

CASE REPORT _____

Push-backs in Croatia: Complaint before the UN Human Rights Committee

Croatia collectively and summarily pushes back migrants and refugees to Bosnia and Herzegovina (BiH) with the use of weapons and excessive violence, operating a rights-free border zone which denies any form of legal protection. The UN Human Rights Committee will examine this practice of collective expulsions for the first time in a complaint submitted by a Syrian man who is supported by ECCHR and its partner lawyer Carsten Gericke.

In 2018, the 21-year-old Syrian applicant left BiH due to its dysfunctional asylum system and intolerable living conditions. With other refugees he crossed the Croatian border and was subject to six push-backs at the hands of masked and armed Croatian officials which grew in violence and cruelty over the three-month period. Torches and pepper spray were used to blind the groups followed by prolonged, brutal assaults. The applicant was also subjected to acts of humiliation and even electric shocks which left him unconscious. Requests for asylum or information were roundly dismissed, no identification or individual assessment was undertaken and the groups were ordered to cross irregularly back over the border.

Croatia is a signatory to the Geneva Convention on the Status of Refugees, the International Covenant on Civil and Political Rights (ICCPR) and the European Convention on Human Rights. Yet at no point were the applicant's human rights considered by Croatian officials. Instead, he was treated merely as an object of the law and denied any rights as a human being. He asserts a violation of article 16 ICCPR which guarantees the right to recognition as a person before the law. He states that he was neither supplied with any form of information nor with the option to legally challenge his deportation, a breach of article 2(3) ICCPR. Finally, he asserts that Croatia's failure to individually assess the inhumane conditions awaiting him in BiH violated article 7 ICCPR which prohibits torture or cruel and degrading treatment.

Context: The "closure" of the Balkan corridor and its consequences

Collective expulsions of migrants and refugees from Croatia, or push-backs, have been [documented since early 2016](#). Prior to that, the so-called Balkan corridor was seen as a relatively safe and fast route taken by forced migrants coming from Greece, leading up through the Balkans and on to Northern and Western Europe. During the winter of 2015, this route was gradually shut down as states introduced stricter border controls. In March 2016, the European Council [announced](#) that irregular flows of migrants along the Western Balkans route "had come to an end."

Yet, the Balkan route was not sealed off and people continue to attempt to migrate along it. Its official closure merely changed the characteristics of the route. Many arriving on Greek shores

are now contained in EU-funded hotspots, such as overcrowded and squalid Moria, a “living hell,” filled to over ten times capacity, a place of physical and psychological violence and growing levels of suicide. The only alternative for many desperate to escape these inhumane conditions is what refugees sarcastically refer to as the “game,” the repeated attempts to irregularly cross borders, often leading to violent push-backs, death or cash-induced returns.

Systematic collective expulsions from Croatian

The six push-backs experienced by the applicant are not isolated incidents but form part of a systematic practice of collective expulsion at the Croatian border which is replicated across Europe in Spain, Hungary, Greece, Italy, Bulgaria, Poland, and Slovenia. There are no conclusive figures on push-backs from Croatia to BiH but a damning [letter from EU parliamentarians](#) to Croatia in April 2019 estimated that over 7000 persons had been summarily expelled from Croatia, 80 percent of whom were subject to a push-back, the majority of which were of a violent nature and also directed at children.

Croatia’s unofficial practice meets both with international condemnation and broad tacit approval. A Council of Europe resolution from June 2019 recorded the parliamentary assembly as “extremely worried about persistent reports and evidence of inhuman and degrading treatment” in the context of push-backs in particular from Croatia and urged states to put a halt to the practice and extend access to protection. Recognizing the illegal nature of the push-backs, a Swiss court ruled in July 2019 that a refugee should not be returned to Croatia due to the risk of summary expulsion.

Yet the fortification of Croatia’s borders is also actively supported by the EU and its agency Frontex, it is sanctioned by the EU Commission and has been praised by the German Chancellor Angela Merkel. The Croatian Interior Minister, Davor Božinović, clarified Croatia’s intensified use of deterrence at the border with the state’s intention to join the Schengen zone and Croatia’s obligation to fend off illegal crossings. Following the European Commission’s concerns about the porous border with BiH, Croatia made assurances to reinforce surveillance with increased patrols, helicopters, thermo-vision vehicles and dogs, after which the commission deemed Croatia ready to join the Schengen zone. A “use of a little force” has also been [defended](#) by Croatia’s former President, Kolinda Grabar-Kitarović, adding, however, that this remains proportionate. Still, in 2020, minister Božinović continues to deny the existence of violent expulsion practices.

These denials become increasingly difficult to sustain, however, since recent reports of the first border casualties, the emergence of video evidence, as well as testimony from Croatian police whistleblowers, and continued wide-ranging reporting from NGOs and the media. Up to a fifth of all recorded push-backs from Croatia involve gun use, according to the Border Violence Monitoring Network and in November 2019 the Croatian Interior Ministry confirmed an investigation into a casualty, a man shot in the stomach and chest close to the Slovenian border. Additionally, video footage emerged in December 2018 from cameras hidden in the Croatian forests, documenting 54 push-backs in the space of 10 days, some involving small children where assaults, shots and screams are heard with migrants visibly injured. Further footage emerged in May 2019. This violent practice was corroborated by a whistleblower from the Croatian police in an anonymous letter where details were given of their orders to “return everybody, without paperwork, without track, to take their money, to smash their cellphones ... and return the refugees to Bosnia by force.”

Reporting on push-backs from Croatia dates back to January 2016. The practice continues unabated and appears to intensify in its cruelty. The first report came from the [BBC](#) followed by [Deutsche Welle](#), [Reuters](#), [Al Jazeera](#), and [The Guardian](#). Extensive documentation was later published by [UNHCR](#), [Human Rights Watch](#), [Amnesty International](#), [Médecins sans Frontières](#) (MSF) and the [EU's Fundamental Rights Agency](#), all pointing to a systematic practice of summary violent and indiscriminate expulsions by Croatian authorities and a lack of accountability. Much of this reporting relied heavily on the work of local grassroots monitoring NGOs such as [Are You Syrious](#) and [No Name Kitchen](#). Media reporting on violent and abusive push-backs continues via the BBC, Open Democracy, [The Guardian](#) and [Foreign Policy](#) magazine. Regular reports from the [Border Violence Monitoring Network](#) demonstrate an intensification of the violence. In February 2020, a group including two minors are robbed of their phones, beaten, kicked, given electric shocks, stripped, their bags burnt and ordered to swim back to Bosnia whilst officers shoot into the river. In November 2020 explicit footage of such a violent pushback was published by [SRF](#), [Spiegel](#) and [ARD](#).

Officials seeking to investigate or halt the practice have failed to hold Croatia accountable or to even have any notable impact on the number of push-backs. The Croatian Ombudswoman has been repeatedly [hindered](#) in her attempt to investigate push-backs by both the Croatian Ministry of Interior and the Public Prosecutor's Office. The ombudswoman criticized the Croatian authorities' disregard of asylum claims, beatings with batons, the use of violence against children, the theft of money, the seizure and destruction of mobile phones, the informal use of police station detention and the complete absence of translation and record-keeping. Her counterpart in BiH [mirrored](#) her findings.

The asylum system and living conditions for asylum seekers in BiH

More than 15,000 people sought international protection in BiH in 2018, according to local authorities, [evidenced](#) by their registered but unprocessed asylum claims. In fact, only a fraction, [reportedly only seven percent](#), could finally register a claim. In a country still plagued by the effects of the 1990s war and one where a nationwide uprising was caused by mass unemployment, poverty and corruption as recently as 2014, the asylum system does not function any better than the deficient state services for citizens. A [letter](#) from the Council of Europe Commissioner for Human Rights in May 2018 highlighted the many deficiencies in the asylum system. Asylum seekers are unable to request asylum since most camps do not serve as a registered address which is a requirement in order to lodge an application. Access to healthcare is "a major concern," as [pointed out](#) by the UN and food is limited to one meal a day. Additionally, there is a lack of adequate legal assistance and translators.

Despite their right to accommodation under [BiH law](#) most asylum seekers had to sleep rough or in squats due to the lack of allocated spaces and the deplorable conditions in the few official camps. Many migrants gathered in the cities of Bihac and Velika Kladuša, near the Bosnian-Croatian border, living in locations which fell below minimum humanitarian standards. In Bihac, the abandoned student dormitory "Borići," a decrepit, hazardous and filthy building was shelter to thousands of migrants and refugees, including families with children and unaccompanied minors. The [Ombudsman of BiH](#) deemed the building "absolutely unsuitable for the stay of migrants," as violence and theft are constant issues in addition to the dire condition of the building itself. In Velika Kladuša, a plot of land referred to as Trnovi, was used by approximately 1000 migrants and refugees as a campsite, its poor conditions worsened by

frequent flooding. The BiH ombudsman [concluded](#) that the site “does not meet even basic conditions for human residence.”

At the end of 2018, IOM hastily relocated asylum seekers to recently emptied factories, namely Miral in Velika Kladuša and Bira in Bihać. Originally intended to serve as “[emergency shelters](#)”, these new camps were soon overcrowded, lacking adequate hygienic facilities, with “[very concerning security and safety conditions](#),” little to no access to legal assistance, health services, food and other basic necessities and recurring episodes of violence.

Legal action: Individual communication against Croatia in front of the UN Human Rights Committee

The Syrian complainant, now recognized with subsidiary protection status in the Netherlands, has decided to claim his rights in front of the UN Human Rights Committee (UN HRC), the monitoring body which oversees compliance with the International Covenant on Civil and Political Rights, one of the most widely ratified international human rights treaties. The application was communicated to Croatia in December 2020.

Treated as an illegal entity and stripped of his human rights, he asserts that the systematic failure to assess his individual needs or to offer him legal protection violated his rights under article 16 ICCPR (right to recognition as a person before the law) and article 2(3) ICCPR (access to an effective remedy). Additionally, given the conditions in BiH, he claims his expulsion breached article 7 ICCPR (prohibition of torture, cruel, inhuman or degrading treatment or punishment).

The six collective expulsions took place on different days over a period of roughly three months. The complainant arrived in BiH in October 2018, having fled the civil war in Syria. In Sarajevo, he first tried and failed to register for asylum. He succeeded in submitting an application 20 kilometers further away in Pale but received no information regarding the asylum process, nor his right to state support or access to shelter, food, or health care. So he travelled onwards towards the Croatian border to Bihac where he stayed in the Borići dormitory and relied on donations to survive. With no viable alternative, he attempted to cross the border from here to Croatia.

Denied access to his human rights and subject to six push-backs of increasing violence and cruelty in an area which appears to function outside the protection of the law, the complainant asserts a violation of article 16 ICCPR. He claims that the rights vacuum at the Croatian border breaches ICCPR’s guarantee that every person be regarded as a rights holder. The systematic practice of collective push-backs is seen to be intentionally executed outside any legal framework and without legal protection. No identification was undertaken, nor an individualized assessment. This calculated and repeated practice of removing persons or groups from the remit of the law has been found to amount to a violation of article 16 ICCPR in the context of enforced disappearances. The HRC has yet to apply article 16 ICCPR to an irregular, forced and arbitrary expulsion.

With each push-back, the complainant was deported just hours after being intercepted by police and forced back irregularly across the border, away from an official crossing. Again, there was no registration or assessment, no interpreters were made available, and his phone was seized so he could not access external help. On three occasions when specific requests for asylum were made, these were explicitly denied. The HRC has consistently found that an effective legal remedy must be available prior to deportation to ascertain whether an individual’s rights are

being violated by a measure. Such legal remedy must have immediate suspensive effect. Due to the lack of any information regarding a legal remedy and the specific denial of access to it, the complainant claims a violation of article 2(3) ICCPR.

Finally, despite widely available documentation on the inhumane conditions in BiH, no individual assessment was undertaken by the Croatian authorities regarding the situation the complainant would be returned to. In this context he claims a violation of article 7 ICCPR which sets out an absolute prohibition on inhuman or degrading treatment. Compliance with this right requires an individual risk assessment. Returning an individual to intolerable living conditions or destitution, particularly when this situation is foreseeable, breaches article 7 ICCPR.

Legal interventions against collective expulsions

Filed in March 2019, this is the first complaint regarding a push-back to be submitted to the HRC. Yet it is a continuation of previous ECCHR litigation against collective expulsions at the EU's external land borders, specifically *AA and others v. FYROM* and *ND and NT v. Spain* at the European Court of Human Rights and *DD v. Spain* in front of the UN Committee on the Rights of the Child.

Croatia's migration policy is based on grave human rights violations at the border, but it is still sanctioned by the EU and its Member States. The duty of social movements and civil society to confront governments and speak up against injustice is key and should not be hindered. Even more so when this injustice targets people who seek refuge from harm and surrogate protection.

ECCHR's Migration program is trying to do its part. For the past five years, it has used strategic litigation to seek to hold governments and [the EU](#) accountable for the inhumane consequences of migration control. Its work strives to stand in solidarity with those struggling to cross the seemingly lawless borders of Europe and to fight for the most dignified migration possible, and with those who support them on the ground.

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