

Doors Wide Shut

Rights violations at borders re-confirmed, while the door for justice and the path to accountability remain closed

JULY 2021



**Protecting Rights
at Borders**

Summary

The PRAB initiative gathers partner organizations operating across a range of different countries: Italy ([Associazione per gli Studi Giuridici sull'Immigrazione \(ASGI\)](#), [Diaconia Valdese \(DV\)](#) and [Danish Refugee Council \(DRC\) Italy](#)); Hungary ([Hungarian Helsinki Committee](#)); Bosnia and Herzegovina ([DRC BiH](#)); Serbia ([Humanitarian Center for Integration and Tolerance \(HCIT\)](#)); North Macedonia ([Macedonian Young Lawyers Association \(MYLA\)](#)); Greece ([Greek Council for Refugees \(GCR\)](#) and [DRC Greece](#)); and Brussels (DRC Brussels). The PRAB initiative continued collecting reports on pushbacks, including chain pushbacks, from EU Member States (MS) and neighbouring countries between April and June 2021. The testimonies collected speak of wide presence of rights violations accompanying pushbacks, experienced by asylum seekers and migrants irrespective of their age, gender or vulnerability. Vulnerability assessments still remain sorely lacking at borders, and so do effective monitoring mechanisms of border practices. The lack of effective investigations of complaints related to pushbacks continues affecting asylum seekers' rights to an effective remedy and states' path to accountability.



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1. The number of pushback cases remains high, rights violations continue as standard practice

Between 16 April and 30 June, PRAB partners recorded pushback incidents involving 3,403 persons. Compared to the first quarter of the year, higher rates of pushbacks were recorded at the Croatia-Bosnia and Herzegovina (BiH) and Hungary-Serbia borders.

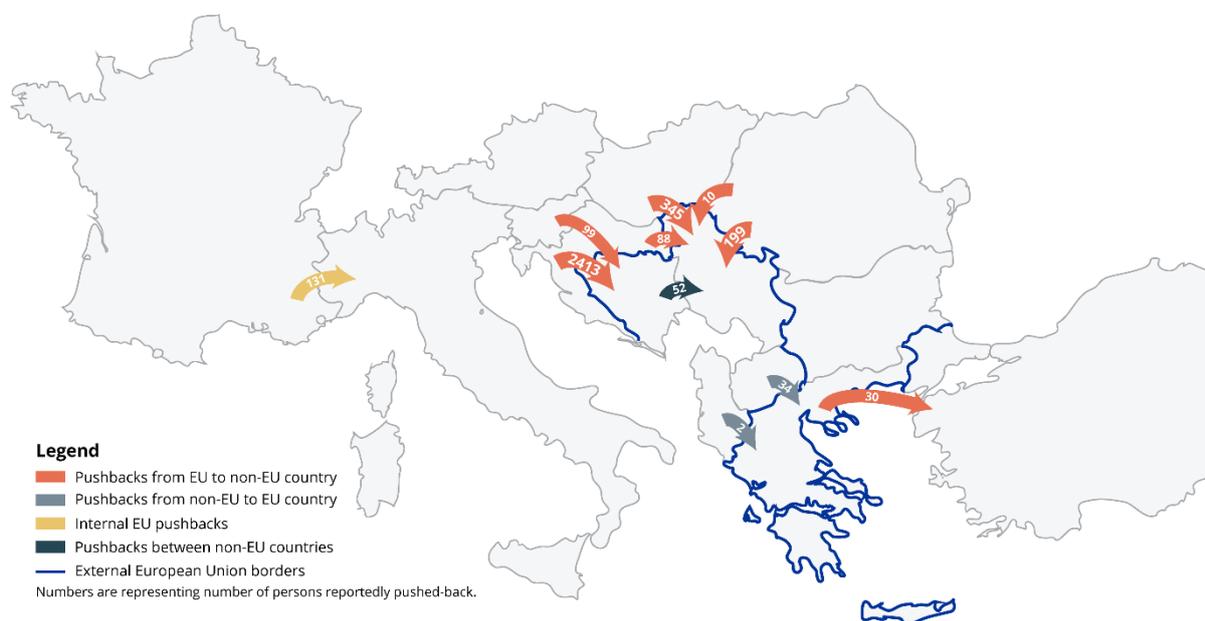
3403

Total # of persons reporting pushback incidents in the reporting period

5565

Total # of persons reporting pushback incidents since January 2021

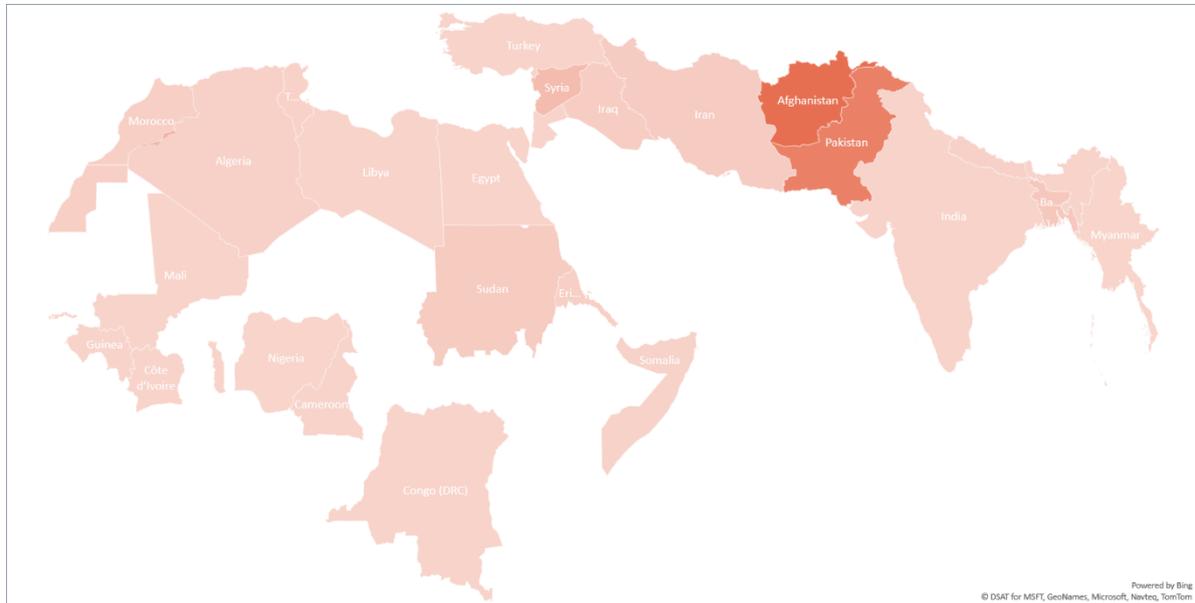
PRAB partners continued collecting testimonies of cases of pushbacks at the borders between France and Italy, Italy and Greece, Croatia and BiH, Croatia and Serbia, Hungary and Serbia, Romania and Serbia, Northern Macedonia and Greece, as well as at the Greece-Turkey border. Testimonies of chain pushbacks were recorded from Slovenia through Croatia to BiH, as well from Bulgaria, through North Macedonia and Greece, to Turkey.



The numbers are striking. However, behind the statistics are persons that experienced danger, fear, perilous journeys and multiple rights abuses, from humiliating and degrading treatment, to being deprived of their belongings or exposed to physical and psychological abuse. More than often, they have had not one, but [multiple such experiences](#), at the same or at different borders. The lack of clear legal pathways, combined with blatant breaches of international law, prevents informed choice and

further pushes people into risking their safety and wellbeing – and into the hands of smugglers and human traffickers.

COUNTRY OF ORIGIN OF PERSONS REPORTING PUSHBACKS



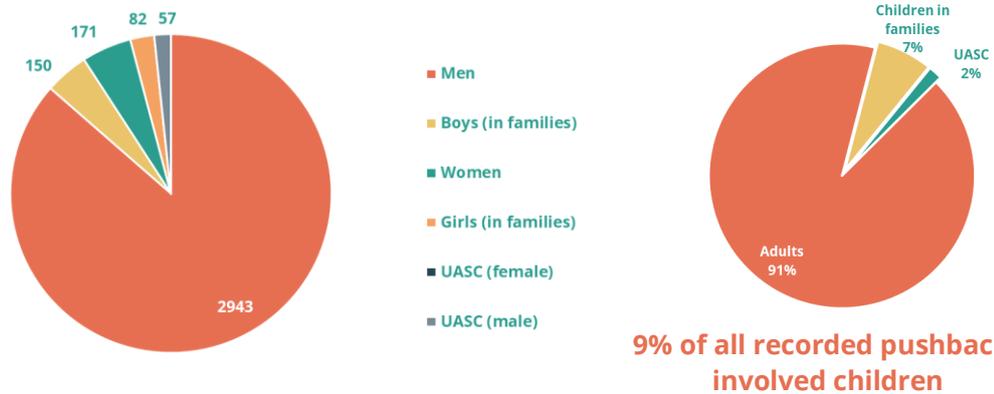
2. Different borders, similar practices: men, women and children continue experiencing pushbacks and rights violations indiscriminately at EU Member States' and neighbouring countries' borders

To highlight the rights violations taking place at different borders, the following sub-chapters focus on different rights violations occurring at different borders in this report. Do note that it is not an exhaustive overview, as specific rights are often violated at multiple borders (and examples of only a couple of borders are included here to illustrate the practices). While it is described explicitly for some, it applies to most borders.

A. Border practices fail to implement vulnerability assessments, as well as age and gender appropriate procedures

From the second half of April until 30 June, PRAB partners continued recording pushback testimonies from men, women and children, experiencing the same deterrence practices at borders. **As many as 57 unaccompanied and separated children** (hereafter UASC) reported being pushed back from France, Hungary and Croatia. Other vulnerable categories such as persons with disabilities (hearing impairment) reported the same.

AGE AND GENDER BREAKDOWN OF PERSONS REPORTING PUSHBACKS



PRAB continues recording pushbacks at the **French-Italian border**. Migrants crossing the border report abuses by French law enforcement officials. After being intercepted by the French border police, mostly on mountain paths or on-board trains, they report being taken to the French police border stations and held for the night.

In addition to the reports directly collected by PRAB partners, data on readmissions (based on the Italian-French bilateral readmission agreement) and refusals of entry (based on French law and Schengen Border Code) for the Italian-French Border (Ventimiglia and Bardonecchia) was collected using the instrument of generalized civic access (FOIA). In particular, ASGI submitted a request to the Ministry of Interior and to the Border Police for data regarding the period from 1 July 2020 to 30 April 2021.

Refusals of entry through the Ventimiglia border in the period July 2020-December 2020 numbered 17,379, while in the first four months of 2021 they numbered 9,140.

A high number of refusals of entry were recorded in October (3,586) and December 2020 (3,439). As regards the Bardonecchia border, the total number of push-backs from July 2020 to April 2021 was 6,880.

During their time at the border stations, migrants report violations of multiple rights. Many of the testimonies collected report that migrants were **denied their right to apply for asylum in France** as well as their **right to interpretation**, which prevented them from demanding that their rights be respected. The conditions at the border stations were also described as dire: no information was provided about the duration of their detention, food and water were scarce, when not completely lacking, and no medical assistance was provided. This greatly affected the most vulnerable and those who had been injured during their journeys. Indeed, the French-Italian border is at the crossroads of both the Balkan and the Mediterranean routes, and most migrants arrive in precarious health conditions, exacerbated by the physical and psychological abuse repeatedly suffered along their journeys. Though vulnerabilities among migrants are high in number and diverse in nature, they are systematically ignored by law enforcement. **This is particularly true for UASCs, as most reported being falsely identified as adults and treated as such**; UASCs did not receive dedicated information about their rights as minors and were held in the same rooms with adult men, thus violating their right to a safe space.

Furthermore, minors reported being pushed back to Italy informally, without a written and official denial of entry (*refus d'entrée*). This is particularly critical as, by law, minors can demand readmission by virtue of their minor age, however they need proof that the illegal pushback happened and it is virtually impossible to prove illegal pushbacks without a written denial of entry.

Women, especially pregnant women, or women travelling with their children, also reported that their right to a safe space was violated at the border police stations, since men, women and children were all sharing the same room. Large families with children and seniors saw their vulnerabilities ignored. In one instance, a pregnant woman travelling with her husband and seven children was hospitalized alone in France, her husband and minor children were held at the border police station for several hours, while her adult son was pushed back to Italy. Once discharged from the hospital, the woman received no indication as to where her family members were and was able to reunite with them only a few days later, thanks to the support of local NGOs and activists who managed to locate the rest of her family. (*kindly see section C for more examples and analysis on family separation during pushbacks*).

This incident is illustrative of the numerous pushback events involving people with vulnerabilities and leading to hospitalization. Pushbacks have the potential to heavily affect the physical and mental wellbeing of vulnerable people, as suggested by an increasing number of pregnant women, people with disabilities and elderly who report requiring medical attention after or at around the time of pushback incidents. When taken to the hospital, vulnerable people report being separated from the rest of their family or group and receiving insufficient interpretation assistance. Additionally, their time at the hospital is increasingly difficult and distressing, not only because they are deprived of the moral and practical support of their family members, but especially because they are concerned about the fate of their loved ones, in addition to their own. Unable to contact or reunite with their families and provided with little to no information on their whereabouts, once discharged from the hospital they are generally pushed back, despite their precarious physical and health conditions.

Lastly, health risks at border police stations are also a major concern as large groups of migrants are often held in a small space, despite all social distancing recommendations, which exposes them to increased chances of contracting COVID-19. Additionally, no indication is provided about the duration of the detention, which takes an additional toll on the mental health of those who have already experienced detention and abuse at the hand of law enforcement units.

- Until appropriate vulnerability assessments are systematically conducted at the borders, and/or during the registration process, vulnerable people such as children (particularly UASC), women, persons with disabilities and LGBTQI persons, will face exacerbated protection risks in their attempts to cross European borders.
- Different border procedures (including detention) need to ensure protection of specifically vulnerable population – women, children (including UASC), elderly, LGBTQI persons. Stay in inadequate, mixed units may lead to additional safety risks for the vulnerable groups.
- Access to translation, legal assistance and information is essential to ensure due process. Asylum seekers and or migrants must be aware of the procedures, their rights and obligations, and be able to make an informed choice on their action.
- The proposed pre-entry-screening in the EU's pact on asylum and migration can be a tool to streamline the border procedures in line with fundamental rights, if vulnerability checks are taking place to ensure that special procedural or reception needs are identified at an early stage and can be taken into account for the entire procedure.

B. Fundamental rights are not a menu to pick and choose from. States have the positive obligation to respect people's rights and negative obligation to refrain from violating them

The right to asylum and the right to legal remedies, as well as respect for the prohibition of *non-refoulement* are systematically violated during pushbacks across borders, despite being guaranteed to every human being, irrespective of whether the person is crossing the border irregularly, the by Universal Declaration of Human Rights, the European Convention of Human Rights, the 1951 Refugee Convention and its 1967 Protocol.

The majority of testimonies collected at the **borders between Hungary and Romania and Serbia**, include reports of one or more forms of ill-treatment and violation of human rights, **mostly involving physical abuse, abusive and degrading treatment, denied access to asylum procedures, followed by collective expulsion regardless of nationality, gender and specific needs**. The nature of violent pushbacks from Hungary or Romania and the behavior of police/border patrols remained unchanged compared to the previous months. Asylum seekers and migrants reported that violence from the border patrols mostly involved beatings with police batons on the back, hands and legs. Upon identification (mostly within few kilometers from the green border area) refugees and migrants were rounded up, ordered to sit on the ground, their belongings were searched, mobile phones smashed to the ground, and none of them were allowed to speak or to ask for any assistance that they might have needed at the time. The possibility to request asylum and be enabled to have access to territory was not an option according to gathered testimonies. Some asylum seekers and migrants reported that in Hungary they were occasionally taken to the nearest police station for fingerprinting and photographing, which has not been reported as a trend by interviewees reporting pushbacks from Romania.



Graphs: Rights violations accompanying pushbacks from Romania to Serbia

According to the details provided by interviewed asylum seekers and migrants, most of the expulsions took place in the triple border area (Serbian-Hungarian-Romanian border belt, around the villages of Majdan and Rabe), while pushbacks from Hungary occur either near Horgos (in the vicinity of the official border crossing) or near the cities of Sombor and Bajmok along the western part of the Serbian-Croatian border.

A group of 11 refugees from Syria (nine adult men and two adult women) reported to HCIT in June 2021 that they managed to enter Hungary by skipping the fence somewhere around Sombor, using ladders. They walked for 5-6 hours before they were caught by Hungarian police officers and members of the military. Military personnel were physically violent towards the men in the group, they hit and kicked them, but they spared the women. They took all of their phones and they broke the screens or

the charging areas, rendering the phones useless. The group was taken to the nearest police tent, where they spent the whole night, and then they were photographed and transported to the border with Serbia and expelled back to Serbia, somewhere around the village of Bajmok.

Hungarian authorities continue providing regular information on the numbers of pushbacks conducted, being legalized through domestic legislation, and in spite of Court of Justice of the European Union (CJEU) ruling in the case in case C-808/18 (*kindly see section 3 of this report*). Between 1 April and 30 June 2021, a total of 11 064 pushbacks have been reported.



Graphs: Rights violations accompanying pushbacks from Hungary to Serbia

At the **border between Croatia and BiH**, the patterns of rights violations reported resemble the ones recorded throughout previous months and years; theft, extortion and destruction of property was reported by 77% of interviewees, while physical abuse was reported by 42% of interviewees.

On 22 May, I went to the game with my sister and two other families from Afghanistan from an abandoned house in the village of Glinica [...] around 00:15 a.m. on 23 May, we were stopped by a couple of police officers who pointed flashlights and weapons at us.

[...] There were 10 police officers at the location (six in olive green uniforms, four in black uniforms); among them was a woman in a black police uniform. Immediately upon arriving to the road, we were ordered to get into a van [...]

They drove very slowly with the heating on. After a few minutes, we started to run out of air and could barely breathe. We felt nauseous. After half an hour of driving, we stopped but were not allowed to go outside. The van's engine was still running with the heating on. All the time, the police officers were hitting the outside of the van with fists and batons and screaming.

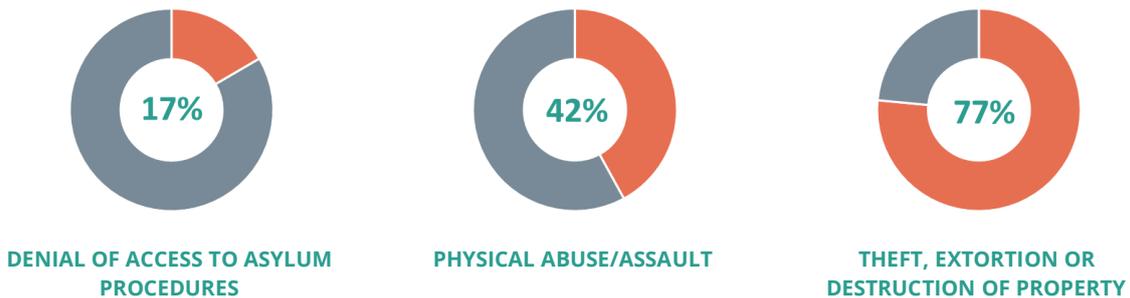
After about an hour, they opened the door and ordered us to go outside. As we stepped outside the van, the policewoman grabbed almost each of us by the shoulder and pushed us out, while the other police officer signaled us to stop next to the van [...] They started searching us. First, they took our personal belongings and found the phones, which they immediately smashed with a baton. The policewoman also found baby diapers in one of the backpacks, which she unpacked and searched in detail one by one.

After they finished searching backpacks, they started searching us as well. She [the policewoman] ordered my sister to open the bag she was carrying on her shoulder. After we tried to explain to her that there were only medicines in the bag, she punched my sister in the head and forcibly opened the bag. She took out the medicine and started throwing it in the woods. Then she grabbed another woman by the hair and started pulling her from the van towards the forest, and hit her twice with an electric

shocker in the back of the head. She fell to the ground. We were not allowed to react because one police officer was aiming a weapon at us.

There was a water bottle on the ground next to the other woman; the policewoman ordered her to take the bottle and get up. When she took the bottle, the policewoman kicked her in the abdomen several times. After that, she came up to me and punched me hard in the head. She pointed to the other two policemen, who immediately started beating us with batons and kicking us.

After they beat us, they ordered us to go through the forest towards Bosnia and Herzegovina. We were deported on 23 May at around 2:30 a.m. in a forest near the settlement of Glinica.



Graphs: Rights violations accompanying pushbacks from Croatia to BiH

From the second half of April until 30 June, PRAB partners continued recording pushback testimonies from men, women and children also between Italy and Greece.

On May 23, 2021 seven Turkish citizens, among which one woman, were pushed back to Greece by the Italian border police in the port of Bari. Six of the seven Turkish (Kurdish) citizens, who were returned to Greece on May 23 2021 from the port of Bari, were denied the possibility to access asylum procedures, despite having immediately expressed their intention to seek asylum. The Turkish citizens were prevented from establishing any contact with lawyers, associations and family members. They were denied any legal information and the assistance of a mediator. Based on testimonies collected from people readmitted to Greece from the port of Bari on May 23, 2021, violence and abusive treatment was applied by the Italian police during the readmission procedure. The asylum seekers were arbitrarily deprived of personal freedom and kept inside a room, without windows and toilets, so small that they had to alternate to remain seated on the ground. The six asylum seekers were held for the entire duration of the journey (for approximately 12 hours), in inhuman and degrading conditions, without receiving food or water. After arriving to the port of Igoumenitsa in Greece, they were further detained for 24 hours in a dilapidated and confined space, lacking any measures to ensure adequate distancing.

- The EU's human rights framework, as well as international human rights law, is also applicable to people at Member States' borders. In a recently published joint [note](#), The Council of Europe and the EU Agency for Fundamental Rights (FRA) set out the relevant standards, stemming from both the European Convention on Human Rights (ECHR) and EU law, based on which migrants, asylum applicants and refugees can access effective remedies at a national level. The publication reiterates states' obligation to establish dedicated mechanisms for lodging administrative and judicial complaints through which migrants, asylum applicants and refugees can submit allegations of rights violations at borders, ensure effective investigations and guarantee their right to effective remedy – i.e. one capable of preventing or stopping the alleged violation or providing suitable redress.
- The reports of destruction of personal property during pushbacks at different borders, including personal documentation (registration, expulsion papers, IDs, etc) and mobile phones, are alarming; as long as they are being systematically conducted, they not only hamper people's lives (their access to rights and entitlements), but they also appear to be an explicit attempt to suppress evidence of people's movement, of their stay in a certain territory or of processing by different law enforcement offices.

C. Separating families: a less visible but really concerning practice

On 16 June, in the area of Velika Kladusa (in front of reception center Miral), DRC BiH teams identified a group of four families with children, reportedly pushed back from Croatia the very same morning. One of these families reported they were separated from four of their children during the pushback:

Around 1 a.m. this morning, near the Slovenian border (near road 23), four Croatian police officers caught us in the forest. The police officers were in regular blue uniforms, and they were there with two police vans. The police officers woke us up and told us to sit in the vans. They allowed us to collect our things. While we were entering the vans, four children had to enter the second van as there was no more space. We tried to explain to the police officers that they were family and to ask them to let us travel together but they didn't react. They just closed the doors of the vans and started driving. After a few hours our van stopped. The police officer opened the door and we were in a forest. We didn't see the second van. We asked the police officers where the second van was and they started yelling at us and pushing us towards the BiH border. This was around 6 a.m. this morning. We had to start walking back to BiH. We came to Siljkovaca, and from there we went to the center [TRC Miral] to ask for food.

This incident was reported to the responsible authorities in BiH, namely the Service of Foreigners' Affairs of BiH. Based on what was reported by the families, the DRC BiH Outreach Team managed to identify the separated children in Sturlic village, notified relevant actors and informed children that their parents were searching for them. The family was successfully reunited on the same day of the pushback.

As illustrated in the case recorded at the French-Italian border (*presented in the section A of this report*), local NGOs reported assisting an increasing number of people in locating their family members across the French-Italian border after a pushback incident, which hints at a new operational pattern aimed at separating migrants from their family or group if they are taken to the hospital, in an attempt to discourage border crossings.

Besides being at risk of family separation (as reported in the above case), due to lack of formal procedures for identification and vulnerability assessment (in particular best interest of child assessment), children are at heightened risk of being exposed to human trafficking. Lastly, family separation presents an additional traumatic experience for families – particularly for children.

While formal mechanisms for family tracing may exist, this does not absolve the authorities from the responsibility of making sure that the family separation does not happen in the first place and processing each case individually. Lack of formal procedures does not only create a series of negative consequences, but facilitates conditions where, for instance, human trafficking can happen unidentified and therefore exacerbate overall risks for the population on the move.

D. Pushing back people with legal status

PRAB partners recorded pushback incidents from Greece to Turkey involving 30 persons, including men, women and children. While pushbacks are reportedly¹ happening on a significantly larger scale when it comes to new arrivals, the cases recently recorded by PRAB partners documented that pushbacks are occurring due to mere miscommunication or lack of communication among different authorities – and even to persons who have a legal status in the country.

A Somali woman and a Sudanese man shared their testimony of how they were pushed back from Greece to Turkey in May 2021, in their attempt to reach the competent authorities to register their asylum claim. They reported that before reaching the reception and identification centre, they were arrested and stripped of their mobile phones and their documents which indicated their intention to seek asylum. Police authorities did not issue any official document for their arrest nor for their detention there. Next they knew, they were transferred to a detention centre where no food or water was provided. When the man requested water to take his medication, he was beaten, while the Somali female was subjected to physical control. They were pushed back to Turkey by boat, the same day of their arrest in the Evros area.

The following testimony has been provided by a Palestinian recognized refugee, whose wife and six children are awaiting status determination in Greece and who are unable to support themselves without him:

¹ 1. *EU alarmed by Greece's use of sound cannons at border to deter asylum seekers*, Euronews: <https://www.euronews.com/2021/06/03/eu-alarmed-by-greece-s-use-of-sound-cannons-at-border-to-deter-asylum-seekers>

² *The EU countries 'pushing back' asylum seekers at sea*, BBC: https://www.bbc.com/news/av/world-europe-57809909?fbclid=IwAR09wPZB9C6_duFBHx3IzabeF-Qorcj0DUNbDU-2klvbhI-SvwS-kOEtPRA

³ *Greece: Violence, Lies and Pushbacks*, Amnesty International, https://www.amnesty.gr/sites/default/files/greece-violence_lies_and_pushbacks_eur25-4307-2021.pdf

I was arrested in Alexandroupolis where I arrived for an appointment with a potential employer. The Police approached me, I showed the document I possessed (application for the re-issue of a License Permit of a recognized refugee, as I had lost the original). They arrested me and took me to the police station where other people were also detained (Syrian, Algerian, Moroccan, 10 men and two women). They did not hit us, but they were cursing at us all the time. They took all our personal belongings (money, mobile phones, clothes, belts, shoelaces, etc.), placed us in a big van, and transferred us to the Evros River. There, we saw many other peoples, mostly from Syria, but also from other countries – there were men, women, children, and elderly persons. I was not able to count or speak with others, as the soldiers controlled the line and told us not to speak or move – whoever spoke or moved was hit with batons. Then, they put us in boats (10 of us and two soldiers on each boat) and left us in the middle of the river, on a small island. We then had to continue alone towards the Turkish side.

- Incidents of recognized refugees being pushed back across countries' borders speak not only of the normalization of border violence and extent of pushback practices by security forces, who ignore people's legal status or right to access international protection, but also impunity for such rights violations. These practices risk to violate the principle of *non-refoulement*, and need to be strongly condemned by the authorities, investigated and stopped.
- Greece and other EU Member States should provide meaningful access to asylum procedures throughout its territory by strengthening competent authorities' cooperation and by removing bureaucratic or legislative impediments such as unnecessary movement to border authorities which evidently delay or obstruct asylum seekers' ability to file their asylum application.

E. Collective expulsions across multiple borders following inter-state cooperation

Among the 3,403 persons reporting pushbacks, 99 persons reported experiencing chain pushbacks from Slovenia, through Croatia, to BiH.

Seemingly, pushbacks from Italy to Slovenia have been virtually suspended, following the visibility and advocacy pursued by national civil society actors on chain pushbacks and potentially reinforced by the January Court of Rome [ruling](#). However, [at least two reports on chain pushbacks from Italy through Slovenia and Croatia to BiH](#) have been recorded in May 2021, by the Border Violence Monitoring Network (BVMN). As irregular movements continue, the question remains whether Italy will ensure access to individual formal procedures for those entering its territory from Slovenia and seeking asylum.

In a recent [finding](#), the Styria Regional Administrative Court in Graz ruled that pushbacks are "partially methodically applied" in Austria, and that in the process, the 21-year-old complainant was subject to degrading treatment, violating his human dignity. The ruling further shed light on the practices of chain pushbacks happening from Italy and Austria, through Slovenia and Croatia, to BiH. The last chain pushback from Austria all the way to BiH was recorded by PRAB partners in early April 2021, while in 2020, 20 persons reported experiencing chain pushbacks from Austria and an additional 76 from Italy.

Chain pushbacks from Slovenia, through Croatia to BiH, however, continued with a total of 99 persons affected, including six women and six children in families. Almost all interviewees alleging being apprehended in Slovenia reported going through an identification/registration processes, even though their biometrical data was not systematically collected. None of interviewees reported being provided with a translator, even when specifically requested. A number of interviewees reported they

were led to believe that their asylum claim was being registered whilst at the police office, however, they were still subsequently deported back to Croatia. In at least two pushback incidents, interviewees reported that their personal belongings (including mobile phones and money) were taken away by the Slovenian police. Informal cooperation between Slovenia and Croatia in conducting pushbacks is still reported, through handovers of asylum seekers by one police unit to another at the border; however, these handovers do not occur at the official border crossings.

The following testimony describes a chain pushback between the two countries:

[...] On Monday 31 May we reached the border with Slovenia between 08:00 am and 09:00 am. There was a long fence and we passed underneath it. We walked for about 7km into Slovenian territory when a drone showed up above us. After 15 minutes, a group of seven police officers showed up. They all had dark blue uniforms and had clear police markings on their shoulders – five male officers and two female officers. The female officers had a marking with three stars, while the rest of the officers didn't have these markings. They had two dogs with them one was on a leash while the other dog was running around us.

They ordered us to lie on the ground and then they started searching us. They confiscated four mobile phones and 50 euros that they put in a zip bag. We asked for asylum immediately. Only one of us knew a little English and we asked for translator. We were told that they had none. One of the officers made a phone call and 15 minutes later another seven police officers showed up. Five of them were wearing dark blue uniforms with police markings, while two had green uniforms with different markings and one held a controller in his hands. These seven officers came with two cars [...] One of the officers took a huge nylon bag and put all our bags and belongings in it. They ordered us to board the van.

We were taken to the police station where we asked for a translator and asylum. They gave us all papers to fill in. The papers had the following questions in English and in Arabic: name, last name, country of origin, country of destination, reason for leaving your country, and there was a part that said: 'do you want to apply for asylum in Slovenia'. We wanted to fill in that space but we were told that we can write only Italy or Spain. They didn't let us write anything else. The part with the question about the reason for leaving our country they crossed out on each of our papers. When we filled in the papers, they told us to remove our dirty clothes and put on any clean clothes we had left in our bags. Then they threw everything else in the garbage.

We stayed in that police station from 10:00 am till around 05:00 pm. We asked for food and we got toast bread. We asked for asylum again and again but no one listened. They took our pictures, right index fingerprint, and they gave us some papers to sign. At around 05:00 pm, a white windowless van with police markings showed up and they ordered us to board. The ride took around 40 minutes before we reached the border with Croatia. A Slovenian officer gave our filled papers and the zip lock bag with our mobile phones and money to his Croatian colleagues.

One of the Croatian officers took us to a white windowless van with police markings. The ride took about 30 minutes before we reached a police station. We were told to enter a small room, and we stayed there for about four hours. Four hours later, the same officer drove us to the border. The ride took a little longer than one hour. At the border there were five police officers with flashlights and police batons. They flashed our eyes constantly and we could not see the uniforms this time. They had two dogs with them. One of them shed light on the forest road and told us to go back to Bosnia. We asked for the zip lock bag with our phones and money. They said "no". One of us insisted and was hit with a baton over the knee. We ran to the forest road, and realized that we were in Velika Kladusa. We walked for one hour before reaching reception center Miral.

- As Slovenia has taken over the six-months rotating presidency of the European Council, as a part of its program it has promised to "reinforce the rule of law and European values". The repeatedly reported illegal practices at its borders demonstrate an urgent need to do so.
- Unfortunately, a recent announcement on [additional funding and manpower](#) for border protection does not spur hopes for a change of course, as there is no mentioning on ensuring rights compliance. Border management and rights compliance are not mutually exclusive, they should happen simultaneously at all times.
- It is therefore of paramount importance that the negotiations over the Commission's proposed Pact on Asylum and Migration border management do not merely end in the securitization of borders, in Slovenia and at other external borders, but that rights compliance is an equally important component. Compliance with human rights is not optional, but obligatory.

3. The Rule of Law is shaking on its foundations: flagrant breach of legal frameworks and unwillingness to implement judgements or conduct investigations.

Despite the proclaimed commitment of EU Commission to end widely documented illegal practices at the borders of Member States, pushbacks to decrease arrivals continue across the EU's internal and external, as well as third countries' borders. In response to the increasing reports highlighting rights violations happening at the borders, countries continued with smear campaigns, suggesting that the reports are either ill-intentioned "fake news" spread by civil society organizations with the purpose of "undermining" authorities or stories fabricated by migrants who try to enter the EU by any means possible.

In July 2020 the Greek National Commission of Human Rights issued a [report on pushbacks](#), following a meeting with state representatives. The authorities denied all allegations and repeated their opinion that pushbacks are "fake news". The Commission concluded by emphasizing the seriousness of allegations and the stable pattern and methodology of practices, urging Greek authorities to put an end to pushbacks, examine all allegations and establish an independent and effective monitoring mechanism. As reports on pushbacks continued, the [National Report](#) on the situation of human rights of migrants at the borders, published 15 July 2021 by the Greek NHRI, further flags the lack of accountability and quality of pushback investigations in Greece (*kindly see section D for more information on NHRI's report*). The Greek Government's assurances towards the European Commission to put a monitoring and surveillance mechanism in place is a first good step and potentially a first sign of recognition of the systematic rights violations. Although caution remains essential, as effective steps are required.

On 9 June 2021, the European Commission decided to send a [formal notice](#) to Hungary for failing to comply with the ruling of the Court of Justice of the European Union (CJEU) in case C-808/18 – that found the domestic legalization of push-backs to be in breach of EU law. The Hungarian government has until the beginning of August to respond to the notice. Based on the response received, the Commission might bring Hungary back to the Court and impose financial penalties for non-compliance with the judgment.

Despite legal actions taken in different Member States, sincere efforts to investigate and put an end to pushbacks seem to be missing. On the contrary, legal claims continue to be dismissed on shaky

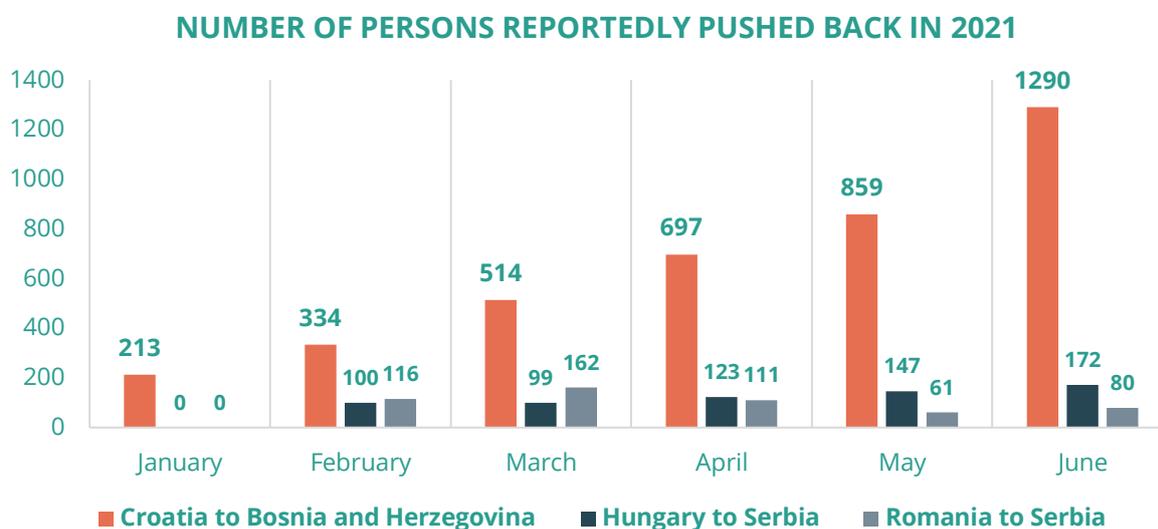
grounds, despite the evidence submitted. In May and June 2021, the **Croatian** CSO Center for Peace Studies received rejection letters issued by the Croatian State Attorney's office for two criminal complaints related to extremely violent cases of pushbacks from Croatia to BiH from May and October 2020. The reasons outlined in the rejection letters are factually wrong and poorly – or not at all – substantiated, which further fuels concerns over the [absence of effective investigations](#) in Croatia related to pushback cases.

While domestic legal remedies may be lacking, or are inefficient, the most recent groundbreaking [ruling](#) by the European Court of Human Rights in the case of Shazad v. Hungary, [for the first time](#) found that pushbacks carried out by Hungary are in breach of the prohibition of collective expulsions enshrined in Article 4 of Protocol 4 to the European Convention on Human Rights. [The applicant](#) of the case was pushed back in August 2016 from Hungary to Serbia in a police measure that was legalized a month prior to that. The Court determined that the removal from the territory was conducted without an individual removal decision (not being the consequence of applicant's own conduct). Despite the irregular nature of the entry, the Court found that Hungary failed to secure the applicant effective means of legal entry, formal procedure, or safeguards. Furthermore, the Court found that the right to effective remedy before a national authority, defined in Article 13 of the Convention, has been violated.

Finally, civil society organizations and volunteer networks have so far played a significant role in collecting testimonies on illegal practices at the borders, raising awareness in the general public, as well as decision makers, but also providing essential support to survivors not only through humanitarian and psychosocial support in the aftermath of the traumatic events, but also by seeking legal remedies before national and international bodies. While the space for neutral actors, independent of states' support, is shrinking as EU and neighbouring countries continue blatantly denying pushbacks and even actively underline some organisations' mandate, it is the responsibility of the European Commission, individual Member States, and European Parliament to take appropriate action and ensure accountability, the rule of law and respect of fundamental rights.

- Some states seem frankly unwilling to respect rights of people on the move, as flagrant and systematic violations of asylum-seekers, refugees and migrants' rights illustrate. It goes without saying that respect for human rights and the enforcement of judgements are two prerequisites of respect for the Rule of Law. Respect for the Rule of Law and linking financial support to border monitoring mechanisms to compliance with fundamental rights are non-negotiable.
- The European Commission should ensure that civil society organisations can continue reporting pushbacks, by ensuring that financial resources are at their disposal and by monitoring that national governments do not undermine their mandate.

4. Time to change rhetoric into practice: a repeated call for an effective and independent border monitoring mechanism, that includes investigations



On 12 May 2021, the UN Special Rapporteur on the Human Rights of Migrants submitted his report on “means to address the human rights impact of pushbacks of migrants on land and at sea”. [The report](#), adopted at the 47th session of the Human Rights Council, only names specifically a few countries, including Hungary, Greece, Croatia and Italy. The findings are in line with reports and analyses produced by CSOs, including the PRAB partners and the Border Violence Monitoring Network.

The recent [report](#) on Greece, issued by the European Network of National Human Rights Institution (ENHRI) emphasized that “monitoring mechanisms in place need to be vested with specific characteristics and institutional guarantees of **independence, adequate powers, resources and transparency** in their operation in order to contribute to the accountability of duty bearers.” So far, in Greece, “no case of pushback has ever resulted in a trial before a Court. Most of them are rejected as unsubstantiated or are still pending (for years)”, reflecting **lack of effective investigations on alleged incidents of pushbacks**.

The first available information about the MoU that has been concluded – or is in the process of being concluded – between the Croatian Ministry of Interior and actors involved in the proposed monitoring mechanism in Croatia is rather concerning. While the MoU, now re-named to a cooperation agreement, is not publicly accessible, and the document has not even been seen by some of the partner organisations, [media](#) has already reported on it. Not only have organisations been selected for the coordination board that do not have any experience in monitoring border violence, the mechanism’s scope is limited to official border crossings – while pushbacks and rights violations happen elsewhere. Accountability, aiming to end impunity and ensure effective investigation of complaints, remains insufficient – if not absent. As such, this mechanism is highly unlikely to create any meaningful change. Close monitoring of implementation of the mechanism by the European Commission, in its role of guardian of the European treaty and member of the mechanism’s advisory board is of paramount importance. Systematic monitoring of the monitoring mechanism is a prerequisite to assess whether there is any kind of progress on the ground, and if and when the opposite

is true – i.e. the mechanism fails to create change and ensure accountability – this should result in effective action being taken by the Commission.

Taking about progress, the proposed **human rights monitoring mechanism, under article 7 of the pre-entry screening file**, is likely be a [stumbling block](#) in the negotiations between the EU Member States. While there is no need to re-invent the wheel, the evidence presented in this report and many other reports from civil society actors, UN agencies and other stakeholders indicates that current mechanisms are sorely lacking. Member States can no longer hide behind excuses and fluffy promises. It is time to turn rhetoric into practice and we therefore repeat our request to change the proposed mechanism by the European Commission as follows:

- Have a scope that applies to all reported fundamental rights violations by national border management authorities and/or during border control activities;
- Be independent of national authorities, and rely on national human rights institutions and/or civil society organizations, supported with independent funding;
- Ensure effective investigation of allegations, to put an end to abuse, guarantee access to justice and ensure transparency;
- Include enforceable consequences if governments fail to cooperate with an independent and effective mechanism, do not set it up, or ignore its findings.

In conclusion, while an effective and independent border monitoring is not a solution to end border violence and pushbacks – only states ending the systematic practices is – it can be considered an essential tool to hold perpetrators accountable and ensure some type of justice for victims. It should nevertheless be recognised that each victim is one too many, as behind all the numbers are people whose rights and human dignity should under all conditions be upheld.

OVERVIEW OF PREVAILING RIGHTS VIOLATIONS ACROSS BORDERS

