁵ Interview conducted by Amnesty International in Bira, Bihać, 12 December 2018.

International spoke with said that they could not use toilets at night as dominant groups of refugees and migrants control the area at nighttime and prevent anyone else from using the facilities. Unfettered and safe access to adequate toilet facilities is essential for women and children. Failure to provide accessible separate facilities could expose women and girls in particular to a greater risk of gender-based violence.

Residents Amnesty International spoke with confirmed receiving three meals per day, but they reported that the quality and quantity of these meals varied and was often insufficient or lacked basic nutrition. **Feroza** from Afghanistan carried half a loaf of bread hidden under her shawl. She explained that she had to “sneak out” bread from the camp’s communal kitchen so that she can feed the children. “The food is definitely not sufficient to feed the whole family, especially the children. They are always hungry.”¹²⁶

Until recently, many refugee families were able to supplement their meals with the food bought in supermarkets outside of the camps. However, in December, the local authorities started imposing restrictions on freedom of movement of people accommodated in the centers and local markets hired security guards to stop refugees and migrants from entering. This was a major blow for migrants and refugees, for many of whom this was the only way to maintain some dignity. “There were several thefts by younger men and now none of us is allowed to shop in local stores. The whole community is marked because of a few individuals,” **Fatima** from Afghanistan told Amnesty International.¹²⁷ Many other residents reported that the lack of access to supermarkets was a huge problem and made the complaints about the provision of meals even more acute. During the visit to Bira and Miral, Amnesty International witnessed long queues to get a meal. While families and children had a separate and easier access, single men had to stand in queues for almost two hours to get their food. This was a major source of frustration for many residents that Amnesty International spoke with.

The camps also lack adequate medical or psychological care. While medical services provided by Danish Refugee Council were available daily, they were limited to several hours each day and the queues to see a doctor or a nurse were very long. Amnesty International spoke to several people who had been trying to see a doctor for over two weeks.

Others, who needed specialist care, had difficulty accessing local clinics – either due to lack of medical escort or because of reluctance of local doctors to treat refugees. Jesuit Refugee Service, who provide a medical escort for people registered in the camps and facilitate their access to local clinics when needed, told Amnesty International that they initially encountered challenges in terms of accessing medical care, but have been working with local clinics to address these.¹²⁸ Activists who support refugees and migrants in Velika Kladuša reported situations where local Emergency Service refused to send a vehicle to pick up migrants who needed urgent medical attention.¹²⁹ Indeed, during Amnesty International’s visit, a 17-year-old boy from Pakistan died in a Bihać hospital after complaining about stomach pains for several days, but failed to receive timely medical treatment.¹³⁰

Samir from Pakistan, showing visible bruises on his face and stiches across his brow bone, told Amnesty International that he had been trying to see a nurse for two weeks to remove the stitches. He explained that a general practitioner from a local clinic who originally treated him for his injuries asked him to return after ten days for a checkup and removal of stitches. However, two weeks later, Samir is still trying to organize the appointment. He was told that he had to come to the clinic either early in the morning or late in the evening, but due to restrictions on freedom of movement for refugees, he cannot go alone and requires an official medical escort from the camp. The escort, however, is not available outside of official working hours, so Samir has found himself in an absurd and frustrating situation. When Amnesty International spoke with him, he was standing in a long line of people who were trying to get an appointment with the Danish Refugee Council team of doctors in Bira camp in hope that they would be able to resolve his problem.¹³¹

¹²⁶ Interview conducted by Amnesty International in Bira, Bihać, 12 December 2018.

¹²⁷ Interview conducted by Amnesty International in Bira, Bihać, 12 December 2018.

¹²⁸ Interview with Jesuit Refugee Service in Bihać, 12 December 2018.

¹²⁹ Interview with No Name Kitchen in Velika Kladuša, 11 December 2018.

¹³⁰ Index.ba, “Preminuo 16-godisnji Pakistanac koji se danima žalio na bolove u stomaku; da li su zakazali danski ljekari,” 21 December 2018, available at: <https://www.index.ba/bihac-preminuo-16-godisnji-pakistanac-koji-se-danima-zalio-na-bolove-u-stomaku-da-li-su-zakazali-danski-ljekari/>. According to the information provided by the local hospital to the Heinrich Boll Stiftung researchers, the boy died of infection and complications following pneumonia, a condition that could have been successfully treated with adequate medication if diagnosed on time. See: Henrich Boll Stiftung Bosnia and Herzegovina, People on the move in Bosnia and Herzegovina in 2018: Stuck in the corridors to the EU,” 1 March 2019, https://ba.boell.org/sites/default/files/people_on_the_move_in_bosnia_and_herzegovina_-_21-02-2019_-_web.pdf

¹³¹ Interview conducted by Amnesty International in Bira, Bihać, 12 December 2018.

Residents singularly reported concerns about the lack of security and safety in the camps. This was particularly the case in Miral, which primarily hosts single men, and where the few families Amnesty encountered said the camp was a “living hell” or “more like a prison”. IOM contracted a local private security company to provide 24-hour security in the camps. The occupants, however, speak of daily clashes between different groups, as well as widespread drug use and theft. People interviewed by Amnesty said that they did not feel safe living there and had to remain on high alert at all times.

Additionally, there were reports, including video footage, of incidents involving what appears as excessive use of force by the private security company staff in the camps.¹³² In a letter to Amnesty International, IOM said that “ensuring peaceful coexistence in a densely populated location with diverse, mostly male population from different nationalities,” has been a challenge and that the IOM staff has made every effort to deal with tensions professionally. IOM confirmed that it had alerted the local police about the aforementioned incident in the Miral camp and requested it to conduct an appropriate investigation.¹³³

5.1 FAILURE OF BIH AUTHORITIES TO PROVIDE PROTECTION

For all the deficiencies, the establishment of IOM-operated temporary camps providing basic shelter and care for refugees and migrants had possibly prevented a far worse situation from developing had the crisis management been left solely to the authorities in Bosnia and Herzegovina. The country has been ill prepared to deal with the considerable, though not entirely unforeseeable, challenge of providing reception for the large number of people transiting through its territory. In May, Council of Europe Commissioner for Human Rights criticized the authorities for failing to provide a systematic response to the humanitarian crisis.¹³⁴

Bosnia and Herzegovina has only one official reception center for asylum-seekers near Sarajevo, in Delijaš, which is operated by Ministry of Security, and with the capacity to accommodate a mere 150 people.¹³⁵ In the absence of adequate facilities or a meaningful support system, refugees and migrants who entered the country from Serbia routinely travelled to Bihać and Velika Kladuša, to be closer to the Croatian border. During the peak of the crisis in summer, the two small towns were receiving between 300 and 400 arrivals per day; mostly people traveling on regular train and bus lines from Sarajevo. But as Croatia increasingly tightened the border and started forcibly expelling refugees and migrants found on their territory to Bosnia and Herzegovina, and the numbers of people stranded in the canton started swelling, the local authorities became overwhelmed. “We simply lack capacity and resource to deal with the crisis alone,” Una-Sana Police Commissioner told Amnesty International. “And we feel completely abandoned by the state authorities. There is no strategy to deal with the crisis at the national level.”¹³⁶

Indeed, the Ministry of Security of Bosnia and Herzegovina, which has competence over matters of asylum and migration, has failed to actively engage or meaningfully support the local authorities. In part, the country’s complex and dysfunctional constitutional structure often obfuscates actual competencies and creates situations where multiple administrative levels and institutions are unclear as to who is responsible over any given issue. A meaningful agreement about how to respond and assist the growing number of refugees and migrants in the country was even more difficult to achieve in 2018, an election year, when for the better part of the year, the governments at all levels have prioritized campaigning over governance. The increased presence of refugees and migrants only exacerbated the tensions between the local authorities and national government and left the people stranded in Una-Sana Canton to haphazard efforts of local community and international organizations.

The lack of clear institutional responsibility for managing the growing humanitarian crisis raises serious concerns; not only do temporary, and often opaque, informal arrangements between the authorities and

¹³² One such incident was recorded by a resident and shared with NGO community.

¹³³ International Organization for Migration (IOM) letter to Amnesty International, February 2019.

¹³⁴ Council of Europe Commissioner for Human Rights, *Open letter to the BiH authorities concerning current migration situation in Bosnia and Herzegovina*, 9 May 2018, <https://rm.coe.int/commdh-2018-12-letter-to-the-authorities-regarding-the-migration-situa/1680870e4d>.

¹³⁵ In addition to the asylum center Delijaš, the national authorities also operate a refugee center Salakovac, managed by the Ministry of Human Rights and Refugees, with the capacity to accommodate 250 people. However, this center is designated for people who have already obtained a refugee status.

¹³⁶ Interview conducted by Amnesty International in Bihać, 12 December 2018.

international organizations create a situation where no one institution is fully responsible providing plausible excuse for inaction, but they also diminish any sense of accountability on either side.

The dispute over institutional responsibility escalated in February 2019, when the authorities in Bihać demanded that Ministry of Security takes over the management of the temporary accommodation centers in Bihać and Velika Kladuša and, failing this, threatened to disband the camps and bus 4,000 people accommodated there back to Sarajevo.¹³⁷ The dispute is still ongoing, however, the crisis suggests that the conditions for refugees and migrants currently accommodated in the reception centres in Bihać and Velika Kladuša are not about to improve and that, in fact, their already volatile position in Bosnia and Herzegovina could become even more precarious.

Bosnia and Herzegovina has responsibility to provide the minimum guarantees, including ensuring the right to housing and emergency shelter to refugees and migrants, including those who are in the country irregularly. Under the European Social Charter, all foreign nationals, regardless whether they are in country lawfully or not, are entitled to adequate housing, as well as urgent medical care and basic social assistance.¹³⁸

The Bosnian authorities at all levels are aware that, as the snow melts and temperatures rise, so will the number of people trying to enter the EU through the country. Yet, there is little hope that Bosnia and Herzegovina will be any better prepared to cope with the inevitable increase. While the European Commission committed to provide additional assistance for management of migration, most of which is earmarked for humanitarian assistance to Bosnia and Herzegovina, the continued collective expulsions and pushbacks from EU borders threaten to turn Bosnia and Herzegovina, the country that is still reeling from a devastating conflict of the 1990s, into a new crisis point at the doorstep of Europe.

¹³⁷ N1, "Kljajić: Mektić na potezu, vratit ćemo sve imigrante u Sarajevo," 8 February 2019, available at: <http://ba.n1info.com/Vijesti/a314974/Kljajic-o-vracanju-migranata-u-Sarajevo.html>

¹³⁸ The Committee of Ministers of the Council of Europe, Recommendation No. R (2000)3 to member states on the Right to the Satisfaction of Basic Material Needs of Persons in Situations of Extreme Hardship, 19 January 2000.

6. CONCLUSION AND RECOMMENDATIONS

In the light of the findings included in this report, Amnesty International makes the following recommendations:

TO CROATIAN AUTHORITIES

- Immediately halt the pushbacks and collective expulsions of refugees and migrants;
- Ensure that all asylum-seekers have access to fair and effective asylum procedure, including an assessment of their claims for international protection on their merit through an individualized procedure;
- Ensure that all procedures related to returns and transfers of individuals to Bosnia and Herzegovina include the necessary human rights safeguards and guarantees, including allowing the individuals the opportunity to challenge the lawfulness of any return decision;
- Immediately instruct border police and local police to stop using force and intimidation to prevent migrants and refugees from accessing Croatian territory;
- Conduct independent, prompt and effective investigation of pushbacks and collective expulsions and guarantee effective remedies for such violations;
- Promptly, effectively and impartially investigate the allegations of excessive use of force by the police against migrants and refugees at its borders and take appropriate action against the perpetrators;
- Provide physical access and access to information in police stations to the Croatian Office of the Ombudsperson in line with Croatian law and Croatia's obligations under the Additional Protocol to the UN Convention against Torture;
- Ensure respect for existing monitoring and accountability mechanisms allowing for public and institutional scrutiny of Croatia's migration policies and practices;
- Stop the campaign that is deliberately designed to target and harass the organizations promoting refugee and migrant rights and their activists;
- Ensure that no one is criminalized for exercising the right to freedom of association, nor subjected to threats, attacks, harassment, smear campaigns, intimidation or reprisals for their human rights work;
- Publicly condemn attacks, threats and intimidation against non-governmental organizations and human rights defenders;
- Refrain from feeding negative narratives concerning refugees and migrants and the organizations that promote the rights and instead provide them with an enabling environment where they can operate free of fear of reprisals.

TO SLOVENIAN AUTHORITIES

- Ensure that all asylum-seekers have access to fair and effective asylum procedures and that, when such persons declare their intention to apply for asylum, the authorities act in accordance with the Slovenian International Protection Act and International Law;
- Conduct prompt, independent and impartial investigation into all allegations of the authorities denying access to asylum procedures, pushbacks and collective expulsions;
- Refrain from returning persons to other countries without providing procedural safeguards against returns that could put people at risk of human rights violations in the country to which they may be directly or indirectly returned;
- Ensure that police and border guards provide adequate information to refugees and migrants about relevant procedures and their rights in the language(s) that they understand;
- Investigate allegations of unprofessional conduct of official interpreters;
- Remove the provisions concerning the so-called “informal returns” from the Readmission Agreement with Croatia, as “informal returns” breach EU and international law and do not provide the necessary safeguards against potential *refoulement* or, failing this, to ensure that its operational guidelines that implement readmission agreements explicitly detail effective substantive and procedural safeguards, which ensure respect for the principle of *non-refoulement*.

TO ITALIAN AUTHORITIES

- Ensure that all asylum-seekers have access to fair and effective asylum procedures and that, when such persons declare their intention to apply for asylum, the authorities act in accordance with the national and International Law;
- Conduct prompt, independent and impartial investigation into all allegations of the authorities denying access to asylum procedures, pushbacks and collective expulsions;
- Refrain from returning persons to other countries without providing procedural safeguards against returns that could put people at risk of human rights violations in the country to which they may be directly or indirectly returned.

TO THE AUTHORITIES IN BOSNIA AND HERZEGOVINA

- Ensure that all asylum-seekers have access to fair and effective asylum procedure, including an assessment of their claims for international protection on their merit through an individualized procedure;
- Refrain from imposing unnecessary restrictions on freedom of movement of migrants and refugees;
- Take concrete steps to take over the management of and oversight over the temporary accommodation centers for refugees and migrants in compliance with national legislation;
- Take concrete steps to ensure that the country is better prepared to adequately respond to the needs of refugees and migrants transiting through or staying on the territory of Bosnia and Herzegovina, including by providing them with adequate and safe accommodation, food sanitation, medical care and legal aid, as required by national and international law.

TO THE EUROPEAN UNION

- Decisively call on Croatia to immediately halt pushbacks, collective expulsions and police violence at its borders and use appropriate measures to ensure Croatia’s full compliance with international and European Union law;
- Put in place an effective monitoring and oversight to ensure that the funding provided to Croatia for the purposes of border protection does not encourage or contribute to human rights violations;

- Call on the Border and Coast Guard Agency (Frontex) to monitor the management of Croatia's external borders to ensure that it is human rights compliant and to provide specific training on relevant European Union and international law and fundamental rights;
- Provide additional financial, logistical and technical assistance to Bosnia and Herzegovina to ensure dignified reception of those arriving in the country.

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SYSTEMIC AND DELIBERATE

COLLECTIVE EXPULSIONS FROM EU BORDERS

This report sheds light on human rights violations against refugees and migrants along the Western Balkans route, focusing on Bosnia and Herzegovina, Croatia, and Slovenia. It finds that widespread pushbacks and collective expulsions – often accompanied with violence – and routine denial of access to asylum are a regular occurrence on the border between Bosnia and Herzegovina and Croatia. They are also a part of the systemic and deliberate policy of the Croatian authorities to discourage future irregular entries and demonstrate that Croatia can effectively protect the EU's external border. Similar trend of pushbacks and collective expulsions has been documented on the Slovenian and, to a lesser degree, Italian borders.

Such deliberate violation of international and European Union law is not solely a by-product of these countries' singlehanded anti-migration practices. Indeed, it is just as much a consequence of the broader EU's policy to reduce irregular crossings and keep people outside of EU by tightening border security and externalizing migration processes. The determination of individual states on the EU's periphery to avoid responsibility towards people fleeing conflict, persecution, and poverty, and the EU's failure to decisively call out and stop such practices, represent a structural threat to the rule of law and fundamental values in Europe and should be robustly challenged.