

**Written submission to  
the Committee on the Rights of the Child  
in relation to Croatia  
88<sup>th</sup> session**

Submitted on 29 April 2021

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### **Introduction to submission**

In this evidence submission, we highlight serious violations of the rights of the child suffered by children on the move on Croatian territory and at its borders. These include the violation of the principle of non-refoulement and fundamental rights; denial of the right to asylum, the right to due process and legal recourse, the right to life and the right not to be subjected to torture or inhuman or degrading treatment or punishment.

The submission particularly raises concerns in regard to pushbacks involving children, and the Croatian authorities' systematic practices of violence, humiliation and/or arbitrary detention that many children experience. Critically, we observe a pervasive denial of these crimes by Croatian authorities, a failure to conduct effective and independent investigations and bring criminal charges against perpetrators.

The submission also focuses on the challenges facing unaccompanied and separated children under the current reception and guardianship framework, including the need for accommodation solutions better aligned with the children's needs and improved access to guardians and care staff with appropriate training and skills.

## **Evidence of pushbacks, violence and abuse of migrant and asylum-seeking children**

### ***Evidence at the Croatian-Bosnian border***

1. Evidence of pushbacks at the border between Croatia and Bosnia-Herzegovina (BiH) has been reported by civil society organisations since 2017 but has intensified in recent years, both in the pushback methods used and their frequency. These pushbacks have always involved children, whether travelling with adults or unaccompanied and separated children (UASCs). In some cases, the children themselves are not abused but their family members or other members of the group they travel with are. In being forced to witness these traumatic events they are exposed to a form of psychological violence.
2. UNHCR and partners reported 3,000 cases of pushbacks in 2017. This number only represents reported cases, and the actual number is presumed to be higher. In 2017 Médecins Sans Frontières (MSF) recorded seven deaths in Croatia's border areas with BiH and Serbia.<sup>1</sup> In 2018 UNHCR reported over 1,000 pushbacks involving 10,000 people in Croatia, BiH, Hungary and Romania, with 62% having been perpetrated by Croatian border police.<sup>2</sup>
3. In 2018 the civil society organisation No Name Kitchen (NNK) reported 1,503 pushbacks, Human Rights Watch (HRW) recorded 493 and BVMN 368.<sup>3</sup>
4. In 2018, HRW published numerous victim testimonies. In one account 16 people, including women and children, reported being slapped, beaten with batons and kicked by Croatian police officers. Another case involved a 15-year-old unaccompanied boy who reported being severely beaten by police batons, causing him chronic back pain long after the pushback. An Iranian man who travelled with his 12-year-old son similarly testified to him and his son being beaten with batons. The trauma caused the boy to not speak for a long time afterward. A similar account involved a father and his 6-year-old son being beaten with batons.<sup>4</sup>
5. On 31 May 2018 Croatian police wounded the faces of two 12-year-old children when opening fire to stop a van full of displaced people in Donji Lapac. Both children had to be hospitalised, one child requiring reconstructive surgery on their jaw and face.<sup>5</sup>
6. Organisations providing medical support on the Bosnian border have been treating injuries and wounds caused by pushbacks for years. In November 2018 MSF stated that they regularly treated patients, including women and small children, for pushback related medical issues.<sup>6</sup>
7. Pushbacks involving children have also been reported on my major media outlets. In 2018 Al Jazeera reported on numerous pushbacks, including of a Syrian mother who was strip-searched along with her 13-year-old daughter. Police took the daughter into a separate room and ordered her to completely undress. Her protests caused the police to beat her up,

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<sup>1</sup> AYS, [Daily Digest](#), 1 June 2018

<sup>2</sup> ECRE, [Country Report](#) Serbia - 2018 Update, March 2019

<sup>3</sup> CMS et al, [Report](#), 5th report on pushbacks and violence from the Republic of Croatia: Illegal practices and system human rights violations at EU borders, 2 April 2019

<sup>4</sup> Human Rights Watch, [Report](#), Croatia: Migrants Pushed Back to Bosnia and Herzegovina, 11 December 2018

<sup>5</sup> AYS, [Daily Digest](#), 1 June 2018

<sup>6</sup> The Guardian, [News](#) article, They didn't give a damn: first footage of Croatian police brutality", 14 November 2018

forcefully undress her and pull her hair. They were eventually driven to a forest on the border to BiH and forced to walk back.<sup>7</sup>

8. In 2019, Border Violence Monitoring Network (BVMN) reported 2,475 displaced people being affected by pushbacks at the Croatian borders with Serbia and Bosnia, including children. Examples include the use of electric discharge weapons with no medical follow up and the use of firearms in front of or at children as young as three years old.<sup>8</sup>
9. Violence at the Croatian border has been deemed severe, to the point that both Swiss<sup>9</sup> and Italian<sup>10</sup> courts in 2019 ruled to suspend the transfer of asylum seekers to Croatia under the Dublin Regulation.<sup>11</sup>
10. In January 2019, grassroots organisations No Name Kitchen (NNK) and Balkan Info Van reported on a 15-year-old being kicked in the face repeatedly, a police officer putting his shoe in his face, crouching down on him and cocking his gun against his temple. They also reported a chain pushback of a 17-year-old from Slovenia, via Croatia, to BiH.<sup>12</sup>
11. In November 2019, MSF reported on an individual whose group, including children as young as 12, was beaten, robbed, and had their money, jackets and shoes removed before being instructed to go back to Velika Kladuša in BiH.<sup>13</sup>
12. From January-September 2019, UNHCR reported 289 pushbacks affecting 2,194 individuals, from Croatia to Bosnia.<sup>14</sup> Pushbacks to both BiH and Serbia totalled 4,868 people.<sup>15</sup> Humiliation and children witnessing sexual assaults against their family members were also reported.<sup>16</sup>
13. In 2019 Are You Syrious (AYS) concluded that 19% pushbacks involved the use of weapons in some manner, including gunshots in the air and threats – a practice that has been recorded since 2017. Three instances involved very young children (2 and 4 years old). In one case the police shot directly around a group of people which included a 6-year-old child, which had also been detained in the infamous Korenica police station, an informal space where people would be held for hours in deplorable conditions.<sup>17</sup>
14. According to Euro-Med monitor, in 2020 about 7,000 individuals were pushed back from Croatia to BiH.<sup>18</sup> From January 2017 to April 2020, BVMN recorded 548 pushbacks from Croatia to either BiH or Serbia. 209 of these cases involved children and unaccompanied children, i.e., 30-50% of overall cases, which often involved violence and other rights violations such as beatings (with batons/hand/other) in 19% of the recorded cases. Testimonies include UASCs as young as 14 being threatened with guns and suffering

<sup>7</sup> Al Jazeera, [Article](#), Refugees stranded in Bosnia allege Croatian police brutality, 15 September 2018

<sup>8</sup> BVMN, [Report](#), Torture and cruel, inhumane, or degrading treatment of refugees and migrants in Croatia in 2019, January 2020

<sup>9</sup> EDAL, Switzerland: [Suspension](#) of Dublin transfer to Croatia due to summary returns at border with Bosnia-Herzegovina, 12 July 2019.

<sup>10</sup> Court of Genova, [Decree](#), RG No. 13280/2018, 12 April 2019 (in Italian).

<sup>11</sup> The New Humanitarian, [Article](#), Bosnia: A harsh winter stopover on Europe's migrant road, 24 December 2019

<sup>12</sup> NNK and Balkan Info Van, [Report](#), Illegal pushbacks and border violence report Bosnia-Herzegovina, January 2019

<sup>13</sup> MSF, [Article](#), Beaten, cold, sick and stranded: migrants and asylum seekers in Bosnia, 15 November 2019

<sup>14</sup> UNHCR, [Report](#), Desperate Journeys - January to September 2019, 13 October 2019

<sup>15</sup> RiVolti Ai Balcani, [Report](#), Balkans Dossier: The Balkan Route: Migrants without rights in the heart of Europe, June 2020

<sup>16</sup> BVMN, [Testimony](#), 22 October 2019

<sup>17</sup> AYS, [Special](#): It's proven, Croatian police regularly shoots at people, 19 November 2019

<sup>18</sup> Euro-Med monitor for human rights, [News](#), Rome Court decision against Italy's illegal migrant pushbacks is a significant step, 26 January 2021

prolonged injuries, denied due process etc. 16% of cases involved theft of personal belonging, destruction of personal belongings in 12% of cases. Kicking and insulting was reported in 10% and 8% of reported cases, respectively.<sup>19</sup>

15. In 2020 Save the Children published pushback testimonies involving children. One case involved a girl in her mid-teens whose family had been pushed back roughly 15 times while being denied their requests for asylum. She reported the Croatian police's violence on multiple occasions, such as breaking peoples' phones or forcing women and children to undress, including the removal of underwear.<sup>20</sup>
16. In February 2020, two minors' phones were confiscated, and they were beaten, kicked, stripped and administered electric shocks. They were then forced to swim across the river to BiH while police officers fired shots into the water.<sup>21</sup>
17. After being apprehended and beaten, a 32-year-old man travelling with his children was forced into a van with no windows or ventilation and with fans pumping hot air. Combined with the fast driving, the victims were vomiting in the car while children were crying from the distress, describing this experience as worse than the physical beatings.<sup>22</sup>
18. During 2020 forcibly undressing people, often down to the underwear, became an increasingly frequent part of pushback operations. Organisations on the Bosnian side of the border noted the need for NFIs, mainly clothes and shoes, due to this practice. According to CARE, some people came back from pushbacks "completely naked".<sup>23</sup>
19. In July 2020, NNK collated four testimonies. One incident involved a group of young men, including a minor, who were heavily beaten for 20 hours.<sup>24</sup> Other testimonies describe repeated beating during different stages of the pushback operation.<sup>25</sup>
20. There have been numerous cases of families being apprehended in deserted locations with no food or water, after waiting for days for a car to pick them up. In one instance a man who was holding his 3-year-old daughter in his arms as he was beaten, fell down while holding the toddler, hurting the child's back.<sup>26</sup>
21. In November 2020 BVMN published an investigation of visual footage, geodata and personal testimonies of a violent pushback to the Bosnian village of Poljana in March 2020. It involved beatings with metal rods and branches by masked men, affecting over 50 displaced individuals, including minors. The images analysed clearly display men in uniforms wearing balaclavas and holding poles, sticks with attached heavy objects and homemade weapons. Der Spiegel and Lighthouse Reports verified the authenticity of the footage.<sup>27</sup>
22. Around the same time Al Jazeera published testimonies which included violence and pushbacks against children, including kicking with boots and batons until one of the minors fainted.<sup>28</sup>

<sup>19</sup> CMS et al, [Report](#), Pushback report on children and unaccompanied children in Croatia, 30 May 2020

<sup>20</sup> Save the Children, [Testimony](#), Rekla sam da je nezakoniti tuci produce I decu, 6 March 2020 (in Serbian)

<sup>21</sup> ECCHR, [Case Report](#), Pushbacks in Croatia: Complaint before the UN Human Rights Committee, December 2020

<sup>22</sup> Movements Journal, [Analysis](#), Border Violence as border deterrence, Volume 5 (1), 12 August 2020

<sup>23</sup> InfoMigrants, News [article](#), Growing concern over treatment of migrants and refugees in Balkans, 4 June 2020

<sup>24</sup> BVMN, Violence [report](#), 15 June 2020

<sup>25</sup> BVMN, Violence [report](#), 27 July 2020

<sup>26</sup> Movements Journal, [Analysis](#), Border Violence as border deterrence, Volume 5 (1), 12 August 2020

<sup>27</sup> BVMN, [Video](#), Reconstructing a Violent Pushback of Asylum Seekers from Croatia to BiH, BVMN Border Investigations, 18 November 2020; Der Spiegel, [Article](#), Video Documents Illegal Refugee Pushbacks in Croatia, 18 November 2020

<sup>28</sup> Al Jazeera, [Article](#), Refugees allege physical, sexual abuse by Croatian authorities, 22 October 2020

23. DRC's monthly snapshot for November 2020 reported that 87 children travelling with their family members and 21 UASCs had been pushed back. Nearly half of the respondents reported abuse, most commonly humiliation but also inhuman and degrading treatment such as denial of access to food, toilet and water (16), being forced to lie or kneel on the ground for over an hour (44), forced stripping of clothes down to underwear (204), and electrical shocks (38).<sup>29</sup>
24. Another testimony in the snapshot involved the stripping of a father and mother down to their underwear in front of police officers and their children, along with physical abuse of the parents with hits and kicks and also hits to the head of their daughter. In another case involving a family, the father and teenage daughter were stripped of their clothes.<sup>30</sup>
25. A chain pushback in December 2020 included an unaccompanied child starting in Italy, through Slovenia to Croatia. Once "handed over" to Croatian police from Slovenia, the group was partially stripped of their clothes and robbed of their possessions, some suffering violence at the hands of the Croatian police. During the drive back to the border they were contained in a space with no windows which made many people sick and caused breathing difficulties. They were dropped in a forest which the respondents had to walk through for five hours to reach Lipa camp in BiH without shoes and jackets which were set on fire. Police officers also kept victims' money, a reoccurring element of pushback operations.<sup>31</sup>
26. The Center for Peace Studies (CMS)<sup>32</sup>, a Croatian NGO, filed two criminal complaints to the public prosecutor concerning pushbacks. One was reported on by the Guardian<sup>33</sup> and took place in October 2020. Four Afghan men and a minor were detained in a police station and two days later taken to court as witnesses against a fifth member of the group. Subsequently, they were taken to an unknown location, had their money stolen, their belongings set on fire, and forced to strip to their underwear by a group of 10 men in black uniforms and balaclavas. They were restrained and repeatedly kicked, punched, whipped and beaten. DRC took photos of the wounds and published them in media reports. A local doctor confirmed that the wounds of one individual were consistent with sexual violence. An investigation comparing official documents and testimonies in the newspaper Jutarnji List gave conclusive support for the alleged crimes.<sup>34</sup>
27. In January and February 2020, DRC noted a drastic rise in pushbacks reported by families and UASCs in comparison to previous months. They estimated that 24% of the pushbacks involved children, a rate over three times higher compared to December 2020.<sup>35</sup>
28. Apart from the dangers facing children crossing difficult terrain and pushbacks, the border region between Bosnia and Croatia poses deadly risks due to remaining unexploded land mines since the war in the 1990s. In a recent accident one man was tragically killed and four individuals injured by an anti-personnel mine in Saborsko.<sup>36</sup> According to Croatia's interior

<sup>29</sup> DRC, [Monthly Snapshot](#): November 2020, Border Monitoring, December 2020

<sup>30</sup> Ibid.

<sup>31</sup> DRC, [Monthly Snapshot](#): January-February 2021, Border Monitoring, March 2020

<sup>32</sup> CMS, [News](#), On the human rights day new criminal complaints, 10 December 2020

<sup>33</sup> The Guardian, [Article](#), Croatian police accused of 'sickening' assault on migrants on Balkan trail, 21 October 2020

<sup>34</sup> Jutarnji List, [Article](#), Četvorica migranata privedeni su kao svjedoci na sud u Karlovcu. A onda su predani policiji, 5 December 2020 (in Croatian)

<sup>35</sup> DRC, [Monthly Snapshot](#): January-February 2021, Border Monitoring, March 2020

<sup>36</sup> The Guardian, [Article](#), Croatia: landmine from 1990s Balkan wars kills asylum seeker, 7 March 2021

ministry<sup>37</sup> there are 17,000 unexploded landmines and related ordinances in the country, while the NGO Bosnia and Herzegovina Mine Action Centre (BHMIC) estimates 79,000 unexploded devices remain in BiH.<sup>38</sup>

29. In January 2021 the Court of Rome ruled in favour of a victim of a chain pushback (Italy-Slovenia-Croatia-BiH) that took place in July 2020. The applicant's testimony<sup>39</sup> was collated by BVMN and included two minors of 14-15 years, who had been beaten during the pushback. Once they arrived in Croatia they were forced to lie on the ground in zip-tie handcuffs. The applicant, along with four other people, was beaten with boots and police batons with barbed wire on them. They were transported to the Bosnian border in vehicles with poor ventilation. Once at the border, the police instructed the group to run back to Bosnia after firing shots in the air and releasing dogs on the group.<sup>40</sup>
30. In February 2021, The Guardian followed and interviewed several families with children that had experienced repeated pushbacks. One family with a 6-year-old child and a baby were pushed back 11 times. The parents reported the baby being stripped bare to check if they were hiding phones or money in her nappy. Another 3-child family, including a 11-year-old paralysed on one side of her body, had been pushed back 37 times in five months, during which their repeated requests for asylum were ignored. One father with three children reported being pushed back 54 times.<sup>41</sup>
31. According to DRC over 800 children were pushed back in 2020, many under the age of 6. Médecins du Monde observed mental health issues among children in the form of anxiety, depression and symptoms of post-traumatic stress disorder - even among children who have not been directly affected by violence but who have had to witness it.<sup>42</sup>
32. The Council of Europe Commissioner for Human Rights submitted her findings on the situation at the Croatian-Bosnian border to the European Court of Human Rights, concluding that all information reviewed supports the existence of pushbacks as an established practice and widespread ill-treatment of people on the move by Croatian law enforcement officers.<sup>43</sup>
33. Although direct physical violence against women and children are not as common as against men, they were still often exposed to psychological violence, abuse and humiliation, especially in the form of forced undressing. Women also reported being stripped naked and sexually harassed (being touched on breasts and genitals) while being searched, in front of their children. A 29-year-old man from Iran said that the police were touching both his wife and daughter all over their bodies. When pleading with the police officers to stop he was beaten.<sup>44</sup>
34. In April 2021 a case of sexual assault against a woman was reported. She was travelling with a group including children. They were stopped by the Croatian border police who pointed

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<sup>37</sup> Interior ministry Croatia, [Overview](#), Minska situacija u RH (in Croatian)

<sup>38</sup> The Guardian, [Article](#), Croatia: landmine from 1990s Balkan wars kills asylum seeker, 7 March 2021

<sup>39</sup> Court of Rome, [Decree](#), RG No. 56420/2020, 18 January 2021 (in Italian)

<sup>40</sup> BVMN, [Testimony](#), Chain Pushback from Italy to BiH, 15 July 2020

<sup>41</sup> The Guardian, [Article](#), Police searched my baby's nappy: migrant families on the perilous Balkan route, 1 February 2021

<sup>42</sup> Ibid.

<sup>43</sup> Council of Europe, [Third Party Intervention](#) by the Council of Europe Commissioner for Human Rights - S.B. v. Croatia, A.A. v. Croatia and A.B. v. Croatia, 22 December 2020

<sup>44</sup> Movements Journal, [Analysis](#), Border Violence as border deterrence, Volume 5 (1), 12 August 2020

rifles at them, rejected their requests for asylum and slapped the children in the group. After this she was taken aside, held at knifepoint, sexually assaulted and threatened.<sup>45</sup>

35. During 2021, BVMN published 17 testimonies of pushbacks that involved children and minors.<sup>46</sup>

### ***Evidence at the Croatian-Serbian border***

36. The first cases of pushbacks from Croatia to Serbia were registered in 2016 after the closure of the Balkan route. A report by Moving Europe in 2016 describes children as young as 10 years old being pushed back and forced to walk for kilometres along train tracks to Serbia.<sup>47</sup>
37. In 2017 NNK published several reports of pushbacks involving children. One case involved the pushback of three children, including a 5-month-old baby, who were travelling with their mother. They had already been pushed back once prior to this incident.<sup>48</sup>
38. In October 2017, MSF reported having treated eight children patients following violent pushbacks by the Croatian police to Serbia.<sup>49</sup> Save the Children had similarly been informed by teenage boys that they had been brutally pushed back by Croatian authorities.<sup>50</sup>
39. Save the Children estimated that 6,340 individuals were pushed back from Croatia to Serbia from January-November 2018, while UNHCR Serbia estimated 10,432 pushbacks during 2018.<sup>51</sup> The Serbian based NGO Asylum Protection Center APC/CZA shed light on the pushback of two unaccompanied children who were intercepted by Croatian policemen who directed their guns at them and fired into the air, threatening to shoot them.<sup>52</sup>
40. MSF's head of mission in Serbia stated in November 2018 that border violence was systematic and strategic, and that the organization had come across stories of parents witnessing beatings of their children.<sup>53</sup>
41. Save the Children reported that, between January and September 2019, 1,230 children were pushed back on the Western Balkan route, a majority (321 children) at the Croatian-Serbian border.<sup>54</sup>
42. During 2019 the Serbian organization Praxis supported 731 children (UASCs and children part of a family unit) affected by pushbacks (40% of all the children they supported) primarily at the Croatian-Serbian border and at other borders in Serbia. One third reported either being victims of violence or witnessing violence. Most of the pushbacks among the

<sup>45</sup> The Guardian, [Article](#), Croatian border police accused of sexually assaulting Afghan migrant, 7 April 2021

<sup>46</sup> BVMN, Testimony [database](#), filtered for cases including minors

<sup>47</sup> Moving Europe, [Report](#) on Systemic Police violence and Push-backs against Non-SIA People conducted by Croatian authorities, 28 January 2016

<sup>48</sup> BVMN, [Testimony](#), A family with a baby and two small children begged the police not to push them back, 1 September 2017

<sup>49</sup> MSF, [Report](#), Games of violence: Unaccompanied children and young people repeatedly abused by EU Member state border authorities, 3 October 2017

<sup>50</sup> Save the Children, [Press Release](#), Refugee and Migrant children injured in illegal border pushbacks across Balkans, 24 January 2017

<sup>51</sup> CMS et al, [Report](#), 5th report on pushbacks and violence from the Republic of Croatia: Illegal practices and system human rights violations at EU borders, 2 April 2019

<sup>52</sup> APC/CZA, [Article](#), Hrvatski policajci pretili oružjem dečacima iz Avganistana, 5 October 2018 (in Serbian)

<sup>53</sup> The Guardian, [News](#) article, They didn't give a damn: first footage of Croatian police brutality", 14 November 2018

<sup>54</sup> FRA, [Report](#), Children in Migration 2019, 30 March 2020

children were reported by UASCs, 664 cases in total. Out of these 222 were conducted by Croatia.<sup>55</sup>

43. In November 2019, the tragic death of 6-year-old Madina Hussiny took place after she and her family had been pushed back from Croatia and were forced to walk back to Serbia on train tracks. She was hit by a train and died within minutes of the pushback. Afterwards, her family, who was travelling with their other children, were forced to wait in the forest for an hour before they were taken back to Belgrade. According to MSF, the risks of pushbacks on train lines were known to the authorities, and seven people (including three children) had died at the border in 2017 on the train line between Tovarnik and Šid, due to either trains or electrocution.<sup>56</sup>
44. In September 2019, the Commissariat for Refugees and Migration in Serbia stated that Croatia was responsible for the physical and psychological torture of an Afghan minor by police officers. They had beaten and tortured them with electric chocks which led to internal bleeding and rib fracture.<sup>57</sup> The case was covered by a number of media outlets in Croatia and Serbia.<sup>58</sup>
45. 10 allegations of rights violations of children were reported to the Croatian Ombudsperson in 2019, also encompassing pushbacks at the Croatian borders to Serbia and Bosnia. The Ombudsperson noted her concern regarding pushbacks reported by civil society organisations, including the failure of Croatian authorities to conduct age assessments in cases of pushbacks of minors.<sup>59</sup> In 2020 the former Croatian Interior Minister Ostojić similarly accused the Croatian government of conducting pushbacks.<sup>60</sup>
46. Across 2020, BVMN published nine testimonies of pushbacks involving children. In July 2020 a group including two children was violently pushed back. The group was called criminals, forced to lie on the ground and subsequently beaten, kicked and punched repeatedly. The minors informed the police officers of their age but were not spared the beatings.<sup>61</sup> Similarly in a group pushback involving a 15-year-old and three 18-year-olds, they were kicked, beaten by hand and with batons by police officers and had their personal belongings stolen. They were also threatened to be taken to jail for five nights if they could not pay the officers 50 euros.<sup>62</sup>
47. In 2021, NNK recorded three cases of pushbacks to Serbia which involved children. In one group pushback in February 2021, which involved a 17-year-old, the Croatian officers took the group to an enclosed space, where they were forced to undress, insulted, beaten with batons and had their phones broken. Another incident involved three teenagers who faced

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<sup>55</sup> Save the Children, [Reports](#) about pushbacks and violence against children on the move at the Western Balkan borders: January-June 2019, 14 August 2019

<sup>56</sup> Al Jazeera, [News article](#), The tragic death of a six-year-old refugee in Serbia, 6 December 2017

<sup>57</sup> ECRE, [Country Report: Croatia – 2019 Update](#), 24 April 2020

<sup>58</sup> N1, [News article](#), Migranti optužuju hrvatsku policiju za torturu, Zagreb tvrdi – štitimo granice, 4 September 2019 (in Croatian); PTC, [News article](#), Svedočenje dečaka migranta za RTS: Hrvatski policajci su me tukli i mučili elektrošokovima, 31 August 2019 (in Serbian)

<sup>59</sup> Ombudsperson for Children, [Report](#) on the work of Ombudswoman for Children in 2019, March 2020 (in Croatian)

<sup>60</sup> Der Spiegel, [News article](#), Video documents illegal refugee pushbacks in Croatia, 18 November 2020

<sup>61</sup> BVMN, [Testimony](#), You are all criminals, 3 July 2020

<sup>62</sup> BVMN, [Testimony](#), Give us 50 euros, then we will leave you, 11 November 2020

similar abuse and humiliation, causing them severe physical pain. They were also attacked by dogs, had their money stolen and had to walk for five hours to get back to Serbia.<sup>63</sup>

48. BVMN published three pushbacks testimonies which involved children since the beginning of 2021.<sup>64</sup>
49. In March 2021, UNHCR estimated 2,121 pushbacks to Serbia from neighbouring countries, 5% from Croatia to Serbia. The main demographic of victims is younger men, including unaccompanied boys from Afghanistan.<sup>65</sup>

### **Evidence of detention of children on the move**

50. The Law on International and Temporary Protection (LITP) in Croatia allows for the detention of vulnerable applicants if detention facilities are suitable to their special needs after a comprehensive assessment. In the case of children, detention is allowed only as a last resort and for as short a time as possible. A guardian is to be appointed to all unaccompanied children in detention.<sup>66</sup>
51. Detention is allowed as a last resort in circumstances such as processing of asylum claims where there is a flight risk, due to national security and public order concerns, identification of asylum seeker and the prevention of abusive asylum claims during expulsion procedures. For non-asylum applicants, detention for 48 hours is allowed with the subsequent intention of removal from the territory.<sup>67</sup>
52. The Special Representative of the Secretary General on migration and refugees noted in a fact-finding mission report that amendments to the Law on foreigners in May 2018 expanded the concept of “risk of flight” and “risk of interfering with expulsion” to individuals who lack sufficient identity documentation, accommodation and/or financial resources.<sup>68</sup>
53. The Ježevo immigration detention centre functions as a pre-removal detention facility. There are also two transit centres for irregular migrants in Trilj and Tovarnik that have been used for the detention of asylum seekers since March 2018.<sup>69</sup>
54. The most common reason for detention is where applicants apply for asylum after being given deportation orders or attempting/succeeding to leave the country before completion of the asylum procedure.<sup>70</sup>
55. Though unaccompanied minors are in practice rarely placed in detention, the Croatian Ombudsperson for Children’s 2020 report noted that 48 children with families had been placed in one of the three aforementioned facilities – despite the Ombudspersons warning against this practice as it contravenes the best interests of the child. The report criticises the lack of changes to the legal framework, which continues to permit the detention of migrant children.<sup>71</sup>

<sup>63</sup> BVMN, [Testimony](#), They wrote something in English..., 4 February 2021

<sup>64</sup> BVMN, [Testimony database](#), selected cases including minors as of 13 April 2021

<sup>65</sup> UNHCR Serbia, [Monthly Update](#): March, 20 April 2021

<sup>66</sup> Croatia, the Law on International and Temporary Protection, [LITP](#), No. 70/15, 127/17, Article 54(7)

<sup>67</sup> Ibid.

<sup>68</sup> Council of Europe, [Report](#) of the fact-finding mission by Ambassador Tomáš Boček, Special Representative of the Secretary General on migration and refugees, to Bosnia and Herzegovina and to Croatia, 23 April 2019

<sup>69</sup> Ibid.

<sup>70</sup> ECRE, [Report](#), Detention of Asylum Seekers, 12 January 2021

<sup>71</sup> Ombudsperson for Children, [Report](#) on the work of Ombudswoman for Children in 2020, 6 April 2021 (in Croatian)

56. Attorneys have raised concerns about the lack of effective access to legal assistance for review of detention, the possibilities to review individual detention decisions and the lack of access to clients and opportunities to speak to them in privacy.<sup>72</sup>
57. Detention of people on the move, including children, has been reported since the earliest cases of pushbacks. Though not all pushbacks involve detention it is an ongoing practice reported by groups monitoring the situation on the ground, taking place outside of the aforementioned formal detention procedures - people are arbitrarily arrested without official reason and/or taken to police stations or informal detention sites. According to DRC 10% of their reported cases involved arbitrary arrest or detention.<sup>73</sup>
58. In 2018 HRW interviewed 20 respondents who provided detailed testimonies of arbitrary detention before being pushed back, many of them including families with children and one unaccompanied child.<sup>74</sup>
59. NNK collated numerous testimonies of detention, with victims describing being confined for hours in cells as a punitive measure.<sup>75</sup>
60. BVMN's online testimony database<sup>76</sup> contains numerous testimonies that involve some form of detention, including of children, in informal detention spaces without a legal basis. Since 2018 many reported cases were detained in a garage in Korenica, dubbed the "torture garage". Here people would be held for hours in unhygienic conditions without water, food or access to toilet facilities. Images taken by an anonymous police officer and those accessed by the outlet H-alter showed the inhumane conditions. Testimonies also indicate a number of other facilities where people have been held in close proximity to the Bosnian border.<sup>77 78</sup>
61. In October 2019 BVMN reported on three unaccompanied minors who were taken from a van, transferred and detained at the Bajakovo border-crossing point and beaten.<sup>79</sup>
62. Center for Peace Studies reported in 2019 that a group of displaced individuals was detained inside a police station for four hours, during which there were denied water. There was only one toilet in the cell which offered no privacy.<sup>80</sup>
63. In 2019 Amnesty International reported on the case of an Iraqi man who was held for hours in detention along with his wife and one-year-old baby. Their requests for food were denied, even when they offered money for food to be bought for them. They were eventually placed in vans and driven to the border. Another case concerned an Afghan man with his three children, who were pushed back to Bosnia twice. His requests for asylum were ignored. The second time, he was arrested, separated from his family and held alone in a room for six hours and denied food and water. After destroying his personal documentation and phone, the family was put in a van and returned to BiH.<sup>81</sup>

<sup>72</sup> ECRE, [Country Report](#): Croatia – 2019 Update, 24 April 2020

<sup>73</sup> DRC, [Monthly Snapshot](#): January-February 2021, Border Monitoring, March 2020

<sup>74</sup> HRW, [Report](#), Croatia: Migrants Pushed Back to Bosnia and Herzegovina, 11 December 2018

<sup>75</sup> Movements Journal, [Analysis](#), Border Violence as border deterrence, Volume 5 (1), 12 August

<sup>76</sup> BVMN, Testimony [database](#), selected cases including minors and detention

<sup>77</sup> CMS et al, [Report](#), Pushback report on children and unaccompanied children in Croatia, 30 May 2020

<sup>78</sup> H-alter, [Article](#), Torture garage for migrants, 16 October 2019

<sup>79</sup> BVMN, [Testimony](#), They didn't allow us to say something, 16 October 2019

<sup>80</sup> CMS et al, [Report](#), Pushback report on children and unaccompanied children in Croatia, 30 May 2020

<sup>81</sup> Amnesty, [Report](#), Pushed to the Edge, 13 March 2019

64. One pushback incident involving minors was brought before the European Court of Human Rights (ECtHR), over which the Croatian government was probed in March 2020. One complainant was a minor from Syria at the time of the pushback in 2018. He had been pushed back violently, unlawfully detained and denied the right to seek asylum.<sup>82</sup>
65. A pushback recorded by BVMN in July 2020 included several children from Kashmir, who were forced by Croatian police officers to squat in the pouring rain as a form of punishment. They were later held in a police station without food and water and were forced to urinate in a bottle when they asked to use the toilet.<sup>83</sup>

### **Evidence of lack of investigation**

66. In January 2021, the Council of Europe Commissioner for Human Rights submitted her findings on pushbacks practices at the Croatian-Bosnian border to the European Court of Human Rights, noting the prevalent impunity for these crimes and the lack of prompt, effective and independent investigations.<sup>84</sup> It was noted that Croatian authorities have “failed to adopt a constructive approach to addressing the numerous allegations of summary expulsions, denial of access to asylum and the ill-treatment of migrants” and to open effective and independent investigations into these violations of rights.<sup>85</sup> This is met by repeated denials of wrongdoing from Croatian authorities.<sup>86</sup>
67. In the aforementioned case of the death of the 6-year-old Afghan girl Madina (paragraph 43, page 7), AYS and Center for Peace Studies initiated an investigation at the State Attorney’s office, which was denied on the basis of lack of evidence. Footage from a thermal camera was missing due to a technical malfunction. This footage was according to the Ministry of Interior key evidence. The State Attorney’s Office eventually deemed no one responsible for her death.<sup>87</sup> The Ministry of Interior stated that the Croatian border police “had not contributed in any way or caused the accident and the death of a child”.<sup>88</sup>
68. An anonymous complaint was submitted by a number of Croatian policemen to the Croatian Ombudsperson in July 2019. They stated that they had conducted pushbacks as per instructions by superiors, including the use of violence. They feared they would lose their jobs if they did not enforce orders.<sup>89</sup> The broadcaster BBC published an interview with a

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<sup>82</sup> ECCHR, [Case overview](#), Croatia to answer to European Court of Human Rights, 26 May 2020

<sup>83</sup> BVMN, [Testimony](#), They said go to river, They beat, 8 July 2020.

<sup>84</sup> Council of Europe, [Third Party Intervention](#) by the Council of Europe Commissioner for Human Rights - S.B. v. Croatia, A.A. v. Croatia and A.B. v. Croatia, 22 December 2020

<sup>85</sup> Ibid.

<sup>86</sup> Croatia Ministry of the Interior, [Statement](#), Response of the Ministry of the to the report of Human Rights Watch, 9 November 2019

<sup>87</sup> AYS, [Daily Digest](#), 2 June 2018

<sup>88</sup> The Guardian, [Article](#), ‘They treated her like a dog’: tragedy of the six-year old killed at Croatian border, 8 December 2017

<sup>89</sup> BVMN, [Article](#), Complaint by Croatian police officers who are being urged to act unlawfully, 17 July 2019

- police officer who had taken part in these practices,<sup>90</sup> and several other officers corroborated the pushback allegations and tactics in Croatian media.<sup>91</sup>
69. Following the police officers' reports submitted to the Croatian Ombudsperson, she relayed the information to the State Attorney. Upon receiving no response, she brought the complaint to the Croatian Parliament and relevant parliamentary committees in June 2019. This was met with further silence, prompting the Ombudsperson to release the information to the public, as per established procedures in the Ombudsperson Act.<sup>92</sup>
  70. The Commissioner for Human Rights has lamented the Croatian authorities' disregard for co-operation with the Croatian Ombudsperson and the National Preventive Mechanism working under her. Examples include the Ministry of Interior refusing to grant her access to files and information on allegations of pushbacks and human rights violations perpetrated against people on the move.<sup>93</sup>
  71. Some investigations by the Internal Control Department and the General Directorate of the Police have led to sanctions of Croatian police officers. According to a Fundamental Rights Agency (FRA) report, 30 police officers had received disciplinary sanctions which range across warnings, suspensions of promotions, demotion, financial sanctions or dismissal. These measures however did not lead to criminal charges for the crimes committed by authorities.<sup>94</sup>
  72. The two criminal complaints filed by Centre for Peace Studies to the State Attorney's Officer in June and July 2020 regarding the Croatian police's torture and degrading treatment of migrants and asylum seekers,<sup>95</sup> are yet to be formally investigated by the Attorney's Office. The Croatian Ministry of Interior has denied the reports, despite pressure from civil society and UN Special Rapporteurs to investigate and sanction accordingly.<sup>96</sup>
  73. In June 2020, two Croatian officers were arrested and charged for violence against people on the move and the failure to report a crime, respectively. They were removed from service and disciplinary proceedings were launched against them. The Croatian interior minister Davor Božinović denied however that the violence was a common practice, describing them rather as isolated incidents.<sup>97</sup>

<sup>90</sup> BBC, [Video](#), 'Beaten and ribbed': How Croatia is policing its borders, 29 July 2019

<sup>91</sup> Telegram Croatia, [Article](#), Prvi intervju u kojem hrvatski policajac tvrdi: šefovi nam naređuju da ilegalno protjerujemo migrante, 24 July 2019, (in Croatian); Telegram Croatia, [Article](#), Istupio je još jedan policajac koji tvrdi da hrvatska policija, po naredbi šefova, migrante ilegalno vraća u BiH, 21 October 2019 (in Croatian)

<sup>92</sup> Croatian Ombudswoman, [News](#), No institutional reaction to alleged illegal police treatment of migrants, 25 July 2019

<sup>93</sup> Ombudswoman of Croatia, Annual [Report](#) of the work of Ombudswoman of Croatia for 2018

<sup>94</sup> FRA, [Report](#), Migration: Fundamental rights issues at land borders, 31 December 2020

<sup>95</sup> Balkan Insight, [Article](#), NGO charges Croatian police with 'inhumane treatment of refugees, 5 June 2020; Center for Peace Studies, [News](#), CPS filed one more criminal complaint, 23 July 2020,

<sup>96</sup> United Nations Office of the Human Rights Commissioner, [News](#), Croatia: Police brutality in migrant pushback operations must be investigated and sanctioned – UN Special Rapporteurs, 19 June, 2020

<sup>97</sup> The Guardian, [Article](#), Croatian police officers arrested over beating of Afghan asylum seeker, 19 June 2020

**Provision of guardians and assistance during the asylum process**

74. The Law on International and Temporary Protection (LITP) stipulates that the Centre for Social Welfare is responsible for the appointment of a competent and trained guardian for UASCs as soon as they are identified as such.<sup>98</sup>
75. The Croatian Law Centre received data from civil society organizations on children who were separated from their parents at the border to Bosnia during expulsions and who applied for asylum in Croatia on their own. They were separated for months as a consequence of slow family reunification processes which was only finalised once the parents had been able cross into Croatia to seek asylum.<sup>99</sup>
76. A guardian's key responsibility is to prepare the child well in advance for the asylum interview, to provide them with a full understanding of what the process entails and its potential consequences, in a language they best comprehend (with the costs for interpreter to be carried by the Ministry of Interior). According to the Croatian Law Centre, many guardians do not utilize this right to a paid translator.<sup>100</sup>
77. There is furthermore a need for a list of guardians trained to work with UASCs, as well as a need for continuous training on the asylum system directed at care-workers and guardians, in order to best prepare and support the child in the asylum process.<sup>101</sup> The Croatian Ombudsperson for Children identified this as an ongoing area to be improved – guardians are still rare while social and care professionals overall lack capacity to take appropriate care of UASCs due to their simultaneous high workload with non-UASC cases.<sup>102</sup>
78. In 2019, according to estimates provided by the Ministry of Demography, Family, Youth and Social Policy, one guardian was provided per 2.15 unaccompanied children.<sup>103</sup> Better institutional coordination was identified as a key area of improvement to ensure the timely placement of guardians.<sup>104</sup>
79. There has been an ongoing practice of centres for social work appointing a guardian from the group of adults that the unaccompanied child arrived with. In 2019 this was the case for 12 children.<sup>105</sup> The Ombudspersons 2020 report noted a continuation of this practice, warning that this could put children in danger. Adults travelling with UASCs do not have professional competence to appropriately care for children and act in their best interest. At worst children could be at risk of violence, abuse and human trafficking.<sup>106</sup>
80. The Ombudsperson for Children further highlighted that UASCs had limited access to their guardians in 2019 leading to infrequent contact. Meetings between guardians and children

<sup>98</sup> Croatia, the Law on International and Temporary Protection, [LITP](#), No. 70/15, 127/17.

<sup>99</sup> Ombudsperson for Children, [Report](#) on the work of Ombudswoman for Children in 2020, 6 April 2021 (in Croatian)

<sup>100</sup> ECRE, [Country Report](#): Croatia – 2019 Update, 24 April 2020

<sup>101</sup> Croatian Law Centre, [Legal analysis](#), Izrađena analiza "Postupanje prema djeci bez pratnje: Pravni i institucionalni okvir", 20 January 2020 (in Croatian)

<sup>102</sup> Ombudsperson for Children, [Report](#) on the work of Ombudswoman for Children in 2020, 6 April 2021 (in Croatian)

<sup>103</sup> ECRE, [Country Report](#): Croatia – 2019 Update, 24 April 2020

<sup>104</sup> Croatian Law Centre, [Legal analysis](#), Izrađena analiza "Postupanje prema djeci bez pratnje: Pravni i institucionalni okvir", 20 January 2020 (in Croatian)

<sup>105</sup> Ombudsperson for Children, [Report](#) on the work of Ombudswoman for Children in 2019, March 2020 (in Croatian)

<sup>106</sup> Ombudsperson for Children, [Report](#) on the work of Ombudswoman for Children in 2020, 6 April 2021 (in Croatian)

often only took place when arranged by a ministry or organisation, or in situations where guardians' presence was formally required, for instance an asylum interview.<sup>107</sup>

81. Another area of concern is the insufficient provision of child appropriate information on the asylum procedure for UASCs.<sup>108</sup>
82. During the Covid-19 pandemic, the Croatian Law Centre stated that though access to guardians for children under their care during this period did not stop, it had become more restricted as a consequence of measures to contain the spread of the virus. The NGO Rehabilitation Centre for Stress and Trauma have encountered children that did not have any opportunities to meet with or talk to their appointed guardian.<sup>109</sup> A report by the Children's Ombudsperson indicates that guardians' role remained primarily formal and that the full protection and exercise of children's rights was lacking due to the irregularity of contact in the year of 2020.<sup>110</sup>
83. Children in families in the reception centre have also been affected by Covid-19 related measures, including access restrictions to centres for civil society organisations. This severely impeded legal aid services and access to information on their rights.<sup>111</sup>

**Reception systems for unaccompanied children and children separated from their parents, including migrant children in irregular situations**

84. According to the Ministry of Interior 186 UASCs sought asylum in 2020. Half of these children were placed in reception centres while the rest were placed in social welfare institutions.<sup>112</sup>
85. Two reception centres, in Zagreb and in Kutina, operate under the Ministry of Interior's Department for the Reception and Accommodation of International Protection. The Zagreb centre ("Porin hotel") accommodates all people on the move, including unaccompanied minors over the age of 16, while the Kutina centre is reserved for vulnerable cases.<sup>113</sup> In 2020 centres were set up in Zagreb and Split specifically for the initial reception of unaccompanied minors.<sup>114</sup>
86. A multidisciplinary best interest evaluation for unaccompanied children is to be conducted within the first three months after their arrival, based on which a plan must be developed for permanent care, shelter (organised housing or foster family) and status solutions. According to the Ombudsperson for Children there have been challenges with the implementation of this process and standardised instruments for this purpose are lacking.<sup>115</sup>

<sup>107</sup> Ombudsperson for Children, [Report](#) on the work of Ombudswoman for Children in 2019, March 2020 (in Croatian)

<sup>108</sup> FRA, [Report](#), Children in Migration in 2019, 30 March 2020

<sup>109</sup> FRA, [Report](#), Migration: Key Fundamental rights concerns for Q4 2020, 25 February 2021

<sup>110</sup> Ombudsperson for Children, [Report](#) on the work of Ombudswoman for Children in 2020, 6 April 2021 (in Croatian)

<sup>111</sup> Ibid.

<sup>112</sup> Ibid.

<sup>113</sup> European Commission, Annual [Report](#) 2019 on Migration and Asylum in Croatia – National Report (Part 2), May 2020

<sup>114</sup> UNHCR et al, [Factsheet](#), Refugee and migrant children in Europe, Overview of Trends January to June 2020, 2 March 2021

<sup>115</sup> Ombudsperson for Children, [Report](#) on the work of Ombudswoman for Children in 2020, 6 April 2021 (in Croatian)

87. Since January 2019 the New Foster Care Act has been in force, which introduced the possibility of placing UASCs in foster families.<sup>116</sup> No foster placements took place in 2020 however and the Ombudsperson for Children identified a need for further organisational, educational and supportive resources and actions to implement the Act's provisions.<sup>117</sup>
88. In practice, UASCs tend not to be accommodated with adults. In Kutina, UASCs and single women are accommodated separately in rooms. Unaccompanied children under the age of 14 are accommodated in children's homes, while children above the age of 14 are accommodated in Residential Child Care Institutions.<sup>118</sup>
89. Several NGOs have highlighted the necessity to better align these facilities with the needs of UASCs and provide better protection. A specific area of concern is the placement of UASCs in Residential Child Care Institutions, which primarily care for children with behavioural challenges (often juvenile offenders) - an inappropriate environment for UASCs and their specific needs. Attacks and conflicts between the two groups of children are common. NGOs also emphasized the lack of interpreters available in Residential Child Care institutions,<sup>119</sup> inexperience of care takers in dealing with UASCs and insufficient support throughout the asylum procedure.<sup>120</sup>

## **Conclusion**

This evidence submission has highlighted the alarming situation for refugee and asylum-seeking minors in Croatia.

In light of this, Refugee Rights Europe calls upon the Committee on the Rights of the Child to bring this to the attention of the Croatian government and call upon the authorities to rectify the treatment of all children on its territory and at its borders in line with the Convention on the rights of the child.

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<sup>116</sup> European Commission, Annual [Report](#) 2019 on Migration and Asylum in Croatia – National Report (Part 2), May 2020

<sup>117</sup> Ombudsperson for Children, [Report](#) on the work of Ombudswoman for Children in 2020, 6 April 2021 (in Croatian)

<sup>118</sup> ECRE, [Country Report](#): Croatia – 2019 Update, 24 April 2020

<sup>119</sup> Ibid.

<sup>120</sup> FRA, [Report](#), Children in Migration in 2019, 30 March 2020