REFUGEE RIGHTS EUROPE

END PUSHBACKS PARTNERSHIP

PUSHBACKS AND RIGHTS VIOLATIONS AT EUROPE'S BORDERS

THE STATE OF PLAY IN 2020

TABLE OF CONTENTS

ABOUT

This report was published by Refugee Rights Europe (RRE) and the End Pushbacks Partnership (EPP), with detailed evidence contributions from individual member organisations of the Partnership.

The members of the End Pushbacks Partnership are:

ASGI
Italy / Balkans

BORDERLINE SICILIA
Sicily/Central Med sea
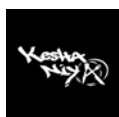
ASOCIACIÓN ELIN
Spain (Ceuta)
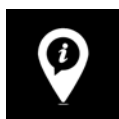
HUMANRIGHTS360
Greek-Turkish border

INTERSOS
Italy and Balkan route

KESHA NIYA
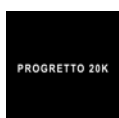French-Italian border

MOBILE INFO TEAM (MIT)
N. Greece, Greek-Turkish border

PIC (LEGAL-INFORMATIONAL CENTRE FOR NGOS)
Slovenia-Italy / Croatia borders

PROGETTO20K
French-Italian border

REFUGEE RIGHTS EUROPE (RRE)
Europe-wide

SPECIAL THANKS

We would like to extend our sincere gratitude to the following experts who reviewed and provided input and/or feedback on an earlier draft of the report:

Anafé (Association nationale d'assistance aux frontières pour les étrangers); **Dr Leonie Ansems de Vries**, Senior Lecturer in International Relations and Chair Migration Research Group at King's College London; **Prof. Dr. Ilse Derluyn**, Centre for the Social Study of Migration and Refugees (CESSMIR), Ghent University; **Agnès Lerolle**, from CAFI (Coordination of joint actions at internal borders, a project piloted by Amnesty International France, La Cimade, Médecins du monde, Médecins sans frontières and Secours Catholique-Caritas France); **Naoual Mahroug**, Anthropology researcher, Cerlis; the team at **Pushback Map; Iliana Savova**, Director of the Refugee and Migrant Program at the Bulgarian Helsinki Committee; **Irungo Harrera Sarea** - Red de Apoyo de Irun; and **Sea Watch**.

Many thanks also to **Chiara Fabbro**, **Diletta Mastria** and **Laura Keen** for contributing with additional desk research for the report.

Sincere gratitude to the various photographers, individuals and groups who helped bring the report to life through their frontline photography: **Nidžara Ahmetašević**, **Silva Ana**, **Jeremy Cothren**, **Giacomo Donadio** and **Iker Barbero**, **Tessa Kraan**, **Zsuzsánna Fodor**, **Garikoitz Garaialde**, **Agnès Lerolle**, **Progetto20K**, **Refugee Rescue**, and **Abdul Saboor**.

Above all, we are grateful to **the women, men and children in displacement who shared their experiences and voices with us** over the years and inspired the collective work that we do, including the production of this report and related advocacy campaigns. We will continue working relentlessly to uphold the human rights and human dignity of all.

INTRODUCTION

PUSHBACKS AND RIGHTS VIOLATIONS AT BORDERS: EUROPEAN VALUES AND THE RULE OF LAW AT STAKE

The European Union was founded on **the values of human rights and human dignity**,[1] based on the conviction that adherence to these values is crucial to avoiding the atrocities that scarred Europe during the early 20th century. Europe's founding treaties enshrine these values, in a bid to **ensure that states abide by them in practice and are held accountable should they fail to do so**. The Lisbon Treaty in one of its first articles commits the Union to 'the protection of human rights' and 'the strict observance' of international law.[2] Today, the EU states that 'these values are an integral part of our European way of life'.[3] **In practice, these values are being eroded**, as Europe's asylum and migration system is increasingly centred around securitisation and exclusion, **evidenced by illegal pushbacks and human rights violations at its borders**. Ever increasing funding for restrictive border management, and the externalisation of asylum responsibilities through 'cooperation' with third countries, contribute to this erosion.

Photo credit: Tessa Kraan, Bosnia

[1]. EU website, About the EU, The EU in brief
[2]. Lisbon Treaty, Art. 3(5)
[3]. *Ibid.*

EUROPE'S LEGAL OBLIGATIONS TO PROTECT DISPLACED PEOPLE

'NO ONE MAY BE REMOVED, EXPELLED OR EXTRADITED TO A STATE WHERE THERE IS A SERIOUS RISK THAT HE OR SHE WOULD BE SUBJECTED TO THE DEATH PENALTY, TORTURE OR OTHER INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT'.

- EU Charter

Photo credit: Filippo66

A central pillar of Europe's commitment to human rights concerns its treatment of individuals attempting to enter its territory to seek international protection. The Lisbon Treaty thus obliges the Union to develop common policies 'with a view to offering appropriate status to any third-country national requiring international protection'.[4] **The EU Charter stipulates that Member States must guarantee the right to asylum, rooting this obligation explicitly in international refugee law**: the 1951 Geneva Convention and 1967 Protocol.[5] Similarly rooted in international refugee law, is Europe's commitment to its central principle: *non-refoulement*. The Lisbon Treaty obliges EU states to 'ensur[e] compliance with the principle of *non-refoulement*', while the EU Charter prohibits collective expulsions, elaborating that 'No one may be removed, expelled or extradited to a State where there is a serious risk that he or she would be subjected to the death penalty, torture or other inhuman or degrading treatment or punishment'.[6]

These obligations are reiterated in secondary EU law governing asylum[7] **and the management of internal borders.**[8] The Schengen Borders Code obliges Member States to 'act in full compliance with' the Charter and the 1951 Geneva Convention, specifically 'obligations related to access to international protection, in particular the principle of *non-refoulement*'.[9] The Regulation also obliges the EU's border guards to 'fully respect human dignity'.[10] Moreover, **refusals of entry to Member States' territory must take place 'without prejudice to the application of special provisions concerning the right of asylum and to international protection'.**[11] To ensure protection from refoulement in practice, refusals can only be issued by a 'substantiated decision stating the precise reasons' for the refusal in the individual case, in writing.[12] The Regulation also enshrines individuals' right to appeal refusal, as well as to be provided with information and legal representation.[13] Finally, Member States must record each refusal of entry and submit this information yearly to the EU Commission.[14]

[4.] Lisbon Treaty, Art. 78
[5.] EU Charter, Art. 18
[6.] EU Charter, Art. 19.
[7.] Directive 2013/32/EU on common procedures for granting and withdrawing international protection, Rec. 3, Art. 9(3), Art. 28(2), Art. 35(b), Art.38(c), Art. 39(4), Art. 41(1), Annex 1(c)
[8.] Regulation EU 2016/399 on a Union Code on the rules governing the movement of persons across borders, Rec. 36 Art. 3, Art. 4
[9.] *Ibid*. Art. 4.
[10.] *Ibid*. Art. 7(1)
[11.] *Ibid*. Art. 14(1)
[12.] Ibid. Art. 14(2) & Annex V Part A(1) (a)
[13.] *Ibid*. Art. 14(3)
[14.] *Ibid*. Art. 14(5) & Annex V Part A(1)(d)

PUSHBACKS: THE EU'S POLITICAL, OPERATIONAL AND FINANCIAL STRATEGIES

Despite these unequivocal obligations, EU Member States have for years unlawfully prevented displaced individuals from entering their territory[15] and forcibly returned them to neighbouring or third countries,[16] in violation of the right to seek asylum and the principle of *non-refoulement*. **The EU institutions contribute to these 'pushbacks', firstly by continuously failing to hold Member States accountable for them. Secondly, by financially, operationally, and politically supporting third states who perpetrate human rights violations to stop individuals from reaching EU territory.**

Notably, the EU and Italy have been training, funding and providing operational assistance to the so-called Libyan Coast Guard (LCG) since 2015.[17] The EU's military mission EUNAVFOR MED - Operation Sophia (ENFM) was replaced by EUNAVFOR MED – Operation Irini on 31 March 2020. Both missions count 'capacity building and training of the Libyan Coast Guard and Navy'[18] to their tasks. Since the EU began this cooperation, more than 40,000 people have been intercepted at sea and returned to Libya by the LCG,[19] and more than 6,500 displaced individuals so far in 2020 alone.[20] This cooperation was established and persists despite the well documented[21] grave human rights violations against migrants[23] taking place in Libya – including torture, slavery and suspected war crimes such as forced conscription. As a result, the United Nations, international organisations and countless NGOs[24] as well as Members of the EU Parliament[25] continue to urge the EU to cease this cooperation.[26] The EU nonetheless describes the cooperation as a 'success',[27] as it reduces the number of people on the move who reach Europe.

Photo credit: Nidžara Ahmetašević, Bosnia

15. Fundamental Rights Agency, News update, 26 March 2018
16. Council of Europe, Resolution 2299, 28 June 2019
17. Operation Sophia website, About the mission
18. Operation Irini website, The operation at a glance
19. UNHCR Libya Update, 7 August 2020
20. The New Humanitarian Analysis, 10 August 2020
21. Human Rights Watch Report, 21 January 2019
22. Amnesty International Take action to 'Stop the selling and detention of refugees and migrants in Libya'
23. Amnesty International, Country page Libya
24. Amnesty International News, 12 July 2019
25. European Parliament, LIBE Committee Press release, 27 April 2020
26. Amnesty International, Joint Statement about EU cooperation with Libya, 27 April 2020
27. Euronews Article, 3 November 2019

The EU's progressive obstruction and criminalisation[28] of search and rescue operations in the central Mediterranean appears as another attempt to reduce access to asylum in Europe.[29] Throughout 2020 several EU states closed their ports to new arrivals,[30] and Maltese vessels are pushing boats back to Libyan territory,[31] without any remedial action taken by the EU.[32]

Similar patterns are being observed along the Eastern Mediterranean route. The EU-Turkey Statement makes a political deal that was subject to no prior public democratic oversight by the EU Council, Parliament or civil society, a cornerstone of the EU asylum system. The EU here relies on Turkish President Erdogan to stop displaced individuals from reaching EU territory,[33] in return for funding and diplomatic perks.[34] The EU's own legal watchdog repeatedly called on the Commission to better document[35] and asses[36] the human rights violations resulting from this deal, emphasising that political agreements do not absolve the EU of its fundamental rights commitments.[37]

Four years on, the agreement has failed in practice,[38] save for reducing the number of individuals who reach EU territory.[39] This failure became acutely apparent in the Evros region in spring 2020,[40] when President Erdogan 'opened' the border at his will in order to put pressure on the EU.[41] Displaced individuals were instrumentalised as political bargaining chips, with chaos ensuing on both sides of the border[42] and at least one Syrian refugee losing his life while attempting to enter EU territory.[43] In parallel, the Greek coastguard has been recorded attacking migrant boats on several occasions.[44] Most recently, FRONTEX was found to be aware of instances of pushbacks carried out by the Greek coastguard without taking remedial action or attempting to rescue the displaced individuals affected by these pushback operations in distress at sea.[45] The horrific fires in Moria, the EU Hotspot on the Greek island Lesvos, left over 12,000 displaced people homeless and traumatised. This unfortunately came as no surprise and repeated warnings[46] have remained unanswered for over four years. These events exemplify the dangerous and unsustainable nature of an EU migration management approach which positions third states as gatekeepers with the aim of reducing migration to the EU at, seemingly, any human cost.

THE HORRIFIC AND SHOCKING DEVELOPMENTS IN MORIA, THE EU HOTSPOT ON THE GREEK ISLAND LESVOS, LEFT OVER 12,000 DISPLACED PEOPLE HOMELESS AND TRAUMATISED.

Far from taking remedial action, the EU presses on with the operational, legal and political fortification of its territory. The Commission and German Council Presidency announced[47] a strengthened focus on returns and 'cooperation packages' with third states, objectives reflected by the proposals in the new Pact on Migration and Asylum ('the Pact').[48] The new Pact proposes that individuals who manage to reach the EU, are to undergo pre-screening and truncated border procedures in 'flexible locations' at the EU's peripheries.[49] While omitting explicit references to the facilities in which individuals must remain while undergoing these procedures, and despite the Moria fires in early September, the proposals thus appear to expand the model of the EU Hotspots on the Aegean islands. These were described by the EU Fundamental Rights Agency as 'the single most worrying fundamental rights issue that we are confronting anywhere in the European Union'.[50] The proposals for arbitrary selection procedures that a-priori deem individuals from certain countries unworthy of undergoing a full asylum procedure, and for expedited border procedures subject to fewer procedural safeguards and reduced access to legal remedies constitute a further step to ultimately reducing access to asylum in the EU and to implementing swifter deportations from EU territory.[51]

28. Fundamental Rights Agency, Asylum, Migration and Borders 2019 Update, 19 June 2019
29. Médecins sans frontières, Search and Rescue FAQ
30. The Guardian Article, 8 April 2020
31. The Guardian Article, 19 May 2020
32. Alarm Phone Statement, 4 July 2020
33. Reuters Article, 9 March 2020
34. European Commission, Implementing the EU-Turkey Statement Q&A, 15 June 2016
35. Euractiv Article, 20 January 2017
36. Ombudsman Press release, 19 January 2017
37. Ombudsman Decision, 18 January 2017
38. European Stability Initiative News, 2020
39. DW Article, 3 February 2020
40. Human Rights Watch News, 17 March 2020
41. BBC Article, 4 March 2020
42. The NYT Article, 7 March 2020 – updated in August 2020
43. Amnesty International News, 3 April 2020
44. Alarm Phone Press release, 14 May 2020
45. Spiegel International Article, 23 October 2020
46. New York Times (2020) Fire Destroys Most of Europe's Largest Refugee Camp, on Greek Island of Lesbos
47. European Commission, Press conference by Horst Seehofer and Ylva Johansson, 7 July 2020
48. Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on a New Pact on Migration and Asylum, 2 September 2020
49. Amended proposal for a Regulation of the European Parliament and of the Council establishing a common procedure for international protection in the Union, Article 41, 23 September 2020
50. EU Observer Article, 7 November 2019; Fundamental Rights Agency News Item of 14 November 2019 and News Item of 18 February 2020; MSF Press release, 5 September 2019
51. ECRE and over 70 organisations, Joint Statement, 6 October 2020.

Financially, the EU Commission's new Integrated Border Management Fund (IBMF) saw a fourfold increase in funding to €9.3 billion (+241%). By contrast, the budget for 'migration policy' will only increase by 51%.[52] Simultaneously, Frontex or the European Border and Coast Guard Agency, has been given an expanded operational and geographical reach. The 2019 Frontex Regulation newly authorises statutory staff to use force and to surpass their previous coordinating role for direct operational involvement and executive functions. The Regulation also outlines an early warning monitoring system[53] whereby extra-territorial ('pre frontier')[54] data is gathered with a view to triggering early interventions when migratory movements to the EU are detected. The Agency's role in return operations and its involvement in third countries through 'joint operations' were similarly broadened.[55] This includes rapid border interventions, return operations to third countries and technical and operational support to non-EU border guards, in what has been described as a 'push to externalise EU borders'.[56]

The EU has also established a series of 'Status Agreements' with neighbouring states,[57] securing Frontex' engagement in non-EU territory. Some agreements confer to Frontex competencies for authorisation and refusal of entry, potentially empowering the EU to prevent irregular migration extraterritorially, with less or no independent judicial oversight.[58] Simultaneously the EU institutions are requiring several eastern European and Balkan states to adjust their legislation concerning border management as part of their EU accession process.[59] For over a decade, the regions have been receiving EU funding for securitisation of its external borders, including cooperation with Frontex, in return for visa liberalisations and strengthened trade relations. As a trade-off, the governments of these non-EU states 'willingly submit to carrying out extreme violence (most notably massive and violent pushbacks) to protect the external EU border, or to comply with the newly assigned role of being an EU dumping ground for deterred migrants'.[60]

Croatia appears to be playing a similar role amid its candidacy for Schengen accession. In March 2020, the Croatian Prime Minister Andrej Plenković announced that his country would do 'all it could' to help protect the EU external borders.[61] In May 2020, European Commissioner for Home Affairs, Ylva Johansson stated: 'I want Bulgaria, Romania and Croatia to join the Schengen area. A well-functioning Schengen area depends on mutual trust [...] To restore trust we need to better manage our external borders and strengthen our relations with third countries'.[62] In this context, an overwhelming number of pushbacks are conducted by Croatia towards Bosnia and Herzegovina and Serbia, in what appears to be a systematic border management strategy resulting in so-called 'chain pushbacks' – which is when one country returns a person to an unsafe country, after which the second country in question returns the person to yet another unsafe country.

At internal Schengen borders, the EU continuously fails to hold Member States to account. Illegal, automatic and summary pushbacks have been taking place for several years at the French-Italian border,[63] yet no remedial action is taken, despite the Commission itself stating that it is monitoring this border.[64] A similar sense of impunity characterises the situation at other internal borders as described extensively in the next chapter of this report. The bilateral 'readmission agreements' between several EU states appear to intentionally obfuscate the applicable legal frameworks and thus the possibility to effectively challenge these unlawful practices, again with little reaction from EU institutions.

52. European Commission, Future EU funding for Borders and Migration Q&A, 12 June 2018
53. ECRE News, 5 April 2019
54. REGULATION (EU) 2019/1896 on the European Border and Coast Guard, Art. 28-29
55. REGULATION (EU) 2019/1896, on the European Border and Coast Guard, Rec. 3, Art. 10 (1j)
56. ECRE News, 24 May 2019
57. Council of the EU Press release, 26 May 2020; European Commission Press release, 5 October 2018
58. ECRE Comment p.9, November 2018
59. Eur Lex, Glossary Enlargement
60. Research Paper Series of Rosa Luxembourg Stiftung for Southeast Europe No 8
61. EU Observer Article, 3 March 2020
62. European Commission, Statement by Commissioner Johansson, 7 May 2020
63. Oxfam Press release, 16 July 2019; Anafé Observations Report 2017-2018 ; Refugee Rights Europe Report March 2019
64. Parliamentary Question, Answer by Mr Avramopoulos, 31 October 2019

A DEAFENING SILENCE

THIS REPORT DOCUMENTS PUSHBACKS AS AN UNDENIABLE EUROPE-WIDE PHENOMENON THAT CAN NO LONGER BE IGNORED.

Contrary to the values upon which it was founded, the EU remains largely silent[65] and inert on plans to counter illegal pushbacks at its internal and external land and sea borders, to secure the right to seek asylum, and to uphold the principle of *non-refoulement* in practice. The evidence that illegal and violent pushbacks are occurring at the EU's borders is abundant. It ranges from witness accounts[66] to images,[67] videos,[68] NGO and civil society reports,[69] active inquiries,[70] investigations and case law.[71] Yet the violations continue, ever more frequently, visibly and violently. We now live in a Europe where displaced individuals are forcibly marked with red crosses when they attempt to access EU territory,[72] where individuals in distress at sea are attacked and fired at by EU coast guards in broad daylight,[73] and where people fleeing war torn countries are shot dead when attempting to cross EU borders.[74]

Amid the EU's silence, the United Nations has begun to call on EU states to investigate illegal pushbacks perpetrated on their territory,[75] and the world is watching.[76] In the summer of 2020, Commissioner Johansson for the first time publicly recognised the need for an institutional response to these blatant violations of European and international law at EU borders,[77] stating 'more needs to be done to ensure EU states respect fundamental rights while guarding borders'.[78] Unfortunately, the mechanism proposed for this purpose in the Pact appears to be limited to pre-entry screening and border procedures at external borders. It thus falls short of proposing any system that would increase monitoring of and accountability for illegal pushbacks that take place precisely outside of such official border processes and sites.

The question is no longer whether pushbacks are occurring at Europe's internal and external land and sea borders, but how the EU will now choose to react to this endemic erosion of its constitutional commitment to human rights. This report documents pushbacks as an undeniable Europe-wide breach of law that can no longer be ignored. We hope that it will contribute to an end of silence and inaction, and to the beginning of a Europe that truly protects its fundamental values of human rights and human dignity.

Photo credit: Nidžara Ahmetašević, Sarajevo

65. EU Observer Opinion, 23 June 2020
66. Human Rights Watch News, 16 July 2020
67. The Guardian Article, 28 May 2020
68. DW Video, 8 July 2002; Der Spiegel Article, 13 December 2019
69. BVMN Report, 12 May 2020 ; ECRE News, 31 January 2020
70. InfoMigrants Article, 11 August 2020
71. Decision by the French State Council, 8 July 2020
72. The Guardian Article, 28 May 2020
73. BBC Article, 2 March 2020
74. Forensic Architecture Investigations, 3 July 2020
75. UNHCR Briefing Note, 12 June 2020
76. Al Jazeera News, 3 March 2020; Al Jazeera News, August 2019 ; The New York Times Article, 30 April 2020 ; The Guardian Article, 27 August 2020; CNN Article, 28 August 2020
77. European Parliament, LIBE Meeting Press Release, 6 July 2020
78. EU Observer Article, 8 July 2020

PUSHBACKS EVIDENCE ACROSS EUROPE

Photo credit: Zsuzsánna Fodor, Greece

PUSHBACKS AT BORDERS COVERED IN THIS REPORT

PUSHBACKS AT INTERNAL EU BORDERS

PUSHBACKS AT EXTERNAL EU BORDERS

VIOLENT EU BORDERS NOT COVERED IN THIS REPORT
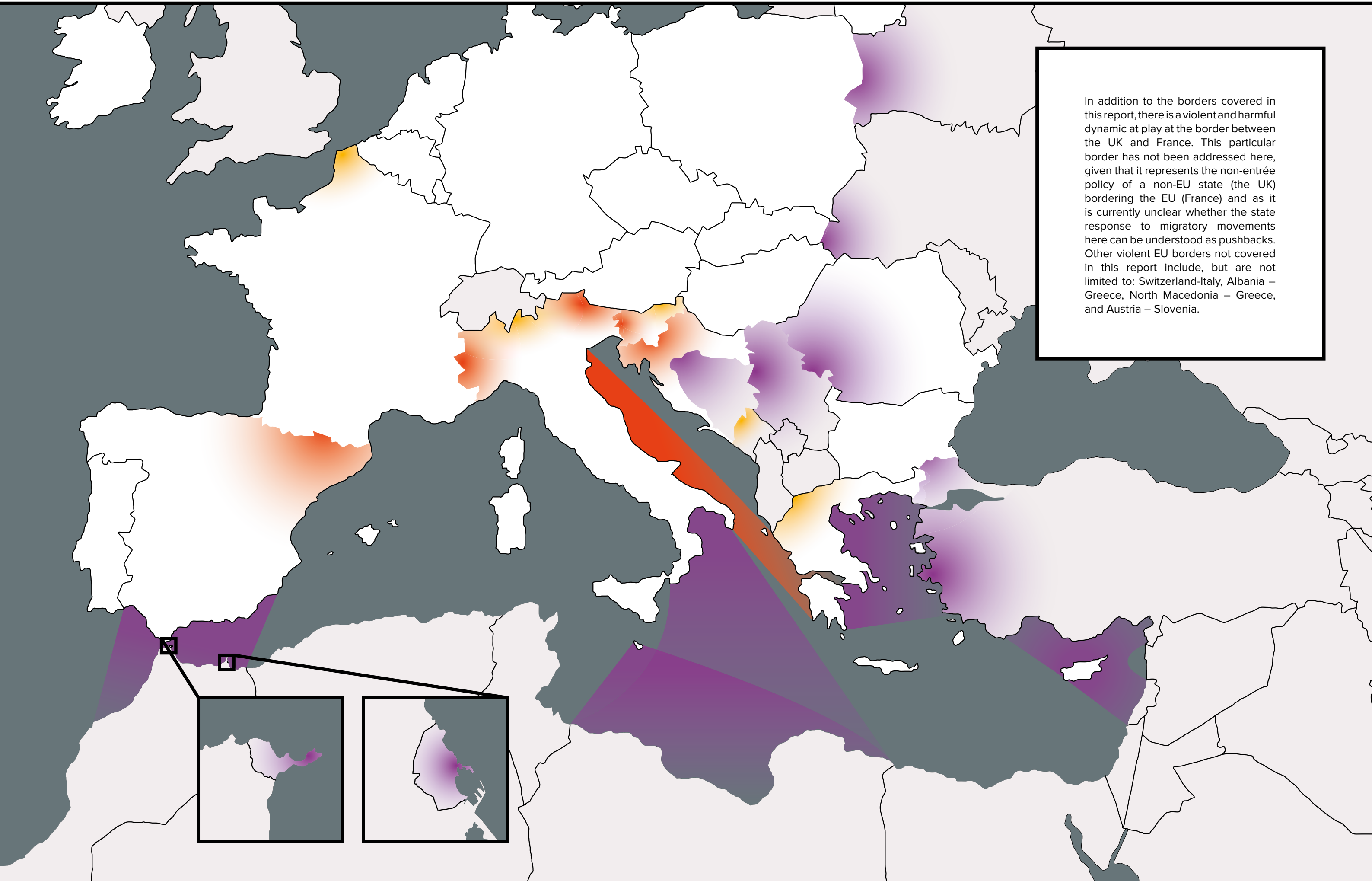
In addition to the borders covered in this report, there is a violent and harmful dynamic at play at the border between the UK and France. This particular border has not been addressed here, given that it represents the non-entrée policy of a non-EU state (the UK) bordering the EU (France) and as it is currently unclear whether the state response to migratory movements here can be understood as pushbacks. Other violent EU borders not covered in this report include, but are not limited to: Switzerland-Italy, Albania – Greece, North Macedonia – Greece, and Austria – Slovenia.

PUSHBACKS AT INTERNAL EU BORDERS (SCHENGEN AND NON-SCHENGEN)

LAND PUSHBACKS

FRANCE — SPAIN BORDER

Photo from Bayonne, by Giacomo Donadio and Iker Barbero

PUSHBACKS MONITOR

LOCATION
Basque border region between France and Spain

TYPE OF BORDER
Internal land border (Schengen)

PUSHBACKS EVIDENCED IN 2020
Yes

MAIN METHODS
'Hot pushbacks' at the border, sometimes with a 'refus d'entrée'; Readmission procedure; Arrests on French territory and summary returns to Spain

VIOLENCE REPORTED
-

EXAMPLES OF CSOS COLLECTING EVIDENCE
Anafé, Collectif Diakité, Collectif Solidarité Migrants-Etorkinekin, Irungo Harrera Sarea (Red de Apoyo de Irun), la Cimade, MSF, SOS Racismo Spain

RECENT RELEVANT COURT CASES
CJEU Judgement, March 2019, condemned France's practices at its border with Spain

BRIEF CONTEXT

France and Spain share a 665-kilometre-long border, delineated naturally by the Pyrenees Mountain chain. While both countries are part of the Schengen area, border controls have never ceased entirely.[79] Notably, France reintroduced border controls in 2015 due to the World Climate Summit and subsequently declared a State of Emergency following the terrorist attacks in Paris and Nice in 2015 and 2016.[80] Moreover, France and Spain signed a bilateral readmission agreement (the Malaga Agreement) in 2002,[81] which stipulates that third country nationals can be returned "without formalities" within four hours after crossing the border irregularly. However, the agreement also states that a readmission form is required to indicate a certain minimum level of information and be approved by the other party prior to readmission.[82] While there has been growing evidence of pushbacks at the France-Spain border since the summer of 2018, these are generally carried out outside of the readmission agreement.[83]

Photo from Bayonne, by Giacomo Donadio and Iker Barbero

KEY TRENDS

The high numbers of crossings witnessed in Europe across the central Mediterranean Sea in 2015-2016 came to a turn in 2017, with a noteworthy drop in registered arrivals. Instead, a significant number of individuals embarked on a route from Morocco to Spain, and in some cases from Algeria. In 2018-2019, this resulted in a marked increase of displaced people entering Spain, and the Spanish-French border became a key entry point into France. The Spanish border towns Irun and La Jonquera were thus dubbed "an Iberian equivalent" of the border town Ventimiglia in Italy,[84] even if the humanitarian situation has not been as acute in Irun as in Ventimiglia.

In 2018-2019, Spanish media started reporting on pushbacks carried out by French authorities along this border, often through quick procedures lasting roughly 20 minutes and without notifying Spanish authorities.[85] According to official data issued by the French border police, between January and October 2018, France sent more than 9,038 displaced people back to Spain (averaging 1,000 people per month).[86] In 2019, SOS Racismo equally stated that during the first nine months of the year, a total of 9,038 individuals were returned from France to Spain (5,602 of them at the Irun border point and 3,436 at La Jonquera). Of all the returns, the organisation estimated that approximately 7,000 were carried out "outside of any procedure."[87]

In March 2019, the EU Court of Justice stated, in relation to the case of a Moroccan national, that the reinstatement of border controls at Schengen borders cannot justify pushbacks. Furthermore, the court ruled against the border practices between France and Spain, stating that readmissions such as those between these two states "violate immigrants' rights if they do not follow procedure."[88]

In December 2019, local and national NGOs in France requested a parliamentary commission to be launched to investigate the violations and pushbacks at French borders, including the one with Spain, along with restricted access to asylum.[89] Mixed border patrols and other forms of cooperation between French and Spanish police forces along their common border, are framed by the 2003 Blois Agreement and are expected to increase, in particular through joint border patrols.[90]

Photo credit: Garikoitz Garaialde

NATURE OF THE PUSHBACKS AND EVIDENCE

Overall, civil society organisations observe that French police practices at the border with Spain are remarkably similar to their actions at the border with Italy.[91] For instance, displaced people who are pushed back into Spain are given a 'refus d'entrée' (entry refusal), similar to those issued to individuals who are pushed back from the French border town of Menton to Italy.[92] However, none of the rights theoretically provided for by this 'refus d'entrée' procedure are respected: no interpreter is provided, no opportunity to call a lawyer is given, neither are requests for the right to enter the territory in order to seek asylum.[93]

The gendarmerie patrols any means of entry into France: highways, railways, bridges, bus lines, and returns individuals found without a passport or visa to Spain, regardless of the individual's personal situation or circumstances.[94] Once back in Spain, repeated patterns of "human merry-go-rounds" are observed; individuals who are handed over to (or intercepted by) the Spanish police are released at the foot of a bridge connecting Irun in Spain with the French Hendaye. This is just a short distance from the border, where individuals are inclined to attempt border crossings over and over again, leaving people "trapped in a relentless cycle of rejection." [95] This scenario is characterised by a systematic failure to identify vulnerable cases, especially unaccompanied minors and women who may have been trafficked.[96]

There are numerous testimonies of displaced people pushed back from France in unmarked vehicles and left on the Spanish side of the border, a phenomenon that has been captured on video. Most of these expulsions take place at the border with Irun, although, in some cases, returns take place hundreds of kilometers away from the border.[97] NGOs report that many of those returned are asylum seekers who are returned without return orders for the Spanish police, and not in accordance with the Dublin Regulation.[98]

IMPACT ON HUMAN LIVES

The number of returns from France are putting strains on social services in the Basque region,[99] while harming the physical and mental health of those attempting to cross, who may even in some cases risk their lives. Despite the Red Cross managing a centre for displaced people in transit, many individuals end up sleeping rough on the streets in Irun, mainly due to lack of shelter capacity.[100] In response to the gaps in service provision and shelter, the Irun Support Network, a community support and volunteer network, was initiated in 2018 to offer basic assistance such as food, medicine, clothes, hygiene and shelter.[101] The network also facilitates access to information about reception facilities in Irun, the asylum system in France, and the situation at the border. The Network moreover refers new arrivals in Irun, including those subjected to pushbacks from France, to the Red Cross centre.[102]

79. Barbero, I. (2018). The European Union never got rid of its internal controls: A case study of detention and readmission in the French-Spanish border. *European journal of migration and law*, 20(1), 1-27.

80. Anafé, Persona non grata, full report available in French – see pages 15-26 or summary in English for shorter information about the reintroduction of border controls, 21 February 2019.

81. Malaga Readmission Agreement between France and Spain, 26 November 2002.

82. Annex of the Malaga Agreement.

83. SOS Racisme, annual report 2018, page 23 (available in Spanish); Barbero, I., & Donadio, G. (2019). La externalización interna de las fronteras en el control migratorio en la UE. *Revista CIDOB d'Afers Internacionals*, 137-16 (available in Spanish); Ifri, Study, Migration policies in France, in Italy and in Spain, June 2020 (available in French).

84. *Ibid.*

85. El Pais, Article, Migrants stranded in Basque Country as France steps up border controls, 28 August 2018.

86. InfoMigrants, Article, France sends back over 10,000 migrants to Spain, 12 November 2018.

87. Noticias de Gipuzkoa, Article, 2 February 2020 (available in Spanish).

88. CJEU Press release, An internal border of a Member State at which border control has been reintroduced cannot be equated with an external border within the meaning of the 'Returns Directive, 19 March 2019.

89. EASO, 2020 Annual Report on Asylum, p.119.

90. Sud Ouest, Article, 14 October 2020 (available in French)

91. MSF, Project Update, Migrants trapped in relentless cycle of rejection on French – Spanish border, 6 February 2019.

92. El Pais, Article, France uses counter-terrorism measure to return migrants to Spain, 31 August 2018 (available in Spanish).

93. Information shared by Cafi (Coordination d'actions interacteurs aux frontières intérieure), October 2020.

94. El Pais, Article, Migrants stranded in Basque Country as France steps up border controls, 28 August 2018.

95. MSF, Project Update, Migrants trapped in relentless cycle of rejection on French – Spanish border, 6 February 2019.

96. *Ibid.*

97. Barbero, I. (2020) "A ubiquitous border for migrants in transit and their rights: analysis and consequences of the reintroduction of internal borders in France", *European Journal of Migration and Law* 22(3), p. 366–385

98. InfoMigrants, Article, France sends back over 10,000 migrants to Spain, 12 November 2018.

99. *Ibid.*

100. El Pais, Article, Migrants stranded in Basque Country as France steps up border controls, 28 August 2018.

101. *Ibid.*

102. Information shared by the Irun Support Network, October 2020.

FRANCE – ITALY BORDER

PUSHBACKS MONITOR

LOCATION
On the French side, Menton and Nice in the administrative districts of the Alpes-Maritime and Montgenèvre and Briançon in the Hautes-Alpes / On the Italian side, Ventimiglia - Imperia Province and Oulx – Val de Susa.

TYPE OF BORDER
Internal land border (Schengen)

PUSHBACKS EVIDENCED IN 2020
Yes

MAIN METHODS
Apprehension at various border points, on trains, roads, mountains and inside towns, often involving illegal deprivation of liberty and sometimes removal to the south of Italy

VIOLENCE REPORTED
Beatings, verbal abuse, deprivation of liberty, robbery

EXAMPLES OF CSOS COLLECTING EVIDENCE
Amnesty International, Anafé, Caritas France, La Cimade, Kesha Niya, Médecins du Monde, Médecins sans frontières, Progetto 20K, Tous Migrants, amongst others

RECENT RELEVANT COURT CASES
French Council of State, ECtHR, CJEU

BRIEF CONTEXT

Inadequate reception conditions, long waiting times, as well as a lack of access to asylum and family reunification procedures in Italy, have driven many displaced individuals to attempt crossing the border into France. However, since the *de facto* closure of the border between Italy and France in 2015, with the subsequent declaration of a State of Emergency following the terror attacks in Paris and Nice in 2015 and 2016 respectively, there has been a noteworthy expansion of pushbacks operations at the France–Italy border. France reintroduced border controls at its internal borders in November 2015, based on Chapter II (see Articles 25 and 29 in particular) of the Schengen Border Code. Despite the Code foreseeing a maximum duration of two years' suspension of the border free regime, it has since then been renewed every six months. The latest renewal announced by France to the European Commission runs from October 2020 to April 2021.

The State of Emergency was replaced by a new law in 2017, which in practice suspends the freedom of movement under the Schengen Agreement.[103] Since then, the instalment of checkpoints has proliferated, along with the militarisation of the border, with terrorism used as the key justification. Organisations such as ASGI have described these actions as "false pretences" for "fighting illegal immigration", ultimately undermining human rights in the process.[104] The Chambéry Agreement on cross-border police and customs cooperation signed by Italy and France in 1997 outlines proper returns procedure,[105] yet it is largely ignored by French border police, also with regards to individuals who intend to claim asylum.

KEY TRENDS

Pushbacks at the French-Italian border have been documented in the whole region of the Alpes Maritimes,[106] though they are mostly concentrated to a land strip of 10 kilometres along the Ligurian coast, connecting the French city of Menton and the Italian border town of Ventimiglia. People attempt to cross by car, by taking a one-hour train between these locations or by walking via the "death pass": an extremely dangerous overground path.[107] Many individuals also try to cross through the Alps, walking seven to ten hours or longer, often at night in freezing temperatures, to reach Briançon.[108] Pushbacks in this region have been registered up to 20 kilometres inland in France.

Pushbacks take place on a daily basis at this border.[109] According to Kesha Niya and Progetto20K, grassroots groups active in the border area since 2017 and 2016 respectively, the number of pushbacks vary between 20 to 150 incidences per day, starting from Menton police station.[110] In October 2020, they recorded up to 170 a day.[111] During the first months of the Covid-19 pandemic, the number of pushbacks decreased, yet during the summer of 2020, roughly 50-130 pushbacks occurred daily, with 80 per day in August.[112] These pushbacks typically involve physical and psychological violence and abuse, as well as illegal detention and a denial of human rights.[113]

Photo: Inside the PAF station in Menton. By Progetto20K.

Photo credit: Agnès Lerolle

NATURE OF THE PUSHBACKS AND EVIDENCE

The pushbacks at this border are typically preceded by searches and arrests on trains, at the Menton Garavan train station, on buses, along patrolled mountain paths, and inside cars or small trucks.[114] There have been wide-spread reports of racial profiling, with police only checking the documents of people of colour.[115] Subsequently, people are brought to the border police station by French police officers, where they remain detained for up to 12 hours before being pushed back into Italian territory. This is especially the case for people who are apprehended after 6pm. The arrests are reportedly carried out by the CRS (Compagnies Républicaines de Sécurité), mobile Gendarmes, national police (sometimes in civilian clothing) as well as by the French military or foreign legion. As such, the pushbacks are consistently carried out by the French authorities.

A so-called 'temporary detention centre' was established in June 2015 in the PAF (Police aux Frontières) station in Menton, consisting of containers in which people apprehended while crossing into France are held in places of de facto detention, in inhumane conditions. The number of people being detained increased in 2016 and even more so in 2017. According to Kesha Niya,[116] people held in the police station are locked up in a space made of three metal containers as well as a closed off courtyard until they are pushed back into Italy. The process can take anything from a few minutes to 24 hours. Indeed, at night, the process averages between 12 and 15 hours, while during the day it can last for only few minutes and at most 2-3 hours.

Families, unaccompanied minors and women are normally locked up in a separate room in the police station, though they have been detained with the men in some instances. Unaccompanied minors are not systematically placed in the family room because the French police frequently considers them as adults.[117] Those detained are typically locked up in "undignified, dirty structures where they have no place to lie down, giving them a few soiled blankets for warmth and only providing food and water at the officers' discretion."[118] People often report being denied medical care despite the apparent need for it (due to conditions such as loss of consciousness, open wounds, loss of blood, etc.).[119] Many people have testified that key personal documents have been stolen and destroyed when arrested, along with money and phones. Requests for asylum are reportedly being systematically denied, along with the possibility to contact a lawyer and access an interpreter.[120]

When apprehended, people are issued a 'refus d'entrée' (denial of entry) by the French border police. In most cases, they are not asked to sign it; rather, the police simply write that the individual in question refused to sign or left the box empty. Since the start of the Covid-19 pandemic, police officers have tended to write "absence of signature due to Covid-19 sanitary reasons."[121]

Alarmingly, the pushbacks operations also regularly involve children. According to reports by civil society groups, pushbacks of unaccompanied children which take place at the border oftentimes involve authorities changing the date of birth on minors' 'denial of entry' documents' to instead identify them as adults. These incidents also typically involve the confiscation of birth certificates, and inadequate age assessments based solely on appearance. Anafé, as well as CAFI, a consortium of several major French organisations working at the border, are highly familiar with these cases. In 2018, they brought 20 cases of minors who had been pushed back to Italy by train before the Nice court in a major class action, which they won.[122]

Furthermore, there was the case of a woman and her 5-year-old son who were returned to Italy, despite requesting to seek asylum upon being arrested by the French border police. According to the French Council of State, France had violated the rights of the woman and her child.[123] Indeed, the refoulement was sanctioned and the authorities' refusal to register the asylum request, in accordance with proper procedure, constituted a violation of the right to asylum and was "manifestly illegal".[124] The decision was welcomed by the organisations involved in the procedure, namely Amnesty International, Anafé and la Cimade, while noting that during a two-day period before and after the court's announcement (6 and 7 July 2020), 83 new cases of pushbacks had been recorded.[125]

Adding to this body of evidence of unlawful pushbacks, Progetto 20K[126] has collated several pieces of evidence, including video testimonies[127] of people having just experienced a pushbacks operation, others being arrested in train toilets, and footage of the conditions during deprivation of liberty in the French police station.[128]

IMPACT ON HUMAN LIVES

The pushbacks, combined with lacking reception conditions on the Italian side of the border, have caused congestion and a humanitarian crisis in Ventimiglia and other border points. Ventimiglia specifically came to a boiling point with the government decision to halt all new entries to 'Campo Roia' amid the Covid-19 outbreak in March 2020. This transit reception camp was fully closed down in August 2020. As a result, 35 people from the camp found themselves deprived of basic shelter. Alongside the several hundred people already sleeping outside, these people were subjected to grave conditions marred by a lack of basic sanitary facilities, a lack of drinking water, and nearly no access to health care,[129] which is of course particularly dangerous during the ongoing pandemic. There is currently no reception centre in Ventimiglia, which means that all displaced people are still forced to sleep on the street.

Another consequence linked to the pushbacks operations is the increased risk and incidence of death. With the Italian – French border largely closed, young individuals often take more dangerous routes, through the Alps, motorway tunnels, and other risky roads – sometimes ending in tragic fatalities. Last but not least, detention-like conditions and violence by the police on the French side lead to suffering, injuries, and trauma.
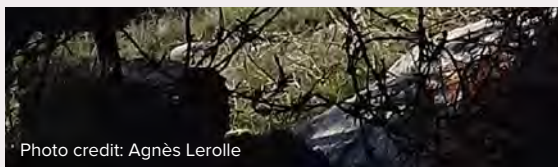

* Photo credit: Agnès Lerolle

103. Anafé, 2018 Activity Report, June 2019, p.10 (in French)
104. Anafé , Summary Report, Persona non grata, 2018.
105. Agreement between the Italian and French government on cross-border cooperation in police and border control, 03 October 1997.
106. Anafé, Full report, Persona non grata, 2018, see map page 23.
107. Rosa Luxembourg Foundation, Article, The Brutal side of the French Riviera, 30 April 2020.
108. Human Rights Watch, Report on The Treatment of Unaccompanied migrant children in the French Hautes-Alpes, 2019
109. Anafé , Summary Report, Persona non grata, 2018.
110. Data collated through a semi-structured questionnaire in August 2020 and shared by Progetto20K and Kesha Nya.
111. Information shared by Cafi (Coordination d'actions interacteurs aux frontières intérieure), October 2020.
112. Data collated through a semi-structured questionnaire in August 2020 and shared by Progetto20K and Kesha Nya.
113. CNCDH, Opinion on the situation of migrants at the French-Italian border, 19 June 2018.
114. Data collated through a semi-structured questionnaire in August 2020 and shared by Progetto20K.
115. Rosa Luxembourg Foundation, Article, The Brutal side of the French Riviera, 30 April 2020.
116. Kesha Niya a member of the End Pushbacks Partnership Partnership present in Ventimiglia since 2017 they have been providing daily access to food as well as non-food items, phone chargers, hygiene products, basic medical aid and information.
117. Data collated through a semi-structured questionnaire in August 2020 and shared by Kesha Nya.
118. Rosa Luxembourg Foundation, Article, The Brutal side of the French Riviera, 30 April 2020.
119. Data collated through a semi-structured questionnaire in August 2020 and shared by Progetto20K and Kesha Nya.
120. Data collated through a semi-structured questionnaire in August 2020 and shared by Progetto20K and Kesha Nya.
121. Data collated through a semi-structured questionnaire in August 2020 and shared by Progetto20K and Kesha Nya.
122. Rosa Luxembourg Foundation, Article, The Brutal side of the French Riviera, 30 April 2020.
123. Anafé, Press release (available in French), 9 July 2020
124. Ibid.
125. Amnesty International, Press release (available in French), 9 July 2020.
126. Progetto20K a member of the End Pushbacks Partnership. They are active in Ventimiglia since July 2016 where they are running a mobile unit and providing daily support to displaced people at the border.
127. Progretto20K, Video footages available on Facebook.
128. Progretto20K, Youtube Video, 12 August 2020 and other video of 22 November 2019.
129. Statewatch, News, Appeal for the respect of the fundamental rights of exiles at the Franco-Italian and other borders, 19 August 2020.

ITALY – SLOVENIA BORDER

Photo credit: Sergiy Palamarchuk / Shutterstock.com

PUSHBACKS MONITOR

LOCATION
Italy-Slovenia border

TYPE OF BORDER
Internal land border (Schengen)

PUSHBACKS EVIDENCED IN 2020
Yes, increase in 2020

MAIN METHODS
After being arrested at border points or in Italian border cities, people are driven back and handed over to the Slovenian police

VIOLENCE REPORTED
Not available

EXAMPLES OF CSOS COLLECTING EVIDENCE
ASGI, BVMN, Caritas Trieste, Lorena Fornasir, Strada Si.Cura, Melting Pot Europa, Italian Consortium of Solidarity (ICS), amongst others

RECENT RELEVANT COURT CASES
The Court of Genova in April 2020 asked Italy to stop the deportation of an asylum seeker to Slovenia

BRIEF CONTEXT

Italy, a state on the receiving end of pushbacks carried out by the neighbouring country France, also actively pushes back people who arrive to Italy via the Balkan route, most often in Trieste and Gorizia. Individuals here are typically readmitted to Slovenia under a bilateral readmission agreement,[130] signed by the Italian Government in 1997 but never subject to parliamentary control. This agreement states that it is possible to carry out a readmission from Italy to Slovenia if people are arrested within 10 kilometres of the border or within 24 hours following the border crossing.[131] Replying to an official request from a Member of the Italian Parliament (Riccardo Magi), the Italian Ministry of Interior confirmed on 24 July 2020 that the readmission agreement also applies to individuals seeking asylum. However, this practice is illegal and has been denounced by ASGI in an open letter to the Italian Government and UNHCR.[132] Indeed, according to the Italian law,[133] readmission, as well as refusal of entry, must be prohibited in case an individual wants to apply for asylum. It is mandatory to conduct proper identification procedures and provide information on how individuals can submit an asylum claim. Unlike individuals readmitted from France to Italy, persons readmitted to Slovenia do not receive any written order informing them of their rights, including the possibilities to appeal the readmission decision.[134]

KEY TRENDS

Pushbacks from Italy to Slovenia have been recorded regularly since 2018, with an increase in numbers over time.[135] In 2019, Italy continuously pushed people back at the Slovenian border. 361 people were readmitted to Slovenia under the readmission agreement between July 2018 and July 2019.[136] From there, individuals were at risk of 'chain-refoulement,' namely being repatriated to Slovenia first, and subsequently to Croatia, Bosnia-Herzegovina, and Serbia, where the living conditions and the right to seek asylum tend to be violated.[137]

Despite a clear ECtHR ruling[138] requiring the protection of displaced people against the risk of *'chain-refoulement'* to a country where they may face inhuman and degrading treatment or conditions, as well as a decision by the Court of Genova in April 2020 to stop the deportation of an asylum seeker to Slovenia,[139] the Italian authorities continue to carry out readmissions to Slovenia. In May 2020, the Italian Ministry of Interior indicated that it would send 40 agents to the Italian-Slovenian border. The identity of these agents was not entirely clear, nor whether they were experienced in border patrolling and trained on asylum law, fundamental rights, and border rights.[140]

According to the latest data collected, in June, July and August 2020, 1,486 individuals were apprehended at the Trieste border while entering the Italian territory. In the same period, 491 and 143 persons were readmitted to Slovenia by respectively the Trieste and the Gorizia border police.[141]

NATURE OF THE PUSHBACKS AND EVIDENCE

Pushbacks from the Italian border points appear to have a clear procedural methodology. People on the move are tracked, and when arrested, they are taken to a police station, where they spend several hours in tents for the purpose of detention. Humanitarian organisations who work with and provide legal protection to asylum seekers have repeatedly been barred from operating in these spaces, in contravention of European regulations that stipulate organisations' right to access. Next, detained individuals are loaded into vehicles, transported across a short distance, and handed over to the Slovenian police. In most cases, this will not be their end destination, due to the practice of *chain-refoulements* to Croatia and Bosnia-Herzegovina, which are well-coordinated to the point of having been dubbed as a "pushback assembly line."[142]

The procedural due diligence deteriorated further, and to a significant degree, in the later stages of the Covid-19 pandemic, as police started to pick people up from the street (not a usual practice prior to the pandemic) to forcefully move them into quarantine camps.[143] Often, police would wait for them after the distribution and service provision by grassroots groups, and then detain them in the police station.

In May 2020, 30 expulsions were recorded as having been conducted in a single day.[144] Referring to "informal readmissions", the Border Violence Monitoring Network (BVMN) reported that "it seems that a form of pushback, masked under legal pretence, has come into force." This situation has led to hundreds of pushbacks during the summer 2020 around the border area, as well as inside cities. Among them were even cases of people who had a registered claim to asylum. Despite organisations such as the Italian Consortium of Solidarity (ICS) and Caritas Trieste calling out these practices, the authorities showed no sign of wavering. The mayor of Trieste said that "the only right policy towards this problem is the use of pushbacks."[145]

IMPACT ON HUMAN LIVES

Trieste has generally operated as a transit point rather than a destination per se, but due to the Covid-19 restrictions of movement and suspensions of public transport, many people ended up stuck in the city. This puts added pressure on the city's service and shelter provisions, leaving many individuals in dire situations.[146]

For those readmitted to Croatia via Slovenia, readmissions from Italy tend to end with humiliation, confiscation of personal belongings, and the use of violence by police in Croatia.[147] Meanwhile, those returned to Bosnian border towns typically face widespread homelessness and destitution after experiencing the *chain-refoulement*.[148]

130. Italian ministry of Interior website.
131. Trieste Prima, Article (available in Italian), 28 May 2020.
132. ASGI, Italy-Slovenia border: ASGI's open letter to the Italian government and UNHCR, 4 August 2020.
133. Article 10, paragraph 4 of the Legislative Decree No. 286/1998 (Italy).
134. Information shared by ASGI, October 2020.
135. Amnesty International "Italy: refugees and migrant's rights under attack", Report p.9, July 2019.
136. ASGI, AIDA Report 2019, p. 31
137. ASGI Statement, Rotta balcanica, ASGI: interrompere le riammissioni illegali al confine italo-sloveno, 5 June 2020.
138. ECtHR Ilias and Ahmed v. Hungary, 2019
139. AYS, Special, Italian Court Stops Deportation to Slovenia, Meanwhile Pushbacks Continue, 2 June 2020.
140. *Ibid*.
141. Information shared by ASGI, October 2020.
142. *Ibid*.
143. BVMN, News from Trieste: COVID-19 and pushbacks, 5 June 2020.
144. *Ibid*.
145. *Ibid*.
146. Linea d'Ombra, Press release (in Italian), March 2020.
147. BVMN, News from Trieste: COVID-19 and pushbacks, 5 June 2020. See also, border sections involving Croatia.
148. ASGI, Legal analysis of the Italy – Slovenia Readmission Agreement, June 2020.

SLOVENIA – CROATIA BORDER

Photo credit: Silva Ana

PUSHBACKS MONITOR

LOCATION
Slovenia - Croatia border

TYPE OF BORDER
Internal land border (non-Schengen)

PUSHBACKS EVIDENCED IN 2020
Yes

MAIN METHODS
Refusal to access asylum in Slovenia. Chain *refoulement* from Italy to Bosnia-Herzegovina

VIOLENCE REPORTED
Verbal abuses, threats, and beatings in some cases, forced undressing

EXAMPLES OF CSOS COLLECTING EVIDENCE
Amnesty International, InfoKolpa, No Name Kitchen, BVMN, PIC

RECENT RELEVANT COURT CASES
The Slovenian Administrative Court found Slovenia guilty of chain pushbacks to Bosnia-Herzegovina, 16 July 2020

BRIEF CONTEXT

Pushbacks from the Italian-Slovenian border to further afield have also direct bearing on the Slovenian-Croatian border due to the so-called *chain-refoulements* taking place. Some of the key reports on pushbacks in this region stem from 2018,[149] when Italy started actively pushing people back to Slovenia. Individuals have since then been pushed back from Slovenia to Croatia under the 2006 Readmission Agreement concluded between the two countries,[150] and almost always end up being chain-*refouled* to Bosnia-Herzegovina or Serbia after that. Indeed, in a landmark judgment issued in July 2020, the Slovenian Administrative Court established that chain pushbacks to Bosnia-Herzegovina are "systematic and routine." [151]

KEY TRENDS

In 2018, civil society organisations[152] started recording a sharp increase in the number of reported cases of people being denied the right to seek asylum in Slovenia by the Slovenian police. These testimonies were corroborated by police data indicating a significant drop in registered asylum applications.[153] Clear instructions had indeed been disseminated by the national police directorate to police stations in spring 2018.[154] Available data indicate that 4,653 people were expelled during that year, often accompanied by "violence, threats, signing of documents in Slovene without translations, and in some cases, with beatings."[155] The number of readmissions grew at an alarming rate throughout 2019, when there was a doubling of readmissions in the first ten months of the year.[156]

Since the first vital reports were published by Amnesty International and InfoKolpa in 2018, 16,000 people were returned to Croatia from Slovenia over a two-year period.[157] In 2020, pushbacks at this border became part of an effective pushback chain between Italy-Slovenia-Croatia and then onwards to either Bosnia-Herzegovina or Serbia, rather than constituting standalone pushbacks from Slovenia to Croatia.[158]

In the wake of the Covid-19 pandemic, the need to contain the spread of the coronavirus has been used as a pretext for preventing individuals from entering the country. There is already a razor-wire fence at the border between Slovenia and Croatia, built in 2016, but additionally, the government has now called on people to become 'military volunteers', joining the ranks of the far-right militias that already patrol the border.[159] The fence is not as advanced as the one found at the border of Hungary and Serbia, but has nonetheless deterred a number of people from entering the country.[160]

NATURE OF THE PUSHBACKS AND EVIDENCE

Individuals who are pushed back to Croatia from Slovenia tend to be intercepted and caught close to the Kolpa River by the Slovenian police, or about 15 kilometres inland. Even if they present themselves as wishing to claim asylum in Slovenia, their requests are ignored before they are eventually pushed back.

Slovenian authorities operate such returns under the 2006 Readmission Agreement between Slovenia and Croatia that allows returns "without any formalities," including no appeal, and within 72 hours of the crossing, if it is established that people irregularly entered from Croatia.[161] People are solely documented as "economic migrants", a category which has no representation in law, but rather is a political term which serves to undermine the notion of people seeking asylum, hence allowing the implementation of the readmission agreement and the denial of access to the asylum procedures.[162]

A lot of evidence has been collected by civil society organisations and volunteer groups throughout 2020. For instance, in May 2020, a particularly violent pushback operation involving young boys started in Slovenia and ended in Bosnia-Herzegovina.[163] The group of prospective asylum seekers was arrested and attacked by police dogs, which led to one 16-year-old boy having his ear badly chewed.[164]

In July 2020, No Name Kitchen collated two testimonies where fifteen[165] and ten[166] people respectively became victims of a chain pushback operation from Italy down to Bosnia-Herzegovina, via Slovenia and Croatia. They were handed over to Slovenian officials by the Italian authorities, and once in Slovenia, they were taken to a police station. There, they had to sign papers in Slovenian which were not explained to them. They were subsequently forced to completely undress and were frisked by a police officer. They spent the night in a cold cell without beds or blankets. After being refused water by the officers, one of the respondents felt that he had no other choice but to drink water from the toilet. The next day, the group was taken into a van and driven to Croatia, where they were handed over to Croatian officers. All their belongings were confiscated, and they were promptly taken to Bosnia-Herzegovina. Another pushback incident was recorded in August, which involved eight individuals. This time, the pushback started in Slovenia and ended in Bosnia-Herzegovina, via Croatia.[167]

149. See below references to Amnesty International and InfoKolpa reports.
150. Readmission agreement between Slovenia and Croatia, 2006.
151. BVMN, Press release, Court finds Slovenian State guilty of Chain Pushbacks to Bosnia-Herzegovina, 20 July 2020.
152. Amnesty International, Report, Slovenia : pushbacks and denial of access to asylum, June 2018.
153. Ibid.
154. N1, News Article, 17 December 2019.
155. InfoKolpa, Report on illegal practice of collective expulsion on Slovene-Croatian border, 2019.
156. BVMN, Monthly Report, November 2019.
157. Are You Syrious Special, Italian Court Stops Deportation to Slovenia, Meanwhile Pushbacks Continue, 2 June 2020.
158. Amnesty International, Report, Pushed to the Edge: Violence and Abuse against Refugees and Migrants along the Balkans Route, 2019.
159. BVMN, Joint Letter to the Commission on the Proposed Deployment of Slovenian Army, 2 April 2020.
160. V4 Report, The different tactics used by Hungary, Slovenia and Croatia to defend borders, 31 January 2020.
161. Readmission agreement between Slovenia and Croatia, 2006, Article 2.
162. Are You Syrious Special, Italian Court Stops Deportation to Slovenia, Meanwhile Pushbacks Continue, 2 June 2020.
163. Are You Syrious, Digest 28 May 2020.
164. No Name Kitchen, Photo on Twitter.
165. BVMN, Violence Report, 18 July 2020.
166. BVMN, Violence Report, 6 July 2020.
167. BVMN, Monthly Report, August 2020.

PUSHBACKS AT INTERNAL EU BORDERS
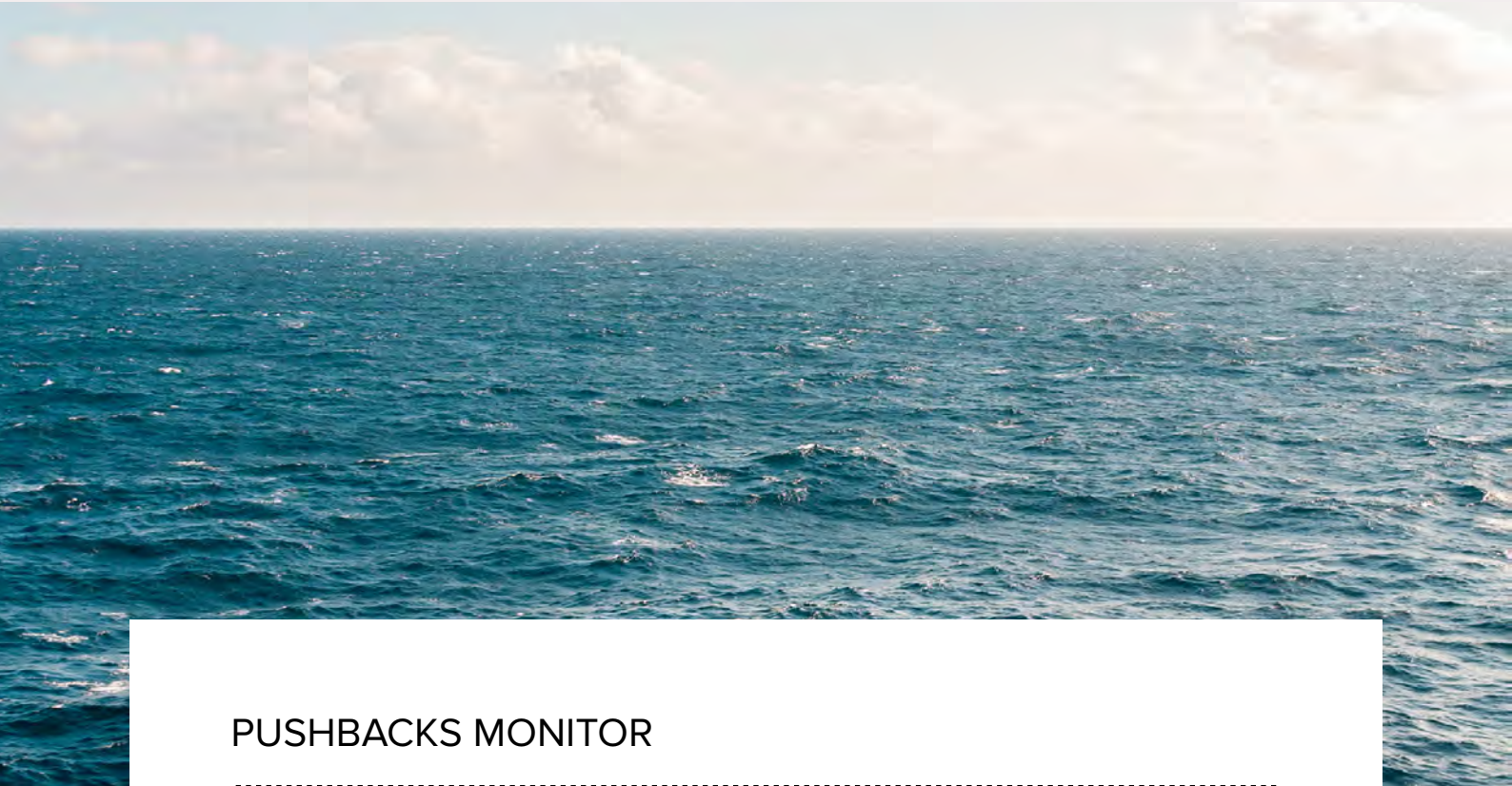## SCHENGEN AND NON-SCHENGEN

SEA PUSHBACKS

ITALY—GREECE SEA BORDER

PUSHBACKS MONITOR

LOCATION
Adriatic Ports

TYPE OF BORDER
Internal sea border

PUSHBACKS EVIDENCED IN 2020
Yes

MAIN METHODS
Readmissions without individual vulnerability assessment or access to information, taking place under a bilateral readmission agreement from 1999; Informal *refoulements*

VIOLENCE REPORTED
Beatings, kicks, insults, being forced to undress, threats, being pushed to the ground, electric shocks, dog attacks, destruction of personal belongings

EXAMPLES OF CSOS COLLECTING EVIDENCE
ASGI, Associazione SOS Diritti, Border Violence Monitoring Network, No Name Kitchen, l'Ambasciata dei Diritti delle Marche, l'Associazione Gruppo Lavoro Rifugiati

RECENT RELEVANT COURT CASES
ECtHR - Sharifi and Others v Italy and Greece (2014)

BRIEF CONTEXT

One of the few viable routes for people on the move to leave the Greek peninsula and reach Italy or continental Europe is via the sea route from Greek ports, such as Patras and Igoumenitsa.

In accordance with the 1999 bilateral readmissions agreement between Italy and Greece, which entered into force in 2001, Italian authorities can carry out forced returns to Greece of undocumented individuals arriving in the Italian Adriatic ports. While the agreement stipulates that Greece is required to accept the return of individuals lacking documents and who have moved 'irregularly' from Greece to Italy, there are possible exceptions to readmissions to ensure compliance with international law on human rights and asylum, including the 1951 Geneva Convention. Therefore, this bilateral agreement theoretically does not apply to asylum seekers (i.e., persons who are already registered as asylum seekers in Greece and apply for asylum in Italy as well) and to undocumented individuals who express willingness to apply for asylum upon interception.

Nonetheless, it has been reported that most returns from Adriatic ports to Greece seem to result from an unlawful implementation of the Italy-Greece agreement by indiscriminately rejecting those intercepted on a ferry boat or upon their arrival. Indeed, most of them are asylum seekers or beneficiaries of international protection. Italian readmissions and *refoulements* are based on summary procedures, lacking an individual assessment (e.g. isolated or separated children, vulnerability assessment, potential victim of trafficking), access to legal information and language mediation. That illegal practice also consists of either not providing legal assistance regarding the right to apply for asylum or neglecting willingness to apply for asylum, in violation of the relevant EU framework.[168]
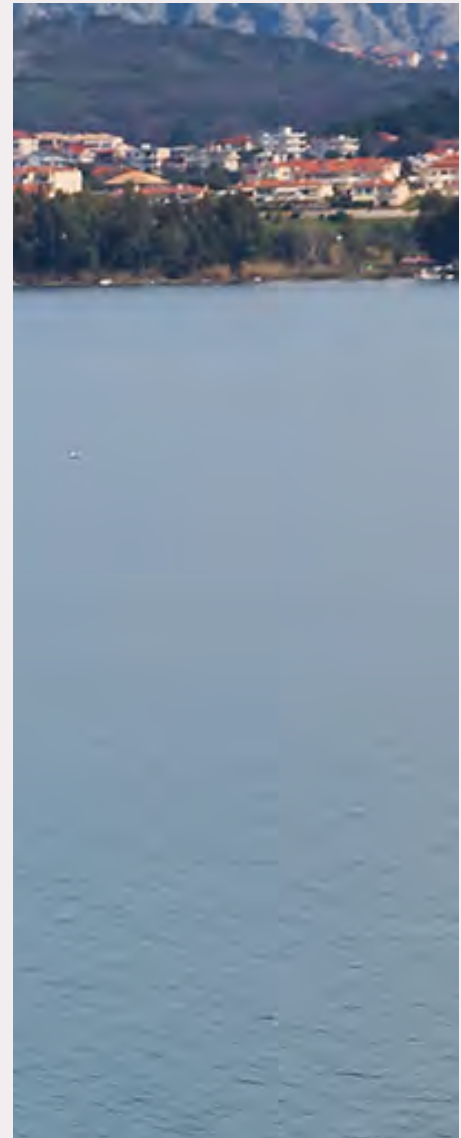
Photo credit: D Zheleva / Shutterstock.com

KEY TRENDS

The pushbacks from Italy to Greece tend to take the form of *refoulements* by Italian authorities at main Adriatic ports (Venice, Ancona, Bari, Brindisi), followed by readmissions to Greece without individual vulnerability assessments or access to adequate information. Such activities have been reported by civil society organisations over the past several years, also continuing into 2019 and 2020. Throughout 2020, another trend has been reported in the media,[169] namely that of 'pullbacks' carried out by the Hellenic Coast Guard at sea in response to 'irregular' journeys from Turkey, which are now being re-directed towards Italy (rather than to Greece), due to intensified deterrence in the Aegean Sea which makes arrivals to the Greek islands increasingly difficult.

The most noteworthy trend is nonetheless the aforementioned return of individuals from Italian ports back to Greece, characterised by failures to follow required formal procedures. This should include a case-by-case assessment (including the application of the Dublin Regulation or readmission under Articles 6 and 23). Instead, however, civil society and legal experts have reported that the returns follow very irregular practices which amount to a violation of law.[170] The ECtHR case *Sharifi and others vs. Italy and Greece* ruled that European Union member states cannot ignore or circumvent their obligations under the European Convention on Human Rights when implementing bilateral agreements relating to the return of asylum-seekers to another EU country. [171] Furthermore, Italy was found to have unlawfully carried out collective expulsions of asylum seekers to an 'unsafe' country, given the serious structural deficiencies in the Greek asylum and system, breaching three provisions of the European Convention on Human Rights (prohibition of collective expulsions; prohibition of inhuman or degrading treatment; and the right to an effective remedy).[172]

As part of another maritime pushbacks trend between Italy and Greece, Greek media reported in September 2020 on the increase in vessels setting sail from Turkey and being rerouted from Greece towards Italy, shifting from the central Aegean to a more southern Aegean route. Reportedly, these vessels tend to be sailing boats with a capacity of 50+ individuals. Following this shift in irregular routes, the Italian Coast Guard has issued complaints to the Greek government. As a result, this has led to the transfer of a large Hellenic Coast Guard open-sea vessel from Lesvos to the south-eastern region of the Aegean Sea in order to intercept and pull back boats attempting to reach Italy.[173]

NATURE OF THE PUSHBACKS AND EVIDENCE

The nature of the pushbacks at the Adriatic ports mainly take the form of refusals to give access to the asylum procedures, as well as the lack of adequate information and interpreters. There are also recurring reports of violence and humiliation tactics both carried out by Italian officers prior to the return to Greece, as well as upon arrival at the hands of Greek officials.

The latest data available were obtained by the Adriatic Seaports Network, of which ASGI, the Associazione SOS Diritti Venezia and the Ambasciata dei Diritti di Ancona are part, through Freedom of Information Act (FOIA) requests. According to the latest FOIA access, from 1 March 2019 to 12 May 2020, 625 *refoulements* took place at border crossing points in Venice, of which 602 at the air border and 23 at the sea border. From 1 January 2019 to 31 March 2020, 12 *refoulements* by air, 56 by water, and 149 readmissions (of which 144 actives and 15 passives) took place at border crossing points in Ancona.

In regards to the port of Bari, data gathered by the Adriatic Seaport Network through FOIA requests found 654 refoulements by water and 41 by air in 2018, and 181 by water and three by air during the two-month period from January to the end of February 2019. More recently, from 1 January 1 to 15 April 2020, four refoulements took place by air and 311 by water.[174] It highlights the high significance of the pushbacks phenomenon from Bari's water border crossing points.

Lastly, at the border crossing point in Brindisi, according to data obtained by the Adriatic Seaport Network through FOIA requests, there were 340 refusals at the port in 2018, and none at the airport.[175] The latest FOIA requests by the Adriatic Seaport Network show that 284 refoulements took place at the Brindisi's border in 2019. From 1 January to 31 March 2020, 93 *refoulements* took place at this border.

A number of cases documented by No Name Kitchen serve to illustrate the nature of these pushbacks. For instance, on 22 May 2020, a Kurdish man with family in Rome arrived at the port of Ancona.

He was arrested and taken to a detention facility within the port area, where he had his fingerprints and personal details taken. Throughout these procedures, he was never provided with information about his rights or avenues to claim asylum. He was subsequently forced to sign a document in Italian without understanding its contents, and then was returned to Greece via ferry with a deportation paper. Upon his return in Greece, he was once again questioned and forced to kneel down with his hands tied back, told that "if you [raise] your head, we punch you." He was then released and returned to the so-called 'Igoumenitsa jungle,' where living conditions are deplorable.[176]

A similar procedure was reported by No Name Kitchen in April 2020, when two Afghan males arrived in the port of Ancona from Patras, Greece. They were similarly forced to leave fingerprints and sign a document which they did not understand, in the absence of an interpreter. When one of the men refused to sign, one of the police officers did so in his place. The men were then locked in a small cell with two others until late afternoon of the following day and were unable to use the toilet. They were later returned to Patras, where they were investigated and held for a short time before being escorted out of the port and then released.[177]

In another example, an Afghan male arrived from Patras to the port of Venice, where he was apprehended and forced to the ground, beaten, and given electric shocks with a taser. One police officer allegedly kicked the left side of his body whilst three other officers held him down. He explained, "They pushed my face on ground again and again." Subsequently, several dogs were brought in and surrounded him whilst barking heavily. His phone was confiscated and thrown into the sea. The man was then taken to the police station, most likely in the port, where his fingerprints and details were taken while he was denied the opportunity to claim asylum in Italy. No translator was present, but the man was nonetheless forced to sign a form which he could not understand. He was then returned to the Greek port of Patras, where police officers released him from the port and "told him not to come again." [178]

Photo credit: Emei / Shutterstock.com

168. ASGI, Information note for migrants coming from Greece or other countries to Italy by the Adriatic Sea, July 2020.
169. Ekathimerini (2020) 'Human smugglers shifting route from Greece to Italy'.
170. ASGI (2019) 'The Game – legal inspection in Patras (Greece) on readmissions of migrants and asylum seekers from Italy to Greece based on summary procedures'
171. Amnesty International (2014) 'European Court ruling condemns automatic and indiscriminate returns from Italy to Greece'
172. ASGI (2019) 'The Game – legal inspection in Patras (Greece) on readmissions of migrants and asylum seekers from Italy to Greece based on summary procedures'
173. Ekathimerini (2020) 'Human smugglers shifting route from Greece to Italy'.
174. Italian Public security department, official document covering the period from 1 January 2020 to 15 April 2020 (available in Italian).
175. Associazione per gli Studi Giuridici sull'Immigrazione (2020) Communication 21/01/2020 relating to the case of Sharifi and others v Italy and Greece (Application No. 16643/09).
176. Border Violence Monitoring Network (2020) 'Push-back from Ancona to Igoumenitsa'
177. Border Violence Monitoring Network (2020), 'Pushback Ancona Port – Thu, 23.04.20'
178. Border Violence Monitoring Network (2020), 'Push back from Italy to Greece – the Beating was too much and I was very afraid'

PUSHBACKS AT EXTERNAL EU BORDERS

LAND PUSHBACKS

GREECE – TURKEY LAND BORDER

Photo credit: Achilleas Chiras / Shutterstock.com

Credit: Silva Ana

PUSHBACKS MONITOR

LOCATION
Evros region, greater Thessaloniki area, Diavata camp and pre-removal detention centre in Paranesti, Drama

TYPE OF BORDER
External land border

PUSHBACKS EVIDENCED IN 2020
Yes

MAIN METHODS
Arrests at the border or inside Greek territory; detention in facilities close to the border; pushbacks on small boats across the Evros River by Greek police and border guards with masked men in black or military uniforms, expulsions and pushbacks from accommodation and detention centres

VIOLENCE REPORTED
Beatings, psychological violence, insults, threats, stealing of personal property, kicking, electrical shocks, deprivation of liberty, detention in inhumane and degrading conditions, forced undressing, water immersion, serious baton attacks

EXAMPLES OF CSOS COLLECTING EVIDENCE
BVMN, HumanRights360, Mobile Info Team, Greek Council for Refugees, ARSIS

RECENT RELEVANT COURT CASES
-

BRIEF CONTEXT

After nearly a decade of evidence and reporting by civil society and human rights bodies, pushbacks in the Evros region at the land border between Greece and Turkey have not only continued, but also intensified and expanded during the last few years. This border is 180 kilometres long and runs from the south of Bulgaria down to the Aegean Sea. The Evros River, which largely overlaps with the land border, has become increasingly militarised over the years and "incorporated into a broader ecosystem of border defence."[179] This militarised zone around the river restricts the movement of civilians, including monitoring actors, and holds a number of detention centres and border guard stations.[180] It also consists of a 12.5 kilometres-long barbed wire and concrete fence built in 2012, which will supposedly be extended until mid-2021.[181] Pushbacks at this border have been particularly violent in March 2020, after Turkey opened its border with Greece with the intention to put pressure on the EU vis-à-vis Syria.

Photo credit: kardinal41 / Shutterstock.com

KEY TRENDS

Since 2012, testimonies collected by civil society actors have consistently shown that pushbacks and human rights violations are carried out systematically at the land border between Greece and Turkey.[182] The vast amounts of Evros pushback testimonies collated "substantiate a continuous and uninterrupted use of the illegal practice of push-backs." [183]

When Turkey opened its borders to Greece at the end of February 2020, 10,000-20,000 displaced people got trapped at the Pazarkule/Kastanies crossing, forced to camp in inhumane conditions without food and water. They faced daily violence by the Greek military and police that had sealed off the crossing and used water cannons, tear gas, rubber bullets, and live ammunition to target people on the move. Several people got wounded. These events "have represented a continuation, and intensification, of standard practice in the region." A Syrian refugee was shot dead[184] and the right to seek asylum was suspended for a month.[185] During this time, media outlets reported on secret extrajudicial facilities by the land border, where people were held without food or water, before being taken across the border.[186]

The Greek government's main stance was to firmly deny any involvement in pushbacks or illegal operations,[187] and has continued to do so for years. In May 2020, Greece sent military vehicles and 400 additional border guards to join existing army and police patrols at the Evros border with Turkey.[188] The EU also increased its border control support to Greece during that period. As of April 2020, Frontex (the European Border and Coast Guard Agency) had 624 officers deployed along the Greek land and maritime borders.[189] The implication of this ongoing support was that it allowed Greece "to act with impunity during the suspension of rights at both the Evros land border and across the islands." [190]

From January to September 2020, 3,709 arrivals via the Evros river have been recorded compared to 9,969 arrivals during the same period in 2019.[191] This decrease has been particularly strong in March, April, and May due to the heavy militarization of the border zone and very limited monitoring of the area both due to Covid-19 related measures and the month-long suspension of asylum registration.[192]

Photo credit: Tessa Kraan

NATURE OF THE PUSHBACKS AND EVIDENCE

Displaced people who are captured at the border or within the border cities (such as Alexandroupoli, Komotini, Xanthi, Drama, and Kavala) are often held in prison cells or detention places for a day or two, if not longer, before being transported to the border region.[193]

However, people are not only arrested and pushed back at the border itself. In 2018 and 2019, arrest and capture by Greek police inside Greek territory was also reported.[194] This trend has been increasingly documented in 2020, through testimonies of people arrested inland in Greece, way past the Evros border and in the greater Thessaloniki area - including the surroundings of and inside Diavata camp.[195] Collective expulsions from camps[196] have emerged as a more recent pushback trend, and lockdown measures have been utilised to perform extensive pushbacks from accommodation centres.[197] It should be noted that the majority of the people arrested and pushed back under these circumstances were in possession of a khartia – a document issued by the police regularising a person's stay in the country for 30 days, with the possibility of being issued a second and third one if an application for asylum has not been submitted.[198]

Whether taken there directly or following detention in a police cell, individuals eventually end up in warehouse-type buildings, most likely unofficial detention centres, close to the border. Often, there is no detention order issued to persons, no interpretation provided, or any other due process.[199] People who were detained have reported horrible detention conditions in dirty, cramped rooms, with no access to working bathroom facilities, food, or drinkable water, and in some cases even denial of food for small children and/or water to make baby food.[200] Testimonies describe large groups of people in detention (i.e. 70-150 at any given time).[201]

Based on data collated by Mobile Info Team (MIT),[202] police departments throughout northern Greece seem to collaborate to organise transfers from the location of the arrest to the border. The practice of using police buses and transferring people captured from the police bus to a secondary location (irregular detention places) and to secondary vehicles indicate that multiple police authorities are involved. Seeing as the pushbacks take place in border areas, border guards are likely to be involved as well. Masked men in military-style uniform or black/dark blue uniforms seem to be increasingly present in pushbacks testimonies collated in the last few years.[203] In some cases, these officers are reported as foreign, speaking other languages rather than Greek.[204]

The variety of violent methods used at the various stages of the pushbacks – beatings, psychological violence, theft of personal property, kicking, electrical shocks, water immersion, arms broken by security forces, serious baton attacks – have consistently been reported by BVMN and its partners in hundreds of reports.[205] HumanRights360 and Forensic Architecture have recently undertaken an investigation into illegal pushbacks of displaced people crossing the border from Turkey to Greece through the Evros/Meriç river. The results of this investigation are focused on specific cases and describe the modus operandi used by Greek officials carrying out these pushbacks. They also raise important issues regarding the lack of responsibility and accountability.[206]

Collective expulsions across the Evros River are carried out on small boats. A new trend that has also been reported is third-country nationals (e.g. from Afghanistan, Iraq) driving the boats across the river to Turkey.[207, 208]

The pushbacks observed are indiscriminate. They affect single men, families with very small children, unaccompanied and separated children, elderly persons, persons with disabilities, and other vulnerable persons. Individuals are not given the opportunity to apply for asylum, while people in asylum procedures or recognised refugees also report being victims of pushbacks.[209]

It has been reported that once pushed back to Turkey, displaced people face threats of being illegally forced to return to their country of origin, even if facing serious risks of persecution. Such chain pushbacks have been documented and reported by two Iranian women who, after being pushed back to Turkey, were forced to return to Iran where they claimed they were facing immediate threats.[210]

179. Forensic Architecture, Pushbacks across the Evros / Meric river: analysis of video evidence, 12 December 2019.
180. *Ibid*. See also, Article and Map from 2012, by Cristina Del Biaggio (in French).
181. Info Migrants, Article, Greece plans to extend fence along Turkish border, 25 August 2020.
182. Pro Asyl, Report, Pushed back: systematic human rights violations against refugees in the Aegean Sea and at the Greek-Turkish land border, 7 November 2013.
183. HumanRights360, GCR & ARSIS, Report, The New Normality: Continuous pushbacks of third country nationals on the Evros River, 2018.
184. Forensic Architecture, Joint Statement on the ongoing violence at the Greece-Turkey border, 5 March 2020.
185. BVMN, Report, Violence at Greek Borders – Sea and Land Borders, February/March 2020.
186. The New York Times, Article, 10 March 2020.
187. Greek Ministry of Migration and Asylum, Communication, 15 August 2020.
188. Transnational Institute, Border Wars Briefing, Covid-19 and Border Politics, p.10, July 2020.
189. Frontex, News Release, Member States continue to support Frontex operations in Greece, 3 April 2020.
190. BVMN, Report, Violence at Greek Borders – Sea and Land Borders, February/March 2020.
191. UNHCR data, Operational portal, Greece.
192. HumanRights360, Report, Defending Human Rights in Times of Border Militarization, October 2020. See Chapter 3 – The militarization of Borders.
194. Data collated through a semi-structured questionnaire in August 2020 and shared by Mobile Info Team (MIT).
194. Mobile Info Team, Report, Evidence of Human Rights Abuses at the Greece-Turkey Border, November 2019.
195. See for instance BMNV Monthly Report of August 2020 and Violence Reports of 7 May 2020 and 4 September 2020.
196. See for instance BVMN Violence Reports of 25 April 2020 and 4 September 2020.
197. BVMN, Special Report: Covid-19 and Border Violence Along the Balkan Route, April 2020.
198. Information reported by Mobile Info Team.
199. Data collated through a semi-structured questionnaire in August 2020 and shared by Mobile Info Team (MIT).
200. Mobile Info Team, Report, Evidence of Human Rights Abuses at the Greece-Turkey Border, November 2019. See also, BVMN Violence Report, 8 February 2020
201. Data collated through a semi-structured questionnaire in August 2020 and shared by Mobile Info Team (MIT).
202. Mobile Info Team (MIT) a member of the End Pushbacks Partnership. Active in Greece since early 2016 they have been supporting refugees and asylum seekers with vital information and assistance, fighting for their rights and helping them make informed decisions.
203. See for instance BVMN, Violence Reports of 7 May 2020 and 2 July 2020.
204. See for instance BVMN, Violence Report of 2 July 2020.
205. See BVMN Testimonies – Pushbacks at Evros Border
206. HumanRights360, Report, Defending Human Rights in Times of Border Militarization, October 2020. See Chapter 4 – Monitoring, advocating, and pursuing strategic litigation on the illegal practices at the land border of Evros.
207. See for instance BMNV Monthly Report of August 2020 and Violence Report of 2 July 2020.
208. Data collated through a semi-structured questionnaire in August 2020 and shared by Mobile Info Team (MIT).
209. Data collated through a semi-structured questionnaire in August 2020 and shared by Mobile Info Team (MIT).
210. HumanRights360, Report, Defending Human Rights in Times of Border Militarization, October 2020. See Chapter 4 – Monitoring, advocating, and pursuing strategic litigation on the illegal practices at the land border of Evros.
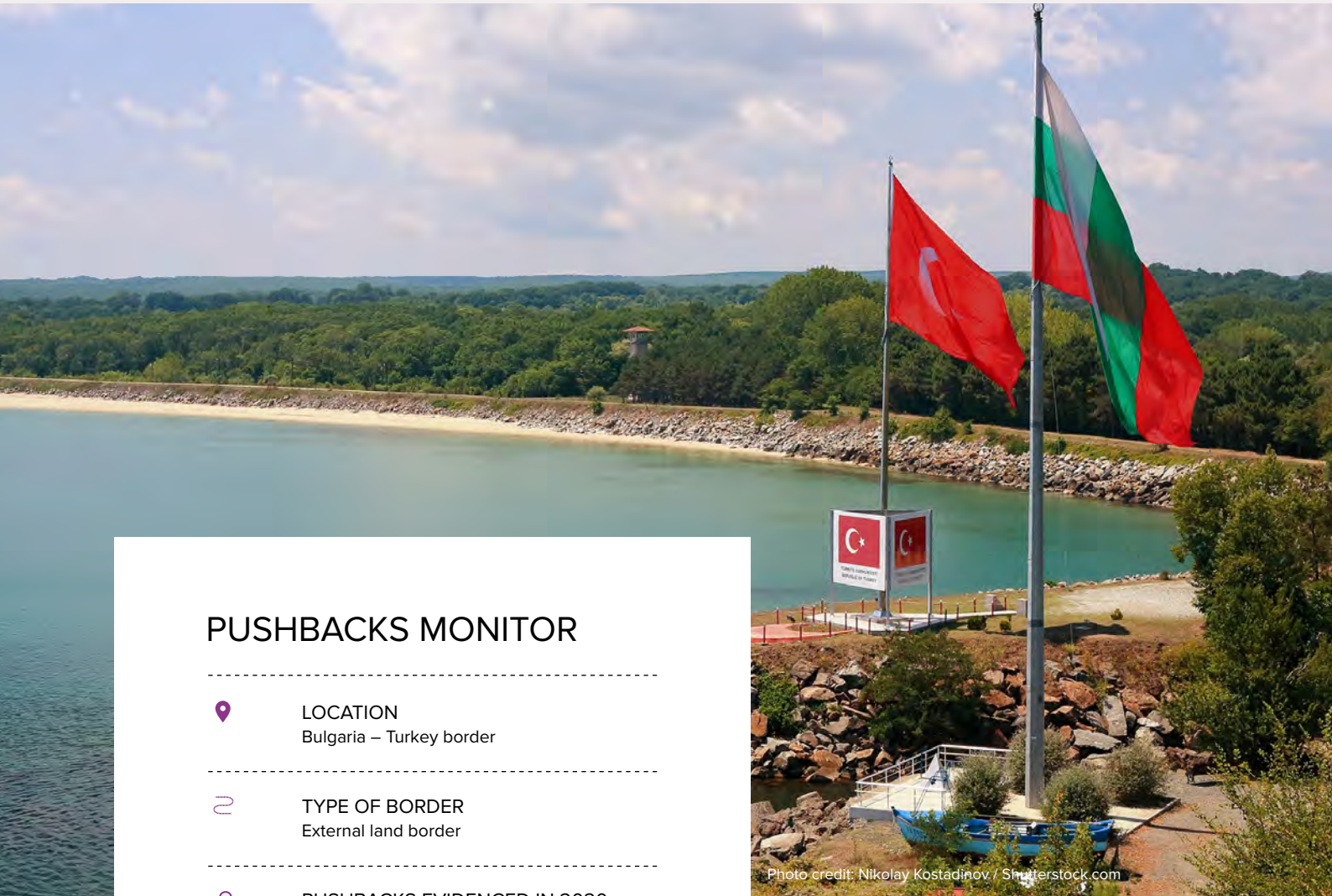
BULGARIA – TURKEY BORDER

Photo credit: Nikolay Kostadinov / Shutterstock.com

PUSHBACKS MONITOR

LOCATION
Bulgaria – Turkey border

TYPE OF BORDER
External land border

PUSHBACKS EVIDENCED IN 2020
Yes

MAIN METHODS
Pull backs by Turkish authorities. On-the-spot pushbacks by Bulgarian border guards

VIOLENCE REPORTED
Beatings, use of dogs, pepper spray, and other violent methods

EXAMPLES OF CSOS COLLECTING EVIDENCE
Bulgarian Helsinki Committee, Human Rights Watch, Josoor

RECENT RELEVANT COURT CASES
-

BRIEF CONTEXT

The frontier between Bulgaria and Turkey border is a 234 kilometres long international border that has been officially closed[211] since barbed-wires and fences were built around it from the end of 2013 onwards.[212] The Bulgaria 'zero migration pressure' objective has led to effective prevention of entry at the border through pushbacks and deterrence strategies.[213] Bulgarian border police is known amongst displaced people to be extremely violent. Bulgaria is a candidate member state to join the Schengen area, and may therefore seek to keep the external EU border with Turkey closely sealed at all costs, in an attempt to satisfy Schengen criteria in a similar fashion as Croatia.

KEY TRENDS

In November 2013 as part of their "containment plan," Bulgarian authorities deployed 1,500 Bulgarian police officers to the border and started to build a fence along a 33 kilometre stretch of the frontier between the two countries.[214] Pushbacks at the Bulgaria-Turkey border have been evidenced[215] and particularly prevalent since then. They consist in people being arrested after the crossings and summarily returned to Turkey. In such instances, they are not issued with any documentation. Non-admission notifications are only delivered when people are refused entry at border crossing points.

Since 2016, a new trend has been observed; one which relies on the cooperation between the Turkish and Bulgarian border authorities. Turkish border authorities are preventing displaced people from getting close to the border and eventually crossing it into Bulgaria.[216] They reported that 90,000 individuals were held back in the first nine months of 2019 in the Edirne Province, which borders both Bulgaria and Greece.[217]

Displaced people who can access the Bulgarian territory are also able to transit and exit the country without being detected by authorities. This is described by the Bulgarian Helsinki Committee as a strategy operated by the Bulgarian authorities to avoid any responsibility under the Dublin Regulation or readmission arrangements. As a result, the official statistics on new arrivals are at their lowest since the first major round of arrivals in 2013.[218]

The Bulgarian Ministry of Interior prevented 6,470 attempted border crossings and issued 4,243 entry refusals (non-admissions) at the Bulgarian-Turkish border in 2019.[219] As stated in Bulgarian Helsinki Committee's 2019 Annual Border Monitoring Report "Persons who might be in need of international protection were subject to denial of entry from Turkey to Bulgaria, and potential push-backs, on the grounds of irregular entry or the irregular presence or lacking valid identity documentation." [220]

NATURE OF THE PUSHBACKS AND EVIDENCE

Amongst the first reported incidents, Human Rights Watch produced evidence of pushback cases involving over 500 people in 2013. In these cases, the Bulgarian border police apprehended people on Bulgarian soil and summarily returned them to Turkey without proper procedures, and with no opportunity to lodge asylum claims, often using excessive force.[221] Direct and indirect reports of violent pushbacks at the border between Bulgaria and Turkey have persisted over the years,[222] culminating in 2015, when a man from Afghanistan was shot dead by a Bulgarian police officer.[223]

In 2019, through the National Border Monitoring Framework, 337 alleged pushback incidents were registered, having affected 5,640 individuals.[224] It has been reported that the forms of abuse at the Bulgarian-Turkish border include the use of dogs, pepper spray, and other violent methods.[225] In some cases, there have been allegations of such pushbacks and abuses being perpetrated by Frontex-led border guards.[226] The Bulgarian Helsinki Committee published pushback cases of two Syrian asylum seekers who had been handed over by Bulgarian authorities to the Turkish counterpart, and whom in the process had their fully valid passports ripped apart.[227]

Though fewer reports of pushbacks in 2020 have been highlighted, there is no certain way to conclude that they have decreased. In March 2020, a photographer from the publication Denvnik.bg was told by displaced people stuck at the Greek-Turkish border that they chose to avoid attempts to cross the Bulgarian border due to the perceived brutality and violence. As such, it appears that Bulgarian border management tactics have been known to be particularly harsh, which may have contributed to fewer people pursuing this border.[228] Furthermore, the largest number of violent pushbacks at the Bulgarian-Turkish border has been reported by children.[229]

Several recent instances of pushbacks operations were registered in May 2020 by Josoor, an organisation operating on the other side of the border in Turkey.[223]

---

211. An opposition MP and former journalist established in 2018 that many sections have already fallen. Displaced people interviewed by the Bulgarian Helsinki Committee in Bulgaria report that it is rather easy to climb over or crawl underneath the fence. Some indicate that they have even found the service doors opened in some instances.

212. Tsvetelina Hristova, Raia Apostolova, Neda Deneva, Mathias Fiedler, Trapped in Europe's Quagmire: The situation of refugees and asylum seekers in Bulgaria, Report, p.6, 2014.

213. Joint CSOs letter to the European Commission and the Bulgaria Prime Minister, 13 March 2020.

214. Ibid, p.7

215. Human Rights Watch, "Containment Plan" Bulgaria's Pushbacks and Detention of Syrian and Other Asylum Seekers and Migrants, Report, 2014.

216. Border Monitoring Bulgaria, press release, 1 July 2020.

217. ECRE, AIDA Report on Bulgaria, 2019 Update, p.14, February 2020.

218. Ibid.

219. 2019 Annual Border Monitoring Report, 30 April 2020.

220. Ibid.

221. Human Rights Watch, "Containment Plan" Bulgaria's Pushbacks and Detention of Syrian and Other Asylum Seekers and Migrants, Report, p.14, 2014.

222. Council of Europe, Report on Pushback policies and practice in Council of Europe Member States, p.17, 8 June 2019. See also: UNHCR, Desperate Journeys - Refugees and Migrants Arriving in Europe and at Europe's Borders: January-August 2018, 2018.

223. The Independent, Article, 16 October 2015.

224. 2019 Annual Border Monitoring Report, 30 April 2020. See the description of the Framework and Tripartite Working Group one page 1.

225. Council of Europe, Report on Pushback policies and practice in Council of Europe Member States, p.17, 8 June 2019.

226. FRA, Response of the Minister of Foreign and European Affairs to Question No. 1045 by Mr Gusty Graas concerning reproaches against FRONTEX, 2019.

227. ECRE, AIDA Report on Bulgaria, 2019 Update, p.13, February 2020.

228. Svetoslav Todorov, Balkan Insight Article, Bulgaria Fails to Broker Turkey-Greece Summit on Migrants, 3 March 2020.

229. Save the Children, Report, Hundreds of Children Report Police Violence at EU Borders,24 December 2018.

230. Eva Schade, Josoor Blog, Pushbacks and a loss of human rights, 24 May 2020.

CROATIA – BOSNIA-HERZEGOVINA BORDER

PUSHBACKS MONITOR

LOCATION
Croatia – Bosnia-Herzegovina border, ending primarily in border towns Velika Kladuša and Bihać

TYPE OF BORDER
External land border

PUSHBACKS EVIDENCED IN 2020
Yes

MAIN METHODS
Interception in Croatian territory followed by dropping people close to the border, in wild and difficult terrain, and forcing them with the use of threats and abuse, to walk across the border back into BiH on foot

VIOLENCE REPORTED
Severe beatings, humiliations, destruction of personal belongings, robberies, verbal abuses, dog attacks, threats, electrical shocks, forced undressing, serious sexual abuse

EXAMPLES OF CSOS COLLECTING EVIDENCE
Amnesty International, Are You Syrious, BVMN, Centre for Peace Studies, Danish Refugee Council (DRC)

RECENT RELEVANT COURT CASES
-

BRIEF CONTEXT

The formal closure of the "Balkan route" in 2016[231] was part of a strategy to hinder the movement of displaced people through the Balkans and into western Europe. In particular, the erecting of fences and the establishment of transit zones at the border between Hungary and Serbia in the last quarter of 2015[232] have redirected much of the human mobility to the Southern Balkan route through Bosnia-Herzegovina (BiH). The same developments have also led to Croatia becoming the 'entry door' to the European Union at the end of people's horrendous journeys across the "Balkan Route."

In addition, while Croatia is not yet a Schengen-area country it is nonetheless expected to apply the Schengen border code, and is therefore eager to demonstrate its readiness to join the border-free area by decisively protecting the EU's external borders from irregular migration.[233] Pushbacks at the border between Croatia and BiH are part and parcel of that migration management strategy by Croatia and have been reported at least since 2017,[234] and more heavily from 2018 onwards.

Photo credit: Tessa Kraan, Bosnia

KEY TRENDS

While the magnitude of pushbacks being operated at this border is undoubtable, it is not easy to establish the exact scale of the phenomenon. According to the UNHCR, more than 1,000 pushbacks concerning about 10,000 people were registered in Croatia, BiH, Hungary, and Romania in 2018. 62% of these pushbacks were operated by the Croatian border police.[235] Based on estimates released by officials in the respective countries, the Border Violence Monitoring Network (BVMN) believes that roughly 25,000 pushbacks took place between Croatia and Bosnia and Herzegovina, Serbia, and/or Montenegro in 2019. This estimated number includes over 10,000 chain pushbacks of individuals who had been readmitted from Slovenia to Croatia, and then pushed further back, mainly to BiH.[236]

Croatia has been adamant to deny and dispel reports of pushbacks and abuse, including hindering the Croatian Ombudsman from obtaining key information.[237] Despite the publication of footage of illegal pushbacks at the border[238], which has made it harder for the government to credibly deny this phenomenon,[239] Croatian authorities have continued to minimise these events and the violence perpetrated by border guards when operating pushbacks.

Croatia has regularly been praised by EU officials for their management of migration and the country is still being assessed as "fulfilling its commitment" to join the Schengen area.[240] Moreover, the EU has provided essential funding for Croatia's border operations, including technology such as thermal vision cameras, drones, helicopters, barbed wire, and Frontex support of border police.[241]

A major trend at this border is the systematic and repeated pushbacks experienced by people when trying to cross into the country from BiH. According to testimonies collected, people would typically try crossing into Croatia more than 15, and sometimes over 30 times, continuously and routinely finding themselves being pushed back to BiH.[242]

NATURE OF THE PUSHBACKS AND EVIDENCE

There is an immense amount of evidence of pushbacks collected by civil society organisations and local groups, as well as by international organisations, journalists, BiH officials, and many others. Through an analysis of the different testimonies collected by civil society organisations, various trends and methods relating to the manner in which pushbacks have been operated over the past three years can be identified.

In many cases, people entering Croatia from BiH are arrested and detained deep inside Croatian territory, while their declared intentions to apply for asylum are routinely ignored. Ultimately, they are packed into a van, driven back close to the border, and returned to BiH without due process, individual assessments, the right to appeal their transfer, or any formal documents. Croatia has a readmission agreement in place with BiH, but it is not frequently used to justify expulsions, as most pushbacks happen without the coordination of the two states.

Despite these matters, there are cases when the Croatian border police notifies their BiH counterparts when groups of people are brought near the border and requests for them to be taken back, yet without any formal process.[244] In most other cases, people were simply transported to a village or road close to the border and asked to go back to BiH.[245]

Pushbacks are systematically accompanied by the use of extreme violence by Croatian border police,[246] including beatings, acts of humiliation, inhuman or degrading treatment, and the use of pepper spray and dogs, as well as instances of police opening fire at people.[247] In one case, there was a recording of someone being exposed to electroshocks.[248] Also, people usually have their mobiles confiscated and demolished, and their clothes, money, and shoes are taken from them.[249] While ill treatments at the Croatian border have been deemed severe, to the point that both Swiss[250] and Italian[251] courts ruled to suspend the transfer of asylum seekers to Croatia under the Dublin Regulation,[252] violence and inhumane, degrading treatments at this border continue to be reported to date.

For instance, in May 2020, a new horrific method of violence garnered renewed media attention to the pushbacks at these borders when a group of about 30 men on the move were intercepted by the Croatian military and then handed over to the national police, who then drove them to the border. In the process, not only they were severely beaten, but crosses were spray painted on their heads with red spray.[253]

Another case of unprecedented abuse was recorded by Amnesty International in June 2020, which involved 16 Afghans and Pakistanis. The group experienced kicking, beating, and restraint. Afterwards, food (ketchup, sugar, mayonnaise) was smeared into their heads and bleeding wounds. Ten of the men suffered severe injuries, which included broken bones and head wounds. One of the men even had to be in a wheelchair after the incident. The location was 10 kilometres away from the Croatian-Bosnian border. The men withstood five hours of abuse before being handed over to the Croatian Border Police, who drove them in vans and eventually dropped them off close to the border, forcing them to cross the border on foot.[254, 255]

In July 2020, BVMN published six different pushback incidents which affected about 72 people in total, from Italy via Croatia, and finally ending up in Bosnia.[256] In the same month, testimonies were also collated by No Name Kitchen on four different occasions constituting direct pushbacks from Croatia to Bosnia. One incident involved a minor, in which a group of young men were heavily beaten for 20 hours straight.[257] Another occurrence 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.[258] Others were repeatedly beaten during different stages of the pushback operation.[259]

Between 12 and 16 October, the Danish Refugee Council (DRC) has documented a series of brutal pushbacks at the border between Croatia and BiH involving more than 75 persons. They have all independently reported inhumane treatment, savage beatings and one of the testimonies includes a report of serious sexual abuse.[260]

IMPACT ON HUMAN LIVES

Photo credit: Tessa Kraan

News outlets have long reported on the conditions in the camps in border towns on the Bosnian side of the border, which have been described as overcrowded, inhumane squats.[261] The situation is particularly concerning for the estimated 1,400 to 2,300 people which have been living outside temporary accommodation centres (TRCs). These people end up sleeping in uninhabitable and dirty squats, with nearly no access to food, non-food items, medical and other key services.[262] Grassroots organisations have also witnessed various forms of violence and restrictions, including beatings of people who try to enter TRCs for medical help. Early October 2020 also saw forced mass evictions from TRC Bira in Bihać, many taken to the nearby and overcrowded camp Lipa set up as an emergency temporary centre to respond to Covid-19 measures. It is therefore not made for winter conditions.[263]

For those that reside in TRCs added issues have concerned security in the centres, poor hygiene and a lack of medical care.[264] There is a huge need for non-food items "mostly due to pushbacks" because of the Croatian police taking tents, shoes and clothes according to local actors in the ground. The NGO CARE noted that people sometimes come back completely naked.[265] Similarly, challenges concerning access to sanitation have been great, in particular for people that are not given access to TRCs due to overcrowding.[266]

231. Refugee Rights Europe, Report , Limits to Access to Asylum Along the Balkan Route, July 2020.
232. ECRE, AIDA Report on Hungary, 2019 Update, February 2020.
233. Amnesty International, Report, Pushed to the Edge: Violence and Abuse against Refugees and Migrants Along the Balkan Route, 2019.
234. Ibid.
235. Refugee Rights Europe, Report, Limits to Access to Asylum Along the Balkan Route, p.7, July 2020.
236. Are You Syrious, Input by civil society to the EASO Annual Report 2019, 12 March 2020.
237. Ombudsman of Republic of Croatia, News, Human rights of migrants: complaints regarding police treatment still not investigated, 20 October 2018.
238. BVMN, First footage of pushbacks on the Croatian-Bosnian border, 16 December 2018.
239. InfoMigrants, Article, In Croatia, EU Border guards use a little bit of force, 15 July 2019.
240. European Commission, Communication on the verification of the full application of the Schengen acquis by Croatia, 22 October 2019.
241. Antipode Article, Liberal Violence and the Racial Borders of the European Union, 2020.
242. Refugee Rights Europe, Report, Limits to Access to Asylum Along the Balkan Route, p.8 and 10, July 2020.
243. Amnesty International, Report, Pushed to the Edge: Violence and Abuse against Refugees and Migrants Along the Balkan Route, 2019.
244. Ibid.
245. Ibid.
246. Ibid. See also: Refugee Rights Europe Report
247. InfoMigrants, Article, Croatian police fire on irregular migrants near Slovenian border, 18 November 2019.
248. The New Humanitarian, Article, Bosnia: A harsh winter stopover on Europe's migrant road, 24 December 2019.
249. Antipode Article, Liberal Violence and the Racial Borders of the European Union, 2020.
250. EDAL, Switzerland: Suspension of Dublin transfer to Croatia due to summary returns at border with Bosnia-Herzegovina, 12 July 2019.
251. Decree by the Court of Genova, 12 April 2019 (in Italian).
252. The New Humanitarian, Article, Bosnia: A harsh winter stopover on Europe's migrant road, 24 December 2019.
253. The Guardian, Article, Croatian police accused of spray-painting heads of asylum seekers, 12 May 2020.
254. Amnesty International, Press release, Croatia: shocking evidence of police torture of migrants, 11 June 2020.
255. Ibid.
256. BVMN, Illegal pushbacks and border violence reports, Report of August 2020.
257. BVMN, Violence report, 15 June 2020.
258. BVMN, Violence report, 8 July 2020.
259. BVMN, Violence report , 27 July 2020.
260. ECRE, News, 30 October 2020; The Guardian, Article, 21 October 2020.
261. Vita, Article, Balkan route, crossing borders is a desperate game, March 2020.
262. Interagency Response to Mixed Movement, Montly Situation Report, 31 May 2020.
263. Are you Syrious, Daily Digest 1 October 2020.
264. Amnesty International, Report, Pushed to the Edge: Violence and Abuse against Refugees and Migrants along the Balkans Route, 2019.
265. InfoMigrants, Article, Growing concern over treatment of migrants and refugees in Balkans, 4 June 2020.
266. CARE Balkans, The Situation of Refugees and Migrants, Assessment Report, 22 May 2020.
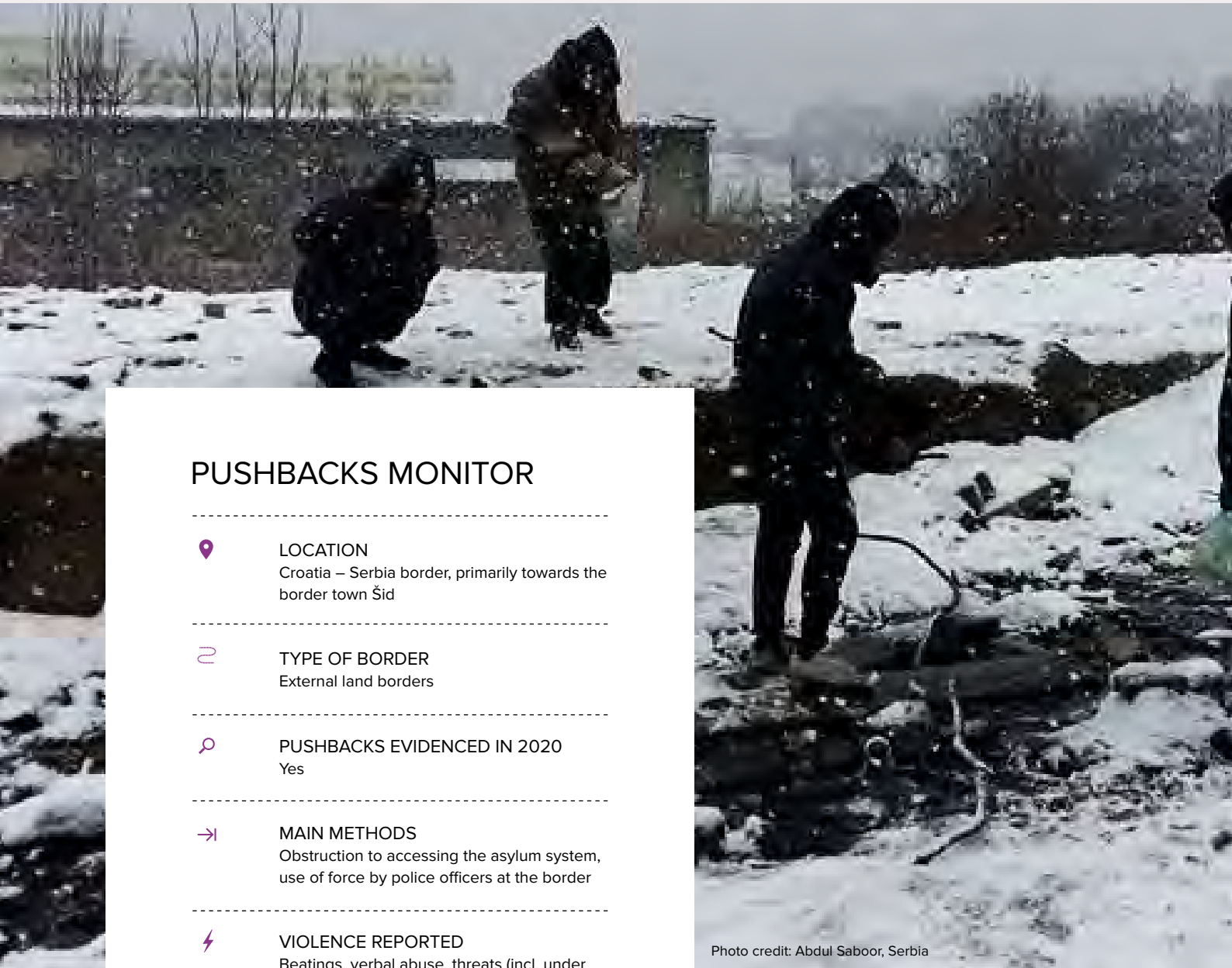
CROATIA – SERBIA BORDER

Photo credit: Abdul Saboor, Serbia

PUSHBACKS MONITOR

LOCATION
Croatia – Serbia border, primarily towards the border town Šid

TYPE OF BORDER
External land borders

PUSHBACKS EVIDENCED IN 2020
Yes

MAIN METHODS
Obstruction to accessing the asylum system, use of force by police officers at the border

VIOLENCE REPORTED
Beatings, verbal abuse, threats (incl. under gunpoint), theft by police officers, use of electric tasers, forced undressing

EXAMPLES OF CSOS COLLECTING EVIDENCE
Belgrade Centre for Human Rights, BVMN, Klikaktiv, Human Rights Watch, Macedonia Young Lawyers Association, The Humanitarian Center for Integration and Tolerance (HCIT), APC-CZA

RECENT RELEVANT COURT CASES
-

BRIEF CONTEXT

Though many of the pushbacks operated by the Croatian authorities relate to the border with Bosnia-Herzegovina, a significant number of people are also pushed back to Serbia, including as part of a readmission agreement.[267] Pushbacks are operated mainly directly from Croatia, as well as in some cases through chain pushbacks starting in Slovenia, via Croatia and onwards to Serbia.

KEY TRENDS

While there have been reports of pushbacks at the Croatian-Serbian border for years, these have become more frequently documented since 2016, with a marked rise in 2017.

A noticeable trend, documented already during earlier phases of pushbacks,[268] is a remarkably high number of children and unaccompanied minors experiencing pushbacks. They have consistently made up 30-50% of all individuals being pushed back over the years, if not more. [269]

UNHCR and local partners estimate that 384 pushbacks operations, affecting 2,674 individuals, were conducted between January and September 2019, while the Croatian Ministry of Interior reports 197 forced returns to Serbia under a readmission agreement from January to November 2019.[270]

Pushbacks have persisted throughout the Covid-19 period. However, they have mostly taken place in increased silence, out of sight for human rights observers who have been unable to monitor pushbacks closely in the field due to health motivated restrictions. The pushbacks from Croatia were during the spring of 2020 accompanied by the militarisation of the border on the Serbian side around the camps of Adaševci, Šid, and Principovac, following a similar trend of increased militarisation and security forces to hinder human mobility across the entire Balkan Route during the pandemic.[271]

NATURE OF THE PUSHBACKS AND EVIDENCE

Ever since 2017, recurring testimonies have highlighted the denial of the right to seek asylum in Croatia.[272] Individuals have reported theft of phones and money by police officers, as well as physical violence, including beatings with batons, boots, and the use of dogs, which has led to serious injuries in some reported cases.[273]

Testimonies of pushbacks collected throughout 2019 confirm the trends identified in 2017. The respondents had, in many cases, tried to cross multiple times and all of them reported physical violence by police, including beatings, kicking, and the use of police batons. A few respondents also reported the use of electric tasers and firearms. In addition to physical abuse, they moreover reported the prevalent use of psychological violence, such as insults and threats. None of them reported having access to the asylum procedure, an interpreter or legal aid; in effect being denied the right to effective legal remedies and fair procedure. In cases where the abuse had led to injuries which necessitated medical help, victims were not provided medical assistance, even in cases of serious injuries.[274]

Throughout 2020, many pushbacks from Croatia to Serbia have continued to be reported. For instance, in March 2020, 32 people including three minors and a pregnant woman, were pushed back through chain-refoulement from Slovenia via Croatia to Serbia.[275] In July 2020, there were seven pushback cases from Croatia to Serbia,[276] accounting for at least 70 people being recorded and four more people pushed back across the same border in August 2020.[277]

IMPACTS ON HUMAN LIVES

The pushbacks at this border have created human bottlenecks on the Serbian side, in a similar manner as in BiH – primarily concentrated around the city of Šid, which is the main point where displaced individuals would stay and sleep before they try to cross the border with Croatia, and also the place they return to following pushbacks from Croatia.

Difficult humanitarian and shelter conditions have been reported for years and continue to present significant challenges, especially for those who are living outside of official accommodation centres, mostly in squats. Such deteriorating living conditions are characterised by overcrowding, lack of hygienic facilities and health support, as well as limited and unbalanced meals. The number of people residing in informal accommodation is difficult to estimate, but the situation affects at least 2,000-3,000 people across the country based on recent estimates.[278] The situation worsened further at the end of last year due to widespread evictions from squats.[279]

Alarmingly, children and unaccompanied minors facing pushbacks are also exposed to violence such as beatings, the intentional exposure to extreme weather conditions, kicking, insults, forced undressing, and threats at gun-point. Such traumatic experiences undoubtedly have immense mental and physical health effects on children, both in the short and long term.[280]

267. ECRE, AIDA Report Croatia, 2020. See also the Readmission Agreement between the EU and Serbia.
268. HCIT, Report, Forcible Irregular Returns to Serbia from Neighbouring Countries, April 2017.
269. Centre for Peace Studies, BVMN, Society for Psychological Assistance, Welcome Initiative, Pushbacks report on children and unaccompanied children in Croatia, 2020.
270. ECRE, AIDA Report Croatia, 2020.
271. BVMN, Special Report, Covid-19 and border violence along the Balkans route, April 2020.
272. Human Rights Watch, News, Croatia: asylum seekers forced back to Serbia, 20 January 2017.
273. BCHR, MYLA, Oxfam, Joint Agency Briefing Paper, A Dangerous "Game", April 2017.
274. Klikaktiv, Legal analysis and field report on the situation of refugees in Serbia from July to December 2019.
275. BVMN, Violence Report, 3 March 2020.
276. BVMN, Monthly Report, July 2020.
277. BVMN, Monthly Report, August 2020.
278. Klikaktiv, Legal analysis and field report on the situation of refugees in Serbia from July to December 2019.
279. Ibid.
280. Centre for Peace Studies, BVMN, Society for Psychological Assistance, Welcome Initiative, Pushbacks report on children and unaccompanied children in Croatia, 2020.

HUNGARY – SERBIA BORDER

Photo credit: Abdul Saboor, Serbia

PUSHBACKS MONITOR

LOCATION
Hungary – Serbia, primarily towards the Serbian border town Subotica

---

TYPE OF BORDER
External land border

PUSHBACKS EVIDENCED IN 2020
Yes

MAIN METHODS
Border closed by fences, refusal of access to transit zones

VIOLENCE REPORTED
Beatings, insults, pepper spraying, attacks by dogs, confiscation of private belongings, abuse (incl. abuse tactics such as sinking people's heads into water)

EXAMPLES OF CSOS COLLECTING EVIDENCE
BVMN, Hungarian Helsinki Committee, Kilkaktiv, Collective Aid

---

RECENT RELEVANT COURT CASES
Ruling by the European Court of Justice confirming that placement in the transit zone is unlawful detention

BRIEF CONTEXT

Along the Balkan route, Hungary is a country that has taken one of the most hardline approaches to border protection and crackdown on asylum seekers. It has not hesitated to use brutal tactics, such as attack dogs, forcing people to strip naked in freezing temperatures, and beatings with batons as a part of this approach.[281]

Towards the end of 2015, a border barrier was erected, complete with barbed wires, floodlights, and security cameras, which achieved its purpose of effectively stymieing entries across the border.[282] Most centrally, it halted access to Tompa and Röszke, the two Hungarian transit zones along the Serbian border. After the fence was built, and in combination with an entry quote imposed, the number of asylum seekers arriving in Hungary decreased significantly.[283]

However, people still constantly attempt to cross the border and suffer pushbacks and violence by Hungary border officials, who operate under the State Border Act of 2016.

Photo credit: Tessa Kraan, Serbia

KEY TRENDS

Since June 2016, the Hungarian police has had the authority to push back asylum seekers, who are caught within 8 kilometres of the Hungarian-Serbian border, to the Serbian side of the border fence, in accordance with the State Border Act.[284] The police do not register individuals' data, nor allow them to apply for asylum. An amendment made in March 2017 moreover allows the police to push back any displaced person irregularly staying in Hungary to Serbia, therefore extending the 8 kilometres transit zone to the entirety of Hungary. This also includes individuals who have never set foot to Serbia but who have rather entered Hungary via other routes.

Due to the very low numbers of admissions of refugees to the transit zone and the legalisation in favour of pushback activities, the European Commission referred Hungary to the Court of Justice of the European Union in 2018, on the grounds of non-compliance of its asylum and return legislation with EU law, as this policy clearly hinders access to an asylum procedure.[285]

The European Court of Justice consequently ruled in May 2020 that asylum seekers may not be detained for longer than 28 days in transit zones. Therefore, the Hungarian government announced the closure of the Röszke and Tompa transit zones and stated that asylum-seekers aiming to enter Hungary will have to apply for asylum at Hungarian consulates in non-EU-neighbouring countries.[286] This law means that Hungary has effectively abolished the right to asylum for new arrivals on national territory.[287] The access to the two recently closed transit zones have consistently been very restricted, with only 394 applicants being able to enter in 2019.[288] The European Commission has recently launched infringement procedures against Hungary as the new asylum procedures set out by Hungary preclude persons, including at the border, from applying for international protection in the country.[289]

Photo credit: Tessa Kraan, Serbia

NATURE OF THE PUSHBACKS AND EVIDENCE

Since 2016, there have been wide-ranging reports of excessive force and physical violence perpetrated by the Hungarian police border guards, including insulting and humiliating language, pepper spraying, dog attacks, confiscation of private belongings, abuse, and ignorance to refugees' physical well-being. The victims of these forms of abuse include women and children.[290] Other grotesque forms of violence and abuse have been reported as well, including the act of forcing individuals to sink their heads into water.[291] People have also reportedly been threatened by the police that they would be put in jail if they were caught again. Moreover, police have reportedly taken photos with their mobile phones, threatening that these would be sent to all police officers at the border to ensure they would be caught if they tried crossing again.[292]

In June 2020, the weather conditions and the closure of border camps due to the pandemic contributed to an increase in attempted border crossings. Reports of violent pushbacks by border police have increased alongside the numbers of people trying to cross, evidenced by volunteers' reports of an increase in the need for medical attention following pushbacks. People have been found injured due to physical challenges such as border rivers, fences, and rough terrain, while many were victimised and beaten by the Hungarian border police.[293]

Due to the high level of securitisation of the Serbian-Hungarian border, displaced people are forced to take dangerous routes leading to tragic deaths. Notably, three people drowned in the River Tisa while trying to reach Hungary in August 2020.[294]

Displaced people are also victims of violence on the Serbian side. For instance, there have been increasing reports of violence during summer 2020 in Vojvodina, an autonomous region of Serbia at the Hungarian-Serbian border. According to Collective Aid, police officers are continuing the practice of driving apprehended individuals some 30 kilometres away from their accommodation. This practice usually involves theft and destruction of belongings, such as mobile phones and/or money.[295]

IMPACTS ON HUMAN LIVES

Since the Hungarian-Serbian border was closed, many people on the move have been finding themselves trapped in Serbia, unable to cross the border. In June 2020, there were at least 6,000 individuals stranded in camp-like situations in Serbia.[296]

Many of the displaced people gather inside the border, in Subotica, a Serbian city close to the Hungarian-Serbian border. Serbian charities estimate that there are around 500 men living in buildings with very poor conditions in and around Subotica.[297] Many have also been gathering and sleeping in the main bus station in Subotica or staying in the woods of the border area during spring and summer in the last few years.[298]

The conditions further worsened during the winter of 2019-2020, following the local authorities banning the activities of Collective Aid and Escuela con Alma, two of the few organisations providing basic services.[299] On top of this, displaced people in the area are faced with intensified threats, arrests, and harassment by locals since 2019, in particular around Horgos.[300]

281. BCHR, MYLA, Oxfam, Joint Agency Briefing Paper: A Dangerous 'Game', April 2017.
282. V4 Report, Article, The different tactics used by Hungary, Slovenia and Croatia to defend borders: The Hungarian barrier is "top shelf", 31 January 2020.
283. ECRE, AIDA Report on Hungary, 2019 Update, February 2020.
284. Hungarian Helsinki Commitee, Hungary: Access denied, Information Note, 14 July 2016.
285. ECRE, AIDA Report on Hungary, 2019 Update, February 2020.
286. ECRE News, Hungary: Abolishment of Transit Zone Following CJEU Ruling, 22 May 2020.
287. BVMN, Monthly Report, p.14, June 2020.
288. EASO, Asylum Report 2020.
289. European Commission, Press release, October Infringements Package : key decision, 30 October 2020.
290. HCIT Report, Forcible irregular returns to the Republic of Serbia from neighbouring countries, May 2017.
291. Klikaktiv, Pushbacks from Hungary to Serbia – Summary, 2 April 2020.
292. Klikaktiv, Pushbacks from Hungary to Serbia – Summary, 2 April 2020.
293. BVMN, Monthly Report, p.15, June 2020.
294. BVMN, Monthly Report, August 2020.
295. Ibid.
296. BVMN, Monthly Report, p.15, June 2020.
297. BBC News, Article, 17 January 2020.
298. HCIT Report, Forcible irregular returns to the Republic of Serbia from neighbouring countries, May 2017.
299. BVMN, Monthly Report, December 2019.
300. BVMN, Monthly Report, February 2020.

ROMANIA – SERBIA BORDER

Photo credit: Tessa Kraan, Serbia

PUSHBACKS MONITOR

📍 **LOCATION**
Romania – Serbia border, primarily towards the Serbian border town Šid

⇄ **TYPE OF BORDER**
External land border

🔍 **PUSHBACKS EVIDENCED IN 2020**
Yes

→| **MAIN METHODS**
Preventing entries, summary expulsions

⚡ **VIOLENCE REPORTED**
Beatings, stealing of belongings, threats

👁 **EXAMPLES OF CSOS COLLECTING EVIDENCE**
Belgrade Centre for Human Rights, BVMN, No Name Kitchen

⚖ **RECENT RELEVANT COURT CASES**
-

BRIEF CONTEXT

The Serbian-Romanian border has become a new key location on the "Balkan route". Beatings, intimidation, and illegal refoulements are commonplace, and a Serbian NGO estimates that "at least 50" people are pushed back from Romania to Serbia daily. However, in the absence of official figures, it is difficult to know the real numbers.[301] Nevertheless, faced with these allegations, both the Romanian National Council and the Border Police have consistently denied the occurrence of violence at the border.[302]

KEY TRENDS

Prospective asylum seekers enter Romanian territory mainly through the south-western border with Serbia and the southern border with Bulgaria, as well as through the northern border with Ukraine. In 2019, more than half of the individuals apprehended due to 'irregular entries' were recorded from Serbia. A total of 2,048 persons were apprehended and 6,042 persons were prevented by the Romanian border police from entering.[303]

According to UNHCR in Serbia, 1,561 individuals were collectively expelled from Romania to Serbia during 2019, an increase in comparison to the year prior. Unaccompanied children were also apprehended in 2019 when seeking to enter Romania from Serbia, prosecuted for having crossed "illegally" and for engaging in smuggling, and held in pre-trial detention.[304]

The Inspectorate General of the Border Police stated that 1,823 individuals were found at the Serbian border trying to enter the country in the first seven months of 2020.[305]

NATURE OF THE PUSHBACKS AND EVIDENCE

No Name Kitchen volunteers have reported eight testimonies of pushbacks in Šid from Romania to Serbia since June 2020, while emphasising that the actual number of pushbacks is much higher. Two of these testimonies stated that Romanian authorities entered Serbia and brought individuals back into Romania in order to detain them. Two families were taken to the Serbian-Romanian border near Kikinda. After being questioned, the families said that their belongings were stolen from them and that the authorities became physically violent towards the male group-members before the families were pushed back to Serbia.[306]

One of the respondents stated that everyone (except children) were beaten, and that men were hit on their faces and hands. Their personal belongings, including phones, power banks, ID cards, and money, were stolen. Everyone in the group, including children, were searched. The police confiscated their belts and shoelaces to make walking difficult. Volunteers from No Name Kitchen in Šid reported that they had talked to other groups which described similar behaviour by police officers, indicating a pattern of violent and abusive behaviour by the Romanian authorities.[307] Four more testimonies of pushbacks from Romania to Serbia were collated in August 2020.[308]

Photo credit: Tessa Kraan, Serbia

301. Euronews, Article, 23 September 2020.
302. Ibid.
303. ECRE, AIDA Report on Romania, 2019 Update – April 2020, p.19.
304. Ibid.
305. Euronews, Article, 23 September 2020.
306. BVMN, Monthly Report, July 2020.
307. Ibid.
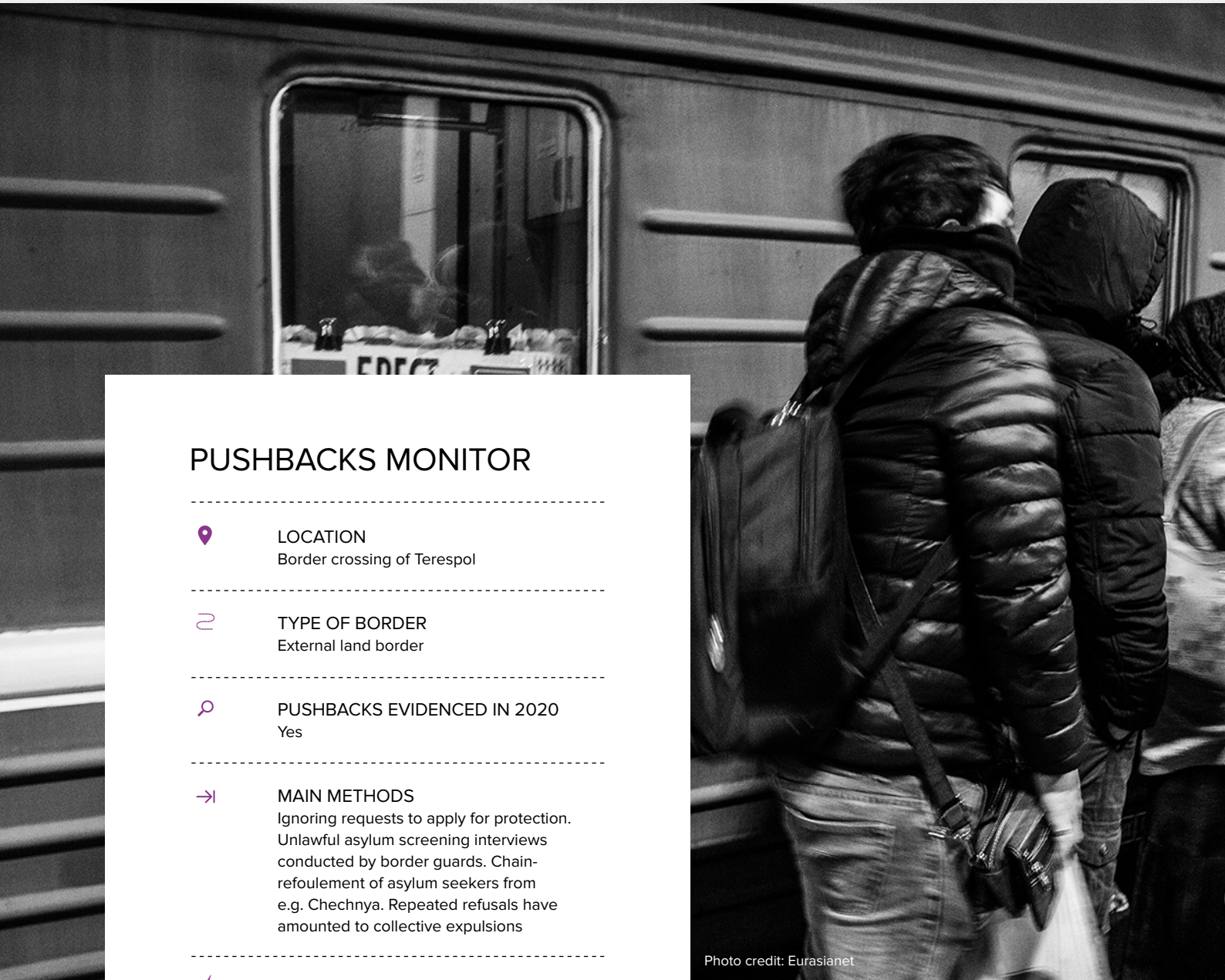308. BVMN, Monthly Report, August 2020

POLAND – BELARUS LAND BORDER

Photo credit: Eurasianet

PUSHBACKS MONITOR

LOCATION
Border crossing of Terespol

TYPE OF BORDER
External land border

PUSHBACKS EVIDENCED IN 2020
Yes

MAIN METHODS
Ignoring requests to apply for protection. Unlawful asylum screening interviews conducted by border guards. Chain-refoulement of asylum seekers from e.g. Chechnya. Repeated refusals have amounted to collective expulsions

VIOLENCE REPORTED
Structural violence through failures to properly document relevant information; mockery and humiliation

EXAMPLES OF CSOS COLLECTING EVIDENCE
Borderline-Europe and Human Constanta

RECENT RELEVANT COURT CASES
ECtHR M.K. and Others v Poland (23 July 2020)

BRIEF CONTEXT

Unlawful pushbacks are a stark reality at the EU's approximately 400 km-long external land border between Poland and Belarus. Here, Polish border guards have been found to engage in pushbacks of asylum seekers, most notably at the border crossing of Terespol, denying access to the asylum procedures and taking part in mockery and humiliation tactics.

KEY TRENDS

Widespread irregularities in Poland's acceptance of applications for international protection at the border have been reported over the past few years. It has become evident that Polish border guards are engaging in unlawful practices of pushbacks of asylum seekers, most notably at the Polish-Belarusian border crossing of Terespol. According to the Polish Border Guard, 1,610 individuals applied for asylum at the border crossing point in Terespol in 2019, accounting for more than one-third of total protection applications that year. However, 4,378 individuals were refused entry at the border at the same crossing point. Of those, only 81 were able to lodge an appeal against the refusal.[309] These trends were also reported following independent monitoring visits by Human Rights Watch, Amnesty International, the Polish Commissioner for Human Rights, and other organisations as far back as in 2015 and 2016.[310]

In contravention of Polish law, members of the Polish Border Guard are reported to regularly conduct asylum screening interviews rather than handing over claims to the Office for Foreigners. In addition, border guards regularly ignore requests to apply for protection, often invoking a lack of a valid entry visa as grounds for returning individuals to Belarus, which is also in violation of the law.[311] Attempted crossings reached record levels in August and September of 2016, with up to 3,000 would-be asylum seekers stranded in the Belarusian city of Brest hoping to reach Poland.[312] More recently, during the Covid-19 pandemic in 2020, the obstruction of access to asylum has continued, and has led to court rulings, including one in July 2020, which found that the refusals to accept asylum claims at the border constituted collective expulsions.[313]

NATURE OF THE PUSHBACKS AND EVIDENCE

The nature of the pushbacks at the Polish-Belarusian border mainly take the shape of refusals to accept asylum applications, oftentimes leading to *chain-refoulement* of at-risk individuals from e.g. Chechnya and Tajikistan. In 2019, Poland rejected 89% of initial asylum applications, the third highest rejection rate in Europe, behind Hungary and the Czech Republic.[314] Several cases alleging illegal pushbacks in this respect have been brought before the European Court of Human Rights. In the aforementioned case of *M.K. and Others v Poland*, the Court ruled on 23 July 2020 that Poland's repeated refusal to accept asylum applications amounted to collective expulsion. The case centred on repeated attempted applications for asylum submitted by Russian nationals attempting to flee from Chechnya, all of whom were denied access to asylum procedures. The Court noted that Polish authorities had exposed asylum seekers to the risk of *chain-refoulement*. In this case, Russian citizens can remain in Belarus for 90 days, after which they face risk of deportation to Russia.[315]

According to a 2019 report from Borderline-Europe, Poland has failed to implement recommendations made by the international community. Human Constanta, a human rights NGO that provides legal assistance to asylum seekers stuck in the Belarusian border town of Brest, reports that frequent and grave irregularities in the asylum process still remain. Security and border guards continue to conduct interviews rather than transfer claims to the Office for Foreigners. Interviews last as few as two minutes and are often conducted without consideration of confidentiality or the provision of a safe environment. Instead of ensuring appropriate interpretation services, asylum seekers report that fellow applicants are enlisted to interpret when needed. Asylum seekers also report that border guards fail to properly document relevant information and openly mock and humiliate them.[316]

In the first quarter of 2020, Human Constanta found that 667 individuals attempted to apply for international protection in Poland at the border crossing between Brest and Terespol. Polish authorities permitted individuals to enter the country to apply for asylum in only 73 specific cases. In February 2020, a family that had attempted to cross the border 92 times was finally permitted to enter. Polish authorities closed the border with Belarus on 15 March 2020 due to Covid-19, and sales of train tickets to the Terespol station were ceased.

Between April and May 2020, there were no asylum applications submitted at the border crossing in Terespol. This was due to a suspension of rail connections and other forms of traffic. The Polish Ombudsman reported that this made access to the asylum procedure virtually impossible. According to the Commission of Experts of the Ombudsman, the lack of effective access to the asylum procedure during the Covid-19 pandemic was a violation of international and national law.[317] Subsequently, from 11 May 2020 onwards, asylum applications were once again registered at the border, albeit not at the border crossing in Terespol.[318]

---

309. Asylum Information Database (AIDA), April 2020, 'Country Report: Poland – 2019 Update'.
310. Human Rights Watch. 'Poland: Asylum Seekers Blocked at Border.' 1 March 2017.
311. *Ibid*.
312. Pikulicka-Wilczewska, Agnieszka. Relief Web. 'Tajikistan: Asylum Seekers Stranded in Limbo on Polish Border.' 18 January 2017.
313. See e.g. *M.K. and Others v Poland, 23 July 2020*.
314. Chamie, Joseph. Inter Press Service. 'Seeking Asylum? Not Here!' 1 September 2020.
315. European Database of Asylum Law. *"M.K. and Others v Poland: Repeated refusal to accept asylum applications amounted to collective expulsion."* 23 July 2020.
316. Auer, Marlene. "Poland continues arbitrary returns of asylum seekers to Belarus." Borderline-Europe. 22 July 2019.
317. European Union Agency for Fundamental Rights. 'Migration: Key Fundamental Rights Concerns. Quarterly Bulletin', 1.4.2020-30.6.2020.
318. *Ibid*.

SLOVAKIA AND HUNGARY BORDERS WITH UKRAINE

Photo credit: lennystan / Shutterstock.com

PUSHBACKS MONITOR

LOCATION
Slovakia and Hungary borders with Ukraine

TYPE OF BORDER
External land border

PUSHBACKS EVIDENCED IN 2020
Yes

MAIN METHODS
Refusal to access asylum in Slovakia and Hungary; summary returns to Ukraine

VIOLENCE REPORTED
Not specifically (doesn't mean it isn't occurring)

EXAMPLES OF CSOS COLLECTING EVIDENCE
Human Rights League

RECENT RELEVANT COURT CASES
ECtHR, Asady and Others v. Slovakia, March 2020

BRIEF CONTEXT

Pushbacks at the borders of Slovakia and Hungary, respectively, with Ukraine have been occurring since 2009, despite not garnering much attention. Cases have however been reported since then, though they have not been as prevalent or registered as often as at other EU borders.

KEY TRENDS

The organisation Human Rights League, which has been providing legal counselling in Slovakia for years, indicates that pushbacks are ongoing. While the group is unable to estimate the exact number of pushbacks having occurred, they have been made aware of numerous pushbacks cases continuously over the years through legal counselling sessions in detention centres close to the border. For those who manage to cross the border into Slovakia from Ukraine, the use of detention with limited access to legal counselling and lawyers was widely reported.[319]

The individuals trying to cross the EU borders from Ukraine are first and foremost nationals from India, Ukraine (since the outbreak of the internal conflict in 2014), Bangladesh, and Afghanistan.

NATURE OF THE PUSHBACKS AND EVIDENCE

People seeking to enter the EU from Ukraine are typically intercepted by police officers operating at the border to Ukraine, who routinely ignore requests for asylum. Individuals therefore keep being readmitted to Ukraine without an opportunity to claim asylum in the EU. According to border police, very few of those who cross wish to apply for asylum, though this contradicts evidence gathered through interviews with people who tried to cross (in some cases, more than once). In a report from back in 2010, all of the 15 people interviewed claimed they had requested asylum at the Hungarian or Slovakian border to Ukraine and were still returned to Ukraine.[320]

Ukraine is not considered a 'safe third country' by the EU. The pushbacks from both Slovakia and Hungary are mainly conducted under readmission agreements between each country and Ukraine, yet both countries have denied using the agreements to conduct these summary return practices to Ukraine.[321] There is some evidence to suggest that these readmissions are carried out under close cooperation between Slovakia and Ukraine and through joint patrols. Joint forces of this nature have been heavily supported by the EU.

A recent case in the European Court of Human Rights[322] concerning the expulsion of 19 Afghan asylum seekers from Slovakia to Ukraine in 2014 found that when the asylum seekers were intercepted, they were put through a quick interview based only on yes/no questions and were subsequently returned to Ukraine on the basis of an "expulsion decision for them as a group." The court did not rule this as an unlawful expulsion even though it is questionable whether the individuals had the opportunity to properly present their claims. Human Rights Watch has stated that most people who were returned to Slovakia complained about their asylum claim being ignored by authorities. Instead, they claim that they were returned quickly "within hours of apprehension," making it incredibly challenging to make a substantial claim to remain in the country.[323]

Photo credit: Drone Media Studio / Shutterstock.com

319. Data submitted in the form of a semi-structured questionnaire, August 2020.
320. Border Monitoring Project Ukraine, Report, Access to Protection Denied, 2010
321. Irina Muetzelburg, The EU's external asylum policy in Ukraine. 9th Pan-European Conference on International Relations: The Worlds of Violence, EISA, Sep 2015.
322. Asady and Others v. Slovakia, application no. 24917/15, March 2020.
323. Blog post by Nensi Sinanaj, Push backs at land borders: Asady and Others v. Slovakia and N.D and N.T v. Spain. Is the principle of *non-refoulement* at risk?, June 2020.

SPAIN – MOROCCO LAND BORDER

PUSHBACKS MONITOR

LOCATION
Ceuta and Melilla borders with Morocco

TYPE OF BORDER
External land border

PUSHBACKS EVIDENCED IN 2020
Yes

MAIN METHODS
"Hot pushbacks" and "express pushbacks" are both collective expulsions preventing people from seeking asylum

VIOLENCE REPORTED
Beatings by the Moroccan authorities and the Spanish Guardia Civil

EXAMPLES OF CSOS COLLECTING EVIDENCE
Caminando Fronteras, Asociación Elin, Migreurop

RECENT RELEVANT COURT CASES
UN Committee on the Rights of the Child (2019)

BRIEF CONTEXT

The Spanish enclaves of Ceuta and Melilla are the only land borders that Europe shares with Africa and the first entry door to the Schengen area from the African continent. The fences[324] encircling the enclaves were built in the late nineties following the signing of the 1992 Spanish-Moroccan Readmission Agreement,[325] which came into force officially in 2012. Pushbacks and rights violations at the borders of Ceuta's and Melilla's enclaves are not a recent phenomenon.
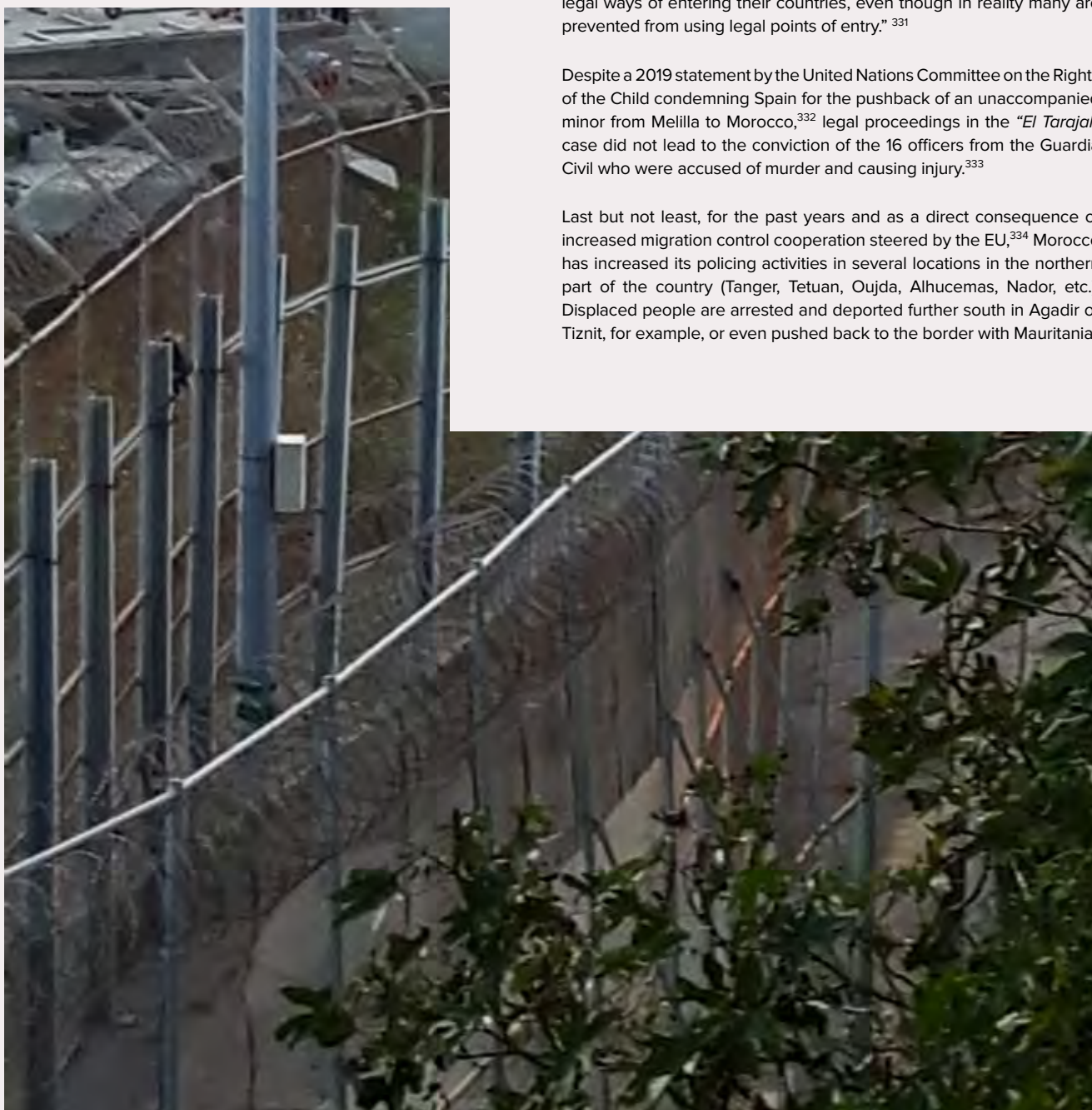
KEY TRENDS

Pushbacks have been consistently documented by NGOs for at least two decades[326] and the situation has gradually worsened since March 2015. Indeed, the adoption of the Law on the protection of citizen security[327] introduced an amendment to the Aliens Act, which consists of a dedicated regulation concerning the "special regime of Ceuta and Melilla." Third-country nationals who are found to be crossing the border irregularly at Ceuta and Melilla border lines can lawfully be "rejected at borders." [328]

While this amendment has been heavily criticised[329] for legalising pushbacks and violating the right to access asylum, a recent judgment by the European Court of Human Rights has awarded it legal legitimacy. As a matter of fact, in *N.D and N.T v Spain*,[330] the Court considered that the lack of individual removal decisions could be attributed to the fact that the two applicants had not made use of the official entry procedures existing for that purpose, therefore placing themselves in an unlawful situation. As several NGOs pointed out, "the case might set a dangerous precedent, allowing member states to claim there are legal ways of entering their countries, even though in reality many are prevented from using legal points of entry." [331]

Despite a 2019 statement by the United Nations Committee on the Rights of the Child condemning Spain for the pushback of an unaccompanied minor from Melilla to Morocco,[332] legal proceedings in the *"El Tarajal"* case did not lead to the conviction of the 16 officers from the Guardia Civil who were accused of murder and causing injury.[333]

Last but not least, for the past years and as a direct consequence of increased migration control cooperation steered by the EU,[334] Morocco has increased its policing activities in several locations in the northern part of the country (Tanger, Tetuan, Oujda, Alhucemas, Nador, etc.). Displaced people are arrested and deported further south in Agadir or Tiznit, for example, or even pushed back to the border with Mauritania.

NATURE OF THE PUSHBACKS AND EVIDENCE

The evidence of summary expulsions, pushbacks, violence, and abuses at the borders of the enclaves is vast. Since early 2020, several NGOs, including Asociación Elin[335] based in the Spanish enclave of Ceuta as well as Caminando Fronteras, have reported cases of pushbacks at the border between Morocco and the enclaves. For instance, on 19 January 2020, two people who had crossed the border fence into Ceuta were pushed back by Spanish authorities, preventing them from applying for asylum. These two individuals were part of a group of around 300 people that was blocked by the Moroccan authorities.[336]

The pushbacks taking place at the Spanish enclaves can be categorised into three types:

1. "Hot pushbacks", which have been operated by the Spanish Guardia Civil since the end of the 1990s and early 2000s. Displaced people trying to jump the fences between Morocco and the enclaves are arrested and returned to Morocco without any police identification and legal support. They do not receive information about their right to apply for asylum, nor are they assisted by a translator. If a person is injured, the Red Cross provides medical assistance before the individual is returned to Morocco. These "hot pushbacks" are regulated by the 2015 Law on the protection of citizen security.

2. "Express pushbacks", such as those reported on 23 August 2018, are legally grounded in the implementation of the Spain-Morocco Readmission Agreement. In August 2018, 116 displaced people had crossed the border and arrived at Ceuta's temporary reception centre (CETI). The following day, they were all taken to the police station and the national police deported them back collectively to Morocco without providing any documentation. Translation was not available and despite their lawyers being present, nothing could be done to prevent this summary deportation.[337]

3. Moroccan citizens living near Ceuta are allowed to spend the day in the Spanish enclave (no overnight stay). However, those who are arrested for staying overnight in Ceuta, including minors, are handed back to Moroccan authorities without any documentation. These summary deportations are also based on the Spain-Morocco Readmission Agreement.

Photo: At the Spanish enclaves

IMPACT ON HUMAN LIVES

Attempts by displaced individuals to climb the border fences are met with brutal repression and harsh violence from both the Moroccan and Spanish border guards.[338]

On the Moroccan side of the border, displaced people are living in squalid conditions in the Nador region, mainly in makeshift camps in the forest, without appropriate access to food, water, and sanitation or health support.[339]

In Ceuta and Melilla, displaced people who stay on the Spanish territory are accommodated in CETIs, which are persistently overcrowded. The CETI in Melilla hosts close to 1,400 people, twice its intended capacity, including some 150 children, as well as women and highly vulnerable people. IOM, UNHCR, and Amnesty International have all called for urgent action to improve reception conditions in Melilla and accelerate transfers to the mainland.[340]

324. A 2015 report by Migreurop (available in French and Spanish) extensively described the fences of Melilla including maps and photos : see pages 25-29.

325. Agreement between the Kingdom of Spain and the Kingdom of Morocco on the movement of people, the transit and the readmission of foreigners who have entered illegally, 13 February 1992.

326. See the reports and press releases produced by Migreurop on Ceuta and Melilla since early 2000', such as this joint Opinion, Ceuta and Melilla : the EU declares war on migrants and refugees, 12 October 2005. See also Human Rights Watch, Spain : Halt Summary Pushbacks to Morocco, News, 18 August 2014.

327. Organic Law 4/2015 of 30 March 2015 on the protection of citizen security.

328. ECRE, 2019 AIDA report, Section on access to the territory and pushbacks, April 2020

329. ECRE, 'Spain: New law giving legal cover to pushbacks in Ceuta and Melilla threats the right to asylum – Op-Ed by Estrella Galán, CEAR', 27 March 2015

330. ECtHR, Grand Chamber, Case of N.D. and N.T. v. Spain, Applications nos. 8675/15 and 8697/15, 13 February 2020.

331. Are You Syrious, Daily Digest, 13 February 2020.

332. Committee on the Rights of the Child, Views adopted by the Committee under the Optional Protocol to the Convention on the Rights of the Child, concerning communication No. 4/2016 - CRC/C/80/D/4/2016, 12 February 2019.

333. ECRE, 2019 AIDA report, Section on access to the territory and pushbacks, April 2020

334. Statewatch, Aid, Border security and EU-Morocco cooperation on migration control, Analysis, November 2019.

335. Asociación Elin a member of the End Pushbacks Partnership based and active in Ceuta since early 2000 has been promoting human rights of displaced people and monitoring police violence at the border between Spain and Morocco.

336. ECRE, 2019 AIDA report, Section on access to the territory and pushbacks, April 2020.

337. Migreurop, L'Espagne, « terre d'accueil » ?, article and map, 22 September 2018 (available in French, Spanish and Italian).

338. Human Rights Watch, Outsourcing Border Control to Morocco : a Recipe for Abuse, News, 28 August 2017.

339. Migreurop, Ceuta and Melilla : centres de tri à ciel ouvert, Report (also available in Spanish), 2015.

340. InfoMigrants, Migrants in Melilla in danger, UNHCR, IOM and Amnesty Warn, Article, 31 August 2020.

PUSHBACKS AT EXTERNAL EU BORDERS

SEA PUSHBACKS

Photo credit: Refugee Rescue, Greece

SPAIN – MOROCCO SEA BORDER

Photo credit: David Acosta Allely / Shutterstock.com

PUSHBACKS MONITOR

LOCATION
Spain – Morocco, mainly the Canary Islands

TYPE OF BORDER
External sea border

PUSHBACKS EVIDENCED IN 2020
Yes

MAIN METHODS
Preventing disembarkation, hot returns

VIOLENCE REPORTED
Physical and verbal abuses

EXAMPLES OF CSOS COLLECTING EVIDENCE
Alarm Phone, APDHA, Caminando Fronteras, CEAR, Asociación Elin

RECENT RELEVANT COURT CASES
Provincial Court in Cadiz, August 2020, dismissed 16 Guardia Civil officers for the death of 15 people

BRIEF CONTEXT

In 2018, Spain recorded more sea arrivals than the past eight years combined, during which time people mainly arrived on the sea route from Morocco. From 2018 onwards, individuals started also arriving more frequently from Mauritania, Senegal, and Gambia.[341] Pushbacks in response to crossings from northern Africa to Spain have been taking place for years, sometimes leading to tragedies such as the Tarajal Case in 2014.[342]

KEY TRENDS

Asylum seekers reach Spain via several sea routes. Based on data from 2019,[343] almost 85% of displaced people (21,958 persons) disembarked on mainland and the Balearic Islands using the Western Mediterranean route from northern Africa through the Straits of Gibraltar or the Alborán Sea.[344] Approximately 2,698 persons disembarked on the Canary Islands, beginning from the last months of 2019. The rest (1,512 persons) disembarked in the enclaves of Ceuta and Melilla. According to different estimates, between 321[345] and 665[346] persons died or disappeared over the course of 2019 whilst trying to reach Spain via the sea route.

More recently, arrivals to Spain have decreased again. As of September 2020, when comparing with the same period in 2019, a 50% decrease in arrivals has been recorded. Meanwhile, there has been a significant increase in arrivals in the Canary Islands (+550%) during the same period. The reactivation of this route is largely a consequence of intensified control of the Strait area, the Andalusian coasts, as well as Ceuta and Melilla.[347] The Canary Islands route can take up to 10 days to complete by boat, during which people run a high risk of running out of water, food, and fuel. UNHCR confirmed that many of the individuals arriving via this route are from the Sahel and Ivory Coast, with a high number of women, children, and individuals who are likely to require international protection. The increase of arrivals has caused deteriorating conditions on the islands recently, with 100 people sleeping in makeshift tents on the island's docks. In response, the Spanish government has injected 1.5 million Euros into 'border surveillance equipment.' [348]

While cases of pushbacks have been known for years, a recent ruling on pushbacks evidences a leaning towards impunity of officials involved. In August 2020, a provincial court in Cádiz let 16 Guardia Civil officers go, after ruling that evidence was insufficient to prosecute them for their involvement in the deaths of 15 people who tried to reach Spain by sea, as well as the immediate expulsion ('hot pushback') of 23 other displaced people in 2014.[349] The episode, known as the Tarajal Case, had seen displaced people drowning as Guardia Civil officers allegedly fired rubber bullets and tear gas to halt their journey.

Moreover, search and rescue operations face new and worrying challenges, including the prohibition of rescue boats managed by NGOs from setting sail from Spanish shores.[350] The Spanish Government has actively strived to achieve their goal of reducing migration by 50%, which was set in January 2019 by "avoiding active patrol by the Salvamento Marítimo in the Mediterranean coasts." Instead, these types of key functions have been increasingly outsourced to Morocco. This tactic spills over into adding more pressure on Italy to open its ports and, ultimately, the overall repression of Search and Rescue activities in the Mediterranean, while Moroccan authorities are given a wider mandate to conduct operations in Spanish territorial waters.[351]

NATURE OF THE PUSHBACKS AND EVIDENCE

Asociación Elin is amongst the civil society groups that have been raising awareness about pushbacks at sea by the Guardia Civil since August 2018. They report that the Civil Guard has been intercepting boats from Morocco and transferring displaced people to the custody of the Moroccan marine. They additionally report that physical and verbal abuse is commonplace by the state authorities, and that there is a lack of due process, including legal assistance, information in a language that displaced people can easily understand, etc.[352]

Reports from the Spanish NGO Caminando Fronteras in early 2020 implicate that the Spanish Civil Guard pushed back 42 displaced people, including 26 women and two children, to Morocco after disembarking in the Spanish Chafarinas islands. This incident prompted 400 human rights NGOs to sign a statement condemning this illegal action.[353] The organisation also posted an audio recording from a person, who was a victim of the pushbacks, describing the events.[354]

Just prior to the state of emergency in March 2020, Caminando Fronteras reported on a pushback operation of 12 people at the Isla del Mar, which also affected two pregnant women. The whole group eventually ended up in Morocco. During the pushback, they shared written messages with the organisation, which clearly showed that they had been apprehended by the Spanish military, and subsequently handed over to the Moroccans.[355]

On 11 September 2020, Alarm Phone reported that five people had arrived to Peñón de Alhoceimas, a Spanish islet just 0.7 km from Morocco. One of these individuals was a sick woman in deteriorating health. They were promptly taken back to Morocco shortly thereafter without any administrative procedures.[356]

341. IOM, Flow Monitoring Database and ECRE, AIDA report on Spain, 2019 Update, April 2020.
342. ECRE, News, Four years after tragedy NGOs still call for proper investigations and the end of pushbacks in the Spanish enclaves, 8 February 2018.
343. ECRE, AIDA report on Spain, 2019 Update, April 2020.
344. Refugee International, see the Map produced as part of the Issue Brief, 27 July 2020.
345. IOM estimates, see Missing Migrants Project portal.
346. According to the NGO Caminando Fronteras, as reported by ECRE, AIDA report on Spain, 2019 Update, April 2020.
347. El Foro De Ceuta, Article based on CEAR Report 2020 Annual Report, 19 June 2020 (in Spanish).
348. AP News, Article, Migrants trying to reach Europe pushed to deadly Atlantic, 2 September 2020.
349. Statewatch, News, After six long years, no justice for border deaths and pushbacks to Morocco from Spain, 4 August 2020.
350. ECRE, AIDA report on Spain, 2019 Update, April 2020.
351. Ibid.
352. Data collated by semi-structured questionnaire in August 2020
353. Ibid.
354. Caminando Fronteras, Video shared on Twitter, 3 January 2020.
355. El Pais, Article, 18 May 2020 (in Spanish)
356. Alarm Phone, Twitter post, 11 September 2020.

ITALY – LIBYA BORDER[357]

Photo credit: Filippo66

PUSHBACKS MONITOR

◉ LOCATION
Central Mediterranean Route

⇄ TYPE OF BORDER
External sea border

⊙ PUSHBACKS EVIDENCED IN 2020
Yes

→| MAIN METHODS
Refusing to answer rescue calls; preventing disembarkation in Italy; instructing Libyan Coast Guard to intercept and return people

---

⚡ VIOLENCE REPORTED
Beatings and verbal abuses during interceptions at sea, removal of engine, dangerous "rescue" practices by the Libyan Coast Guard; psychological violence by keeping people stranded at sea

---

👁 EXAMPLES OF CSOS COLLECTING EVIDENCE
Alarm Phone, Borderline Sicilia, Sea Watch, SOS Méditerranée, Watch the Med, Amnesty International

---

⚖ RECENT RELEVANT COURT CASES
ECtHR, Hirsi Jamaa and others v. Italy, 2012 (violation of the principle of non-refoulement and prohibition of collective expulsions) and Ruling Civil Court of Rome of 28 November 2019 (illegal pushback to Libya in 2009)

BRIEF CONTEXT

With the 'cooperation on migration' between Italy and Libya being steered by a Memorandum of Understanding (MoU), signed in 2017 and renewed in 2020, the Central Mediterranean Sea route continues to be one of the world's deadliest migration routes.[358] It is characterised by deterrence, pushbacks, and a flagrant disregard for obligations under maritime, international, and domestic law.

1,319 people were reported to have died or gone missing while crossing the Mediterranean in 2019 alone, mainly in the Central Mediterranean.[359] In 2020, 425 deaths have been recorded thus far along the Central Mediterranean Route (as of 5 October 2020).[360] Organisations such as Watch the Med have been recording boats in distress, interceptions, and pushbacks for years.[361] Similarly, NGO rescue ships have been heavily targeted by the Italian authorities, leading to all of them being forced to remain in port as of early October 2020.[362]

KEY TRENDS

Cooperation on migration and border control between Italy and Libya is nothing new. It dates back to the late 1990s, when Italy and the Ghaddafi regime at the time concluded several agreements aimed at "curbing migration flows" from Libya and increasing returns and readmission.[363] Such cooperation was suspended in 2012, when the civil war broke out in Libya, and Italy was condemned by the European Court of Human Rights in the Hirsi Jamaa case.[364] In 2017, a new MoU was signed between Italy and Libya, with the clear objective to hinder displaced people from transiting through from Libya to Europe. Its focus was on securitising Libya's borders and preventing departures.[365] This MoU was tacitly renewed for a further three years without amendments[366] on 2 February 2020, amid widespread criticism over its legality and effects.[367] Through the MoU, Italy continues to support the Libyan Coast Guard.[368]

In a landmark decision on 28 November 2019, the Court of Rome declared the illegitimacy of a pushback that took place in 2009, whereby 89 people were pushed back by Italian authorities to Libya. The Court also ordered the issue of an entrance visa to allow the victims of this pushback to access asylum in Italy and sentenced the Italian authorities to pay damages. Five Eritreans consequently landed in Rome in September 2020.[369]

As part of Italy's cooperation with the Libyan Coast Guard, it has been able to outsource its pushbacks operations to the Libyan Coast Guard (sometimes referred to as 'pullbacks'). Since 2016, it is estimated that 60,000 displaced people, including women and children, have been stopped at sea and have ended up in Libya following interception by the Libyan Coast Guard. According to NGO estimates, 8,000 people were intercepted by the Libyan Coast Guard in 2019 and returned to systematic detention and abuse in Libya.[370] As of 14 September 2020, there have already been 8,435 cases in 2020.[371]

Through this cooperation, Italy is fully disregarding grave human rights abuses against refugees and displaced people returned to, or trapped in, Libya.[372] This recent shift from Italian operated pushbacks to operations performed by Libya, allows Italy to evade their responsibilities in relation to seekers of international protection hoping to reach its shores.[373] While there are large volumes of evidence of law and rights violations, attempts to hold Italy, and more broadly the EU whose involvement in such cooperation is significant, accountable for its deadly cooperation policy with Libya have been unsuccessful.[374] As recalled by dozens of NGOs, "the overall policy of cooperation with the Libyan authorities on border control and management has been designed and consistently implemented at the EU level."[375] In June 2020, the Global Legal Action Network (GLAN), and two Italian NGOs, the Association for Juridical Studies on Immigration (ASGI), and the Italian Recreational and Cultural Association (ARCI) filed a Petition to the European Parliament concerning the mismanagement of EU Funds in Libya's Integrated Border Management Programme. It is part of a broader initiative by the three organisations to challenge the EU's support in illegal pushbacks.[376]

Another key trend emerged in 2019 and has since been further strengthened due to the Covid-19 pandemic. Italy created the possibility for the Minister of Interior to restrict or prohibit the entry, transit, or stay of ships in the territorial sea in cases where prohibitions imposed by law were not respected.[377] These provisions, in conjunction with Italy declaring itself "not a safe harbour"[378] due to the Covid-19 pandemic, have led to situations whereby rescue ships have been refused disembarkation, despite being stranded at sea for weeks. This heavily contributed to the discouragement of rescue operations at sea,[379] thus forcing rescue ships to remain in port.[380] The recent Decree-Law no. 130 of 21 October 2020 states that in case of non-compliance with the above-mentioned restrictions, the alleged perpetrators face a criminal sanction and no longer an administrative fine only.

NATURE OF THE PUSHBACKS AND EVIDENCE

Borderline Sicilia[381] observes that most sea pushbacks are conducted by the Libyan Coast Guard since the entry into force of the Italy-Libya bilateral agreement. There are fewer landings on Italian territory yet increased deaths and distress at sea, which is aggravated by Italy's externalisation of responsibility to the Libyan SAR zone, the lack of SAR NGO vessels, and the criminalisation of NGOs, who are treated as 'human smugglers'. Most NGO vessels had to wait up to 20 days at sea over the course of several months in 2020, before being able to dock at a safe port, which ought to be seen as constituting a form of "non-physical violence", causing extreme psychological stress. For many people who already experienced torture and trauma, this is particularly detrimental.[382]

In addition, organisations consistently report a shameful lack of reaction to distress calls and suffering at sea, leading to unprecedented deaths and negligence. For example, 12 people lost their lives due to inaction in April 2020 when a boat in distress was abandoned, leading to people dying of drowning or dehydration. The remaining 53 people were sent back to Libya.[383] SAR organisations also evidence that EU aerial assets are being utilised to track boats carrying displaced people, and that this information is used to help the Libyan coastguard locate them more easily. These joint operations have led to the capture and return of tens of thousands to Libya.[384]

In June 2020, Alarm Phone received distress calls from international waters notifying them of 95 people being stranded at sea for two days. A baby was born onboard, and the boat was at risk of capsising. Alarm Phone posted an urgent tweet and noted that even though Navy vessels and Maltese aircrafts were present, neither of them intervened to offer aid. After three days at sea, the Mare Jonio vessel reached the boat, only to see the Libyan Coastguard conducting a pullback.[385] Similar incidents have been reported throughout the summer of 2020,[386] leading to more deaths at sea and forced returns to Libya, often under Frontex observation.[387]

Furthermore, people who are pushed back to Libya risk becoming victims of a chain-pushback. During the first month of the Covid-19 outbreak, Libyan authorities pushed back or expelled 1,302 people.[388] The detention centre in Kufra expelled 900 men and women in April 2020. They were driven hundreds of miles through desert lands and dropped off in border towns in Chad and Sudan.[389]

Photo credit: PR-PhotoDesign / iStock.com

IMPACT ON HUMAN LIVES

In many cases, people are forced to stay on rescue ships for a long time before they can disembark. When Informal Disembarkation Agreements are reached between countries, people often spend long periods in hotspots or first reception centres before reaching other countries.[390] Needless to say, the situation has deteriorated due to the Covid-19 situation. Those who are not taken to facilities (including detention centres) often end up hiding from the police, without being able to access shelter or medical care. Indeed, since Italy's latest cooperation agreement with Libya, there has been severe tightening of access to asylum and basic services.[391]

The situation of Libya's human rights violations is of the gravest calibre.[392] UNHCR published a position paper on 9th September 2020 which clearly stated that Libya cannot be recognised as a 'safe third country,' upon failing to meet criteria "for being designated as a place of safety for the purpose of disembarkation following rescue at sea."[393] People on the move are constantly at risk of detention and/or assault and exploitation. Basic services such as medical aid are incredibly poor. There is constant reporting of the gravest human rights violations, including killings, extreme violence, torture, rape, inhumane conditions in detention, extortion, and forced labour. Some of these crimes take place with "collusion or complicity of some government-affiliate actors." It appears that the situation is particularly grim for those who are pulled-back and taken to special detention centres. They are held indefinitely and under no judicial process. Individuals from 'sub-Saharan Africa' are particularly at-risk due to racial discrimination, while women and girls are subjected to widespread forms of rape and sexual violence.[394] A recent Save the Children report noted that unaccompanied and separated children who arrived irregularly in Italy explained that "Libya was the most traumatising part of their journey." [395]

A report published by Amnesty International in 2020 corroborates previous harrowing reports on Libya's human rights abuses. Some recent developments include displaced people who were disembarked in Libya being taken to unofficial detention centres, e.g. Tripoli's notorious Tobacco Factory. During the Covid-19 period, they have also been accused of spreading infections, driven by heavily racist and xenophobic rhetoric. Displaced people out of detention face the constant risk of being arrested, or abducted by militias, armed groups, and traffickers. Many die in detention centres due to torture, violence, starvation, or untreated medical issues. Amnesty also reported that militias and armed groups routinely deprive people of liberty, torture, and even attack people on the move, at times forcing them to take part in military operations.[396] Disembarkation itself could also prove dangerous, as evidenced in July 2020, when local authorities shot a group of 70 people in Khoms as they were getting off a boat. Two people died and three were injured.[397]

[357] Some of the procedures described in this section also involve other North African countries, in particular Tunisia. On 17 August 2020, Italy and Tunisia reached an agreement on immigration which is analysed extensively in this document by ASGI, FTDES and ASF.

[358] IOM, Missing Migrants Project, Database.

[359] UNHCR, Operational Portal, Mediterranean.

[360] IOM, Missing Migrants Project, Database.

[361] Watch The Med – Alarm Phone, Reports since 2011 on the situation along the Central Mediterranean Sea Route

[362] SOS Mediterranee, Eyes on the Central Med, 30 September 2020.

[363] Middle East Institute, Article, Italy and its Libyan Cooperation Program: Pioneer of the European Union's Refugee Policy?, 1 August 2010.

[364] ECtHR Judgment, Hirsi Jamaa and Others v. Italy, 2012.

[365] EU Migration Law Blog, Post, The Italy-Libya Memorandum of Understanding: The baseline of a policy approach aimed at closing all doors to Europe?, 2 October 2017.

[366] The Italian Government committed to amending the MoU in view of improving the situation for displaced people in Libya. See Statewatch Article March 2020. At the time of writing in September 2020, no amendment has yet been approved.

[367] Amnesty International, Italy Report 2019

[368] USDOS – US Department of State: Country Report on Human Rights Practices 2019 - Italy, 11 March 2020

[369] ASGI, Press release, 8 September 2020.

[370] SOS Mediterranee, Eyes on the Central Med, 30 September 2020.

[371] Amnesty International, Report on Libya, 24 September 2020.

[372] See for instance, CNN, Video, Migrants being sold as slaves, November 2017 and Human Rights Watch, News, Italy Shares Responsibility for Libya Abuses against Migrants, 13 November 2019.

[373] Are You Syrious, Daily Digest, Italy: from pushbacks to pullbacks, 26 June 2020.

[374] The New Humanitarian, Analysis, The Legal Battle to Hold the EU Accountable for Libya Migrant Abuses, 10 August 2020.

[375] Human Rights Watch, Joint Statement, EU: Time to review and remedy cooperation policies facilitating abuse of refugees and migrants in Libya, 28 April 2020.

[376] Glan, ASGI and ARCI, Press release, 11 June 2020.

[377] DL 53/2019 converted by L 77/2019 .

[378] Italy inter-ministerial Decree No. 150/2020.

[379] ASGI Note, 'ASGI chiede l'immediata revoca del decreto interministeriale del 7 aprile 2020. L'Italia è sempre vincolata all'obbligo di fornire un porto sicuro alle persone salvate in mare', 15 April 2020 (in Italian).

[380] SOS Mediterranee, Eyes on the Central Med, 30 September 2020.

[381] Borderline Sicilia is a member of the End Pushbacks Partnership. It conducts monitoring activities and offers legal and social support to displaced people in Italy.

[382] Data collated through a semi-structured questionnaire in August 2020 and shared by Borderline Sicilia.

[383] Alarm Phone, Report, Twelve Deaths and a Secret Push-Back to Libya', 16 April 2020.

[384] Alarm Phone, Borderline Monitoring, Mediterranea, Sea Watch, Report 'Remote control', 17 June 2020.

[385] Alarm Phone, Twitter thread, 27 June 2020.

[386] Web 24 News, 16 August 2020. Sea Watch Monthly Factsheet August 2020. Alarm Phone, Twitter thread, 22 September 2020.

[387] Alarm Phone, Twitter thread, 22 September 2020.

[388] IMREF, Report, Exploring the Impact of COVID19 on the Vulnerabilities of Migrants on the Central Mediterranean Route, 1 July 2020.

[389] AP News, Article, Sea or desert: virus traps migrants in transit, 3 May 2020.

[390] Border Criminologies, Blog Article.

[391] Data collated through a semi-structured questionnaire in August 2020 and shared by Borderline Sicilia

[392] See Refugee Rights Europe's submission to the Universal Periodic Review on Libya in 2019.

[393] UNHCR Position on Returns to Libya, September 2020.

[394] Prof. Dr. Anuscheh Farahat and Prof. Dr. Nora Markard, Report Böll Foundation, Places of Safety in the Mediterranean: The EU's Policy of Outsourcing Responsibility, February 2020.

[395] Save the Children, Report, Protection Beyond Reach, September 2020.

[396] Amnesty International, Report, Between Life and Death: Refugees and Migrants Trapped in Libya's Cycle of Abuse, 2020.

[397] Are You Syrious Daily Digest 28/07/2020 — Three People Killed After Pushback to Libya

MALTA – LIBYA SEA BORDER

Photo credit: Marina113 / iStock.com

PUSHBACKS MONITOR

LOCATION
Central Mediterranean Route

TYPE OF BORDER
External sea border

PUSHBACKS EVIDENCED IN 2020
Yes

MAIN METHODS
Coordinating rescue operations and return to Libya, directing the so-called Libyan coastguard onsite for rescued people to be taken back to Libya, obstructing disembarkation in Malta

VIOLENCE REPORTED
Drowning, violence during rescue, and major rights violations back to Libya

EXAMPLES OF CSOS COLLECTING EVIDENCE
Alarm Phone, Sea Watch

RECENT RELEVANT COURT CASES
Magisterial inquiry was conducted in the case of the "Easter Monday" pushbacks, but accusations were dismissed

BRIEF CONTEXT

In 2014, Italy and Malta reached an informal agreement, according to which persons rescued at sea in the Mediterranean would be disembarked in Italy. It included persons rescued by the Armed Forces of Malta (AMF) and those rescued in Maltese territorial waters of Malta's Search and Rescue Zone.[398] Hence, very few people arrived in Malta by boat between 2014 and mid-2018. In mid-2018, the incoming Italian government repealed this informal agreement: all people rescued within Maltese territorial waters and its Search and Rescue (SAR) zone would from then onwards need to be disembarked in Malta.

KEY TRENDS

More recently, in 2019-2020, there was a shift in Malta's approach to migration management in the Central Mediterranean, coupled with an increase of alleged cases of pushbacks to Libya reported by NGOs. Rather than favouring a secure environment for Search and Rescue at sea[399] and guaranteeing reception and access to asylum, most of Malta's actions in 2019 and 2020 have focused on the containment of displaced people in Libya.

A secret deal between Malta and Italy was revealed in November 2019, according to which Malta's armed forces were to cooperate with Libya's coastguard to turn back migrant boats heading into Malta's search and rescue zone.[400] Amid the Covid-19 crisis, the Maltese government adopted a similar decision to Italy and announced that "it will no longer accept or offer a safe place to irregular migrants."[401] Therefore, it closed its ports and has since then obstructed the disembarkation of people rescued at sea[402] and detained those rescued off its shores on ill-equipped ferries.[403]

These trends were reinforced in May 2020, when the Maltese Prime Minister met his Libyan counterpart in Tripoli to sign a new Memorandum of Understanding between the two countries "in the field of combatting illegal immigration."[404] The MoU facilitated the setting up of two "interception coordination centres" funded by Malta and operational since 1 July 2020. As stated by Amnesty International in their latest report on Malta's human rights violations and Europe's responsibilities in the Central Mediterranean, "the abusive practices by Malta are part and parcel of wider efforts by EU member states and institutions to outsource the control of the central Mediterranean to Libya, in order that EU-supported Libyan authorities might intercept refugees and migrants at sea before they reach Europe."[405]

On the basis of the continued support and encouragement from EU governments, the Libyan Coast Guard has continued to engage in maritime interceptions throughout 2020. A total of 7,256 people were pulled back to Libya in the period up until 27 August 2020.[406]

IMPACT ON HUMAN LIVES

The impact on individuals being stranded at sea and/or returned to Libya have been recorded in detail under the Italy-Libya chapter of this report and will not be detailed here. Ultimately, the consequences are severe, oftentimes amounting to torture and degrading treatment, as well as extortion and death.

NATURE OF THE PUSHBACKS AND EVIDENCE

The civil society group Alarm Phone has been regularly reporting on alleged cases of pushbacks over the past year, particularly from October 2019 to March 2020.[407] The NGO Sea Watch has similarly outlined in detail ten different cases of human rights violations in the first half of 2020, in which they evidenced the implication of Maltese authorities in multiple failures to protect the rights of displaced people at sea.[408]

Through these cases, several trends in the nature of the pushbacks can be highlighted:

● The Maltese government has hired several private commercial fishing vessels, flying the Libyan flag, to conduct pushbacks.

● Even when found on boats in distress in the Maltese SAR region, people are transported back to Libya under the instruction of the Maltese authorities who coordinate the rescue operation and ensuing pushbacks.

● The Maltese authorities are delaying the urgency in which they answer distress calls, which is exposing people to the risk of drowning.

● Frontex aerial assets are regularly involved in the interception and forced returns of people to Libya by providing information to the Libyan coastguard and helping them to reach boats in distress, including when they are within the European SAR region.

In an extensive report about Malta's human rights violations and Europe's responsibilities in the Central Mediterranean, Amnesty International has documented the case of the "Easter Monday" pushback which occurred on 15 April 2020.[409] The Maltese authorities confirmed they had coordinated the operation, whereby 51 people were unlawfully returned to Libya after being rescued in Malta's Search and Rescue zone.[410] The rescue boat Dar Al Salam 1, a commercial fishing boat sailing under Libyan flag (but routinely anchored in Malta), had been contracted by the Maltese authorities to operate the rescue and subsequent pushbacks.[411] The government of Malta also indicated that Frontex was aware of the boat in distress for several days: "the EU flew its aircrafts over the area but did not send any vessels to pick up the migrants."[412] Despite this, and despite a magisterial inquiry being conducted into the case, the responsibility for this pushbacks operation of 51 people, which included seven women and three children and led to the deaths of 12 people, have not been adequately and clearly identified. The accusations against the Maltese Prime Minister and the AMF commander were dismissed by the magistrate.

398. ECRE, 2019 AIDA report, p.20.
399. Malta has not ratified the 2004 Amendments to the International Convention for the Safety of Life at Sea (SOLAS) and those to the International Convention on Maritime Search and Rescue (SAR) Conventions which strengthen the search and rescue regime. These Amendments place the primary responsibility to provide a place of safety for disembarkation on the state coordinating a rescue operation, either by offering one on its own territory, or by ensuring that one is granted in another country.
400. Reuters Article, Malta has deal with Libya coastguard over migrant interceptions – report, 10 November 2019.
401. Press release by the Ministry for Foreign and European affairs and the Ministry for Home Affairs, National Security and Law Enforcement, 10 April 2020.
402. DW Article "Malta to keep migrants at sea until EU acts", 1 May 2020.
403. Alarm Phone, Central Mediterranean Regional Analysis, January-June 2020.
404. Memorandum of Understanding between the Government of National Accord of the State of Libya and the Government of the Republic of Malta in the field of combatting illegal immigration, signed 28 May 2020.
405. Amnesty International, Malta: Waves of Impunity, Report, September 2020, p.18.
406. UNHCR, Libya update, 28 August 2020
407. Amnesty International, Malta: Waves of Impunity, Report, September 2020, p.10 ; Alarm Phone, Press release "Returned to War and Torture: Malta and Frontex coordinate push-back to Libya", 15 March 2020 ; Alarm Phone, Central Mediterranean Regional Analysis, 1 October – 31 December 2019.
408. Sea Watch, Crimes of Malta, 2020
409. Amnesty International, Malta: Waves of Impunity, Report, September 2020, p.7-10.
410. Statement by the Government of Malta, 15 April 2020.
411. Alarm Phone, Central Mediterranean Regional Analysis, January-June 2020.
412. Statement by the Government of Malta, 15 April 2020.

GREECE — TURKEY SEA BORDER

Photo credit: Zsuzsánna Fodor, Greece

PUSHBACKS MONITOR

📍 **LOCATION**
Aegean Sea

⇄ **TYPE OF BORDER**
External sea border

🔍 **PUSHBACKS EVIDENCED IN 2020**
Yes

→| **MAIN METHODS**
Attacking boats and abandoning people at sea on disabled boats; forcing people who have landed on the Greek islands to go back to Turkey on dinghies

⚡ **VIOLENCE REPORTED**
Firing shots in the air, beatings, verbal abuses, stealing and destroying personal belongings

👁 **EXAMPLES OF CSOS COLLECTING EVIDENCE**
Aegean Boat Report, Alarm Phone, Amnesty International, Human Rights Watch, Legal Centre Lesvos, Mare Liberum, Refugee Support Aegean

⚑ **RECENT RELEVANT COURT CASES**
-

BRIEF CONTEXT

The Greek Coast Guard operates in the Aegean Sea for the purposes of sea border surveillance and search and rescue and is assisted by the European Border and Coast Guard Agency (Frontex) in the framework of Operation Poseidon. NATO forces are also present and contribute to the operations.[413] Pushbacks in the Aegean Sea have been known and widely reported for years. However, in 2020, the intensity and the expansion of pushback methods have reached an alarming level.

Contrary to other borders where a legal framework is being referred to in order for the authorities to "justify" their practices, pushbacks in the Aegean Sea appear to be happening largely outside of any formal agreement between Greece and Turkey. They are characterised by extreme violence by both the Greek and Turkish Coast Guards, and an absence of rescue activities.

KEY TRENDS

In an early report in 2013, testimonies highlighted the dangers of the sea route and the extent to which the Greek Coast Guard was putting lives at risk. People were left in the middle of the sea in inflatable boats not made for long sea journeys. They described boats being rammed or knifed, oars removed, and engines disabled. Most people had experienced or witnessed violence or degrading treatment, including being slapped, beaten, and manhandled. Their mobile phones, money, and personal belongings were confiscated or thrown into the sea. 101 individuals, among them children and pregnant women, died at sea across six different incidents in one year.[414]

In 2015, pushbacks across eight incidents corroborated previous reports, describing interceptions and the disabling of boats by armed assailants, with some boats towed to Turkish waters.[415] Alongside the violence and the interventions of the Greek Coast Guard, there were media reports of intensified violence by the Turkish Coast Guard in 2016.[416] This is a dramatic trend confirmed by recent investigative outlets[417] providing solid evidence on the abuses conducted by the Greek Coast Guard.

Since early 2020, common pushbacks methods at sea continue to take place, e.g. confiscation of fuel and destruction of engines, the firing of shots into the sea next to boats, and vessels circling migrant boats to create dangerous waves.[418] Civil society organisations active at this border report, however, an escalation in human rights violations since March 2020.[419] The Greek Helsinki Monitor submitted a report to the Supreme Court, Naval Court and Military Appeals Court in Greece, estimating that 1,400 people had been pushed back between March and July 2020, with the real number presumed to be much higher.

NATURE OF THE PUSHBACKS AND EVIDENCE

Streams of data from civil society organisations are showcasing an increase of pushbacks at sea,[420] including videos and distress calls[421] and evidence reports by NGOs,[422] demonstrating the growing repertoire of methods used to deter crossings.[423, 424]

Based on the wealth of available evidence in this regard, a number of key practices can be identified:

● The Greek Coast Guard tries to prevent boats from entering Greek waters by shooting warning shots, cutting them off from the shore, and using various deterrence practices.[425] They also tend to refuse to assist boats for a prolonged period.

● The Greek Coast Guard tows the raft (or damaged dinghy) to open water and leaves it adrift near Turkish territorial waters. There are also cases of people being taken into insecure floats from their boats and driven out to sea.[426]

● When intercepted at sea, the Greek Coast Guard threatens and damages displaced people's boats and abandons them at sea on motorless inflatable vessels. Four people are presumed to have drowned in June 2020 in a pushback operation of this kind.[427]

● When intercepted on the Greek islands, displaced people are transferred to an unofficial detention site before being forced onto dinghies and then left adrift.[428] There has been an increase of new cases of people "disappearing" after actually landing on Greece's islands and then being found by the Turkish Coast Guard at sea.[429]

● After hours left adrift, people are rescued by the Turkish Coast Guard and returned to Turkey.[430, 431]

The evidence gathered since March 2020 has clearly demonstrated the involvement of the Greek Coast Guard in maritime pushbacks, including in the form of armed masked men in dark clothing.[432, 433] Evidence of Frontex involvement in these pushbacks have been documented on several occasions, for instance when a Danish boat patrol received and refused orders to conduct similar acts from Frontex headquarters.[434] A joint investigation by Bellingcat, Lighthouse Reports, Der Spiegel, ARD and TV Asahi has found that vessels from Frontex have been complicit in maritime pushback operations in the Aegean Sea.[435]

Alarmingly, civil society reports documenting pushbacks have led to many of these groups being targeted by authorities. Recently, Mare Liberum reported that the Greek Coast Guard had taken four of their crew members into custody for eight hours, confiscating all their electronic devices.[436]

413. Refugee Support Aegean, Press release, Alarm over increase of reported push-backs at sea and risks for the lives of those seeking protection, 20 May 2020.
414. Amnesty International, Report, Frontier Europe : Human Rights Abuses on Greece's border with Turkey, 2013.
415. Human Rights Watch, News, Greece: Attacks on Boats Risk Migrant Lives, 22 October 2015.
416. VOA News, Refugees: Turkish Coast Guard Becoming More Violent, 21 March 2016.
417. See investigations conducted by Der Spiegel and by Bellingcat in June 2020.
418. European Association of Lawyers for Democracy & World Human Rights, Resolution on European border control in the Mediterranean Sea, 30 June 2020.
419. Alarm Phone, Press release, The Real Crimes are Push-backs and Human Rights Violations by the Greek Government, 1 October 2020.
420. Refugee Support Aegean, Press release, Alarm over increase of reported push-backs at sea and risks for the lives of those seeking protection, 20 May 2020.
421. Alarm Phone, video on Twitter, 4 June 2020.
422. Human Rights Watch, News, Greece: Investigate Pushbacks, Collective Expulsions, 16 July 2020.
423. Mare Liberum, News, New pushback-strategy - How the Hellenic Coast Guard leaves refugees in life rafts at sea, 18 June 2020.
424. Legal Centre Lesvos, Report, Collective expulsions documented in the Aegean Sea : March- June 2020, 13 July 2020.
425. See Sky News Video 2 March 2020; Ekathimerini Article 6 May 2020
426. Human Rights Watch, News, Greece: Investigate Pushbacks, Collective Expulsions, 16 July 2020.
427. European Association of Lawyers for Democracy & World Human Rights, Resolution on European border control in the Mediterranean Sea, 30 June 2020.
428. Bellingcat, Report, Samos and the Anatomy of a Maritime Pushbacks, 20 May 2020.
429. Ibid.
430. Turkish Coast Guard, Press release, 31 Irregular Migrants were Rescued Off the Coast of Mugla, 24 March 2020.
431. Aegean Boat Report, July Report, Report of 12 August 2020
432. Bellingcat report, Masked Men on a Hellenic Coast Guard Boat Involved in Pushbacks Incident, 23 June 2020.
433. BVMN visual investigation: analysis of video footage showing involvement of Hellenic Coast Guard in Maritime Pushbacks, 21 August 2020.
434. Politico Article, Danish boat in Aegean refused order to push back rescued migrants, 3 June 2020.
435. Bellingcat, Joint Investigation, Frontex at Fault: European Border Force Complicit in 'Illegal' Pushbacks, 23 October 2020.
436. Mare Liberum, Twitter post, 5 September 2020.
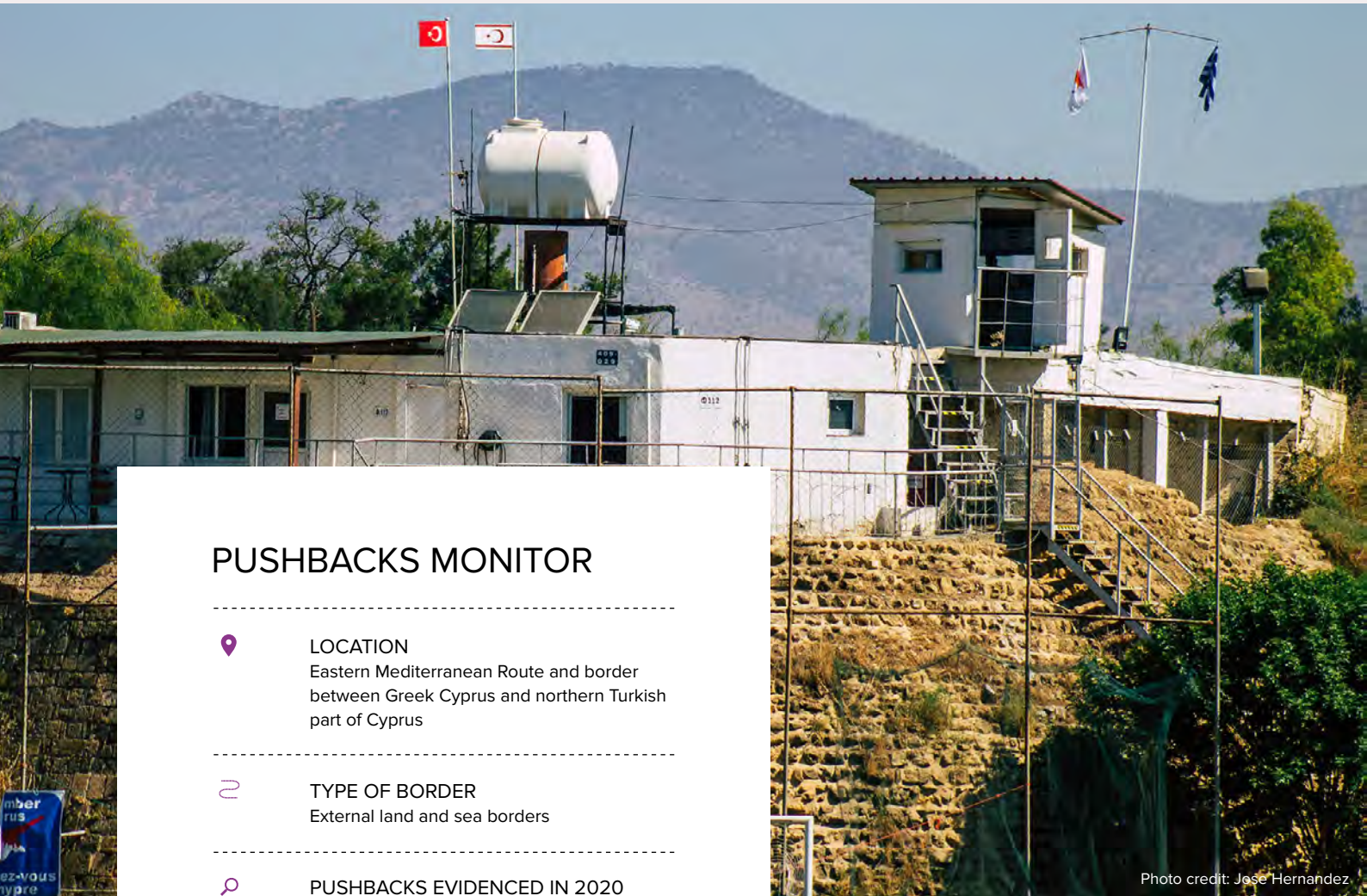
CYPRUS BORDERS WITH TURKEY AND LEBANON

Photo credit: Jose Hernandez

PUSHBACKS MONITOR

LOCATION
Eastern Mediterranean Route and border between Greek Cyprus and northern Turkish part of Cyprus

TYPE OF BORDER
External land and sea borders

PUSHBACKS EVIDENCED IN 2020
Yes

MAIN METHODS
Preventing disembarkation; transferring passengers to chartered private vessels and returning them to Lebanon; interception by Turkish officials and forced returns

VIOLENCE REPORTED
Destruction of personal belongings, threats, beatings

EXAMPLES OF CSOS COLLECTING EVIDENCE
Human Rights Watch, KISA

RECENT RELEVANT COURT CASES
-

BRIEF CONTEXT

Due to border closures along other routes, as well as the dangers presented by many other routes across Europe, arrivals to Cyprus have been steadily increasing in the last few years, currently making Cyprus the EU state with the most asylum seekers per capita in Europe. Most of them reach Cyprus overland from the north, the Turkish administered part of the island, though some have been reaching the island by boat from Lebanon, Syria, or Turkey.[437] Despite the critical risk of refoulement and chain refoulement to Syria, Turkey is considered a 'safe third country' according to the European Union, and active pushbacks by Cypriot authorities have commenced during recent years.[438]

KEY TRENDS

While pre-2020 pushbacks reports from Cyprus appear to be few in numbers, some noteworthy examples exist. For instance, in April 2019, the Cypriot police confirmed that they had stopped dozens of people on the move from crossing into the Turkish administered part of the island.[439] Subsequently, since early 2020 there have been more consistent and recurrent reports of pushbacks from Cyprus, which appears to serve as an indication that they have become an increasingly common practice, especially in comparison to 2018 and 2019, where few instances of reported pushbacks emerge from research.

In the current period, the government of the Republic of Cyprus has taken several steps to prevent an increase in people trying to enter its territory.[440] While the authorities have argued that no asylum request had been made by the individuals they returned, the Covid-19 pandemic has been used as the primary justification for the government's approach of deterrence; depicting the increased number of arrivals as a threat to public health.

Interior Minister Nicos Nouris indicated that Cyprus and Lebanon have a collaborative relationship in managing 'returns' in the current period though there has been no further explanation as to the specific details of the agreement, nor about how the returns are operated.[441]

NATURE OF THE PUSHBACKS AND EVIDENCE

In March 2020, using the Covid-19 pandemic as a pretext for its actions, the Greek Cypriot authorities pushed back a boat carrying 175 Syrians, including 69 children. According to reports, armed officers in uniform boarded the boat, seized it, and threw mobile phones and personal possessions of passengers into the water, before directing the boat to Syria. The refugees were pushed up north along the eastern coast of Cyprus. They were rescued by Turkish Cypriot volunteers and officials after their boat capsized once they had reached the Turkish Republic of Northern Cyprus (TRNC). The individuals were transferred to a stadium before they ended up in quarantine and a prolonged period of detention.[442]

The TRNC has also been forcibly pushing back people over the course of the year. On 24 April 2020, authorities pushed back a group of Syrians which also included unaccompanied children, from Cyprus to Mersin in Turkey, where they were eventually taken to a camp in Kahramanmaraş. Another similar pushback operation took place on 15 May 2020, when 100 displaced people from Syria ended up in Mersin, Turkey. They were eventually taken to Kilis, very close to the Turkish-Syrian border. Human Rights Watch reports that this group also included unaccompanied children. These returns are particularly risky, considering the well-reported risk of onwards refoulement from Turkey to Syria.[443] Three Syrians disclosed to Human Rights Watch during an interview in 2019 that they had been intercepted by the Turkish coast guard and returned to Turkey in earlier attempts to cross to Cyprus. There, they had been forced to sign voluntary repatriation forms to be returned to Syria.[444]

In July 2020, media reports highlighted an incident in which nine people who had entered the territorial water of Cyprus were detected by police boats and were told to return due to the Covid-19 situation. Later, the same boat arrived in close proximity to the Farmagusta UN-controlled buffer zone, from where the individuals started walking toward the southern part of the island, where they were eventually picked up by Cypriot officials.[445]

In September 2020, two cases of pushbacks took place, both of which included unaccompanied minors. A boat with 21 individuals from Lebanon and Syria was pushed back by marine and port police after having arrived on the shore of Paralimni in the Republic of Cyprus. They eventually managed to reach the UN-controlled buffer zone, which divides the Republic of Cyprus and TRNC.[446] A second case took place on 6 September 2020, when a boat with thirty Lebanese nationals and three Syrians were caught by the Cypriot Coast Guard. Among them were fourteen children. Six of them, as well as three women, were taken to a hospital, but then moved (along with the rest of the group) onto a private boat, led by the Coast Guard, which took them back to Lebanon.[447]

According to a report by the Cyprus News Agency, at least 108 people were returned to Lebanon on three chartered vessels over the course of three days, between 6 and 8 September 2020,[448] while Cypriot authorities claimed they returned 230 people to Lebanon during the same period.[449] Additionally, another six vessels were reportedly prevented from leaving Lebanese territory by the Cyprus Port and Maritime police. These repeated pushback practices have been lamented by NGOs, as well as by UNHCR's representative for Cyprus, who confirmed that they had received "credible reports" of incidents with overcrowded boats which were denied disembarkation due to Covid-19.[450]

437. The New York Times, Article, Asylum Seekers Find a New Route to Europe, Flowing Into a Divided Cyprus, 28 January 2020.
438. ECRE, AIDA Report on Cyprus, 2019 Update, p.13, April 2020.
439. InfoMigrants, Article, Refugees and migrants increasingly attempting to reach EU through Cyprus, 23 April 2019.
440. InfoMigrants, Article, Refugee Pushbacks by Cyprus Draw attention from EU, UN, 17 September 2020.
441. Ibid.
442. Knews, Article, Divided Cyprus slammed over refugee pushback, 20 May 2020
443. Ahval News, Turkish Cyprus broke international law by forcibly returning Syrians – HRW, 20 May 2020.
444. Human Rights Watch, News, Turkish Cypriot Authorities: Release Detained Syrian Asylum Seekers. Republic of Cyprus Should Process Their Claims, 16 April 2020.
445. Chrysostomou, Annette. Cyprus Mail, Article Migrants abandon boat, slip back into Republic on foot." 31 July 2020.
446. KNews, Article, Boat carrying refugees pushed back by Cyprus, ends up in UN area, 01 September 2020.
447. KNews, Article, Boatload of refugees sent back to Lebanon as four ministers hold emergency meeting following weekend arrivals, 07 September 2020.
448. InfoMigrants, Article, Refugee Pushbacks by Cyprus Draw attention from EU, UN, 17 September 2020.
449. Human Rights Watch, News, Cyprus: Asylum Seekers Summarily Returned Pushbacks Against Surge of Arrivals by Boat From Lebanon, 29 September 2020.
450. InfoMigrants, Article, Refugee Pushbacks by Cyprus Draw attention from EU, UN, 17 September 2020.

CHAPTER THREE

THE HARMFUL IMPACT OF PUSHBACKS

The previous chapter outlined the extent to which pushbacks have come to constitute a Europe-wide trend unfolding across various borders, in defiance of existing legal frameworks. As demonstrated, the pushback operations and associated border violence have a detrimental impact on people on the move, including prospective asylum seekers in Europe, through the creation of appalling humanitarian conditions and unnecessary suffering.

At the European Union level, pushbacks[451] have a harmful impact by mirroring the sharpened divide around EU goals and values, common politics and the 'European project' at large.[452] By the same token, pushbacks risk having **a negative impact on European social cohesion**, contributing to the further polarisation of societies through the normalisation of violence against newcomers, and the tolerance of populist and xenophobic political groups who instrumentalise the issue of border management for political gains.

Pushbacks and border violence are moreover **counter-productive to inclusion**, often severely damaging individuals' physical and mental health, which in turn hinders their effective and timely participation in European host societies.

AT THE LEVEL OF THE EUROPEAN UNION

Historically, the European border regime was set up to prohibit the entry of non-European citizens onto European territory, despite the strong historical (in many cases colonial) relationships and connections between continents, countries and populations. As such, the creation of the European Union and the notion and practice of freedom of movement, enabled through the creation of the Schengen Area, went hand-in-hand with the creation of an external border designed to keep out "the other".[453] This argument is still very much used at the European and Member States level to justify the increased securitisation of European external borders. Going hand-in-hand with this is an underlying (albeit often unspoken) logic that European Union values of human dignity, the rule of law and human rights are meant to apply primarily inside the EU area, and to those who have been identified as 'desirable'. This restrictive approach to the applicability of fundamental values, as evidenced by the pushbacks and rights violations at borders, appears to be highly paradoxical if we consider that one of the two main streams of the EU human rights policy is to promote such rights worldwide, defending their universality and indivisibility.[454]

Furthermore, it should be noted that the systematic practice of pushbacks at European borders in fact mirrors the **ongoing challenges faced by the European Union, its institutions and project**.[455] It contributes to a **sharpening of the divide around common EU values**, such as human dignity, the rule of law and human rights, as well as around common goals, including promoting these values and fostering solidarity between States, inside and outside the EU.[456] Member States remain reluctant in granting the European Union powers to overrule national policies considered fundamental to state sovereignty, such as asylum and migration policies.

Simultaneously, states tend to blame the EU for not sufficiently protecting its external borders and for allegedly thereby putting national security and the safety of European citizens at risk. This rationale is problematic in two ways. First, it depicts people on the move primarily as threats rather than human beings and rights holders. Second, it creates confusion regarding the roles and responsibilities of individual Member States versus the European Union as regards border management. **The polarised approach to the role and goals of the EU is not unique to migration and asylum policies but has been particularly prevalent in this policy area**, at least for the past six years.[457]

Photo from Bayonne, by Giacomo Donadio and Iker Barbero

451. Henk van Houtum & Rodrigo Bueno Lacy (2020) The Autoimmunity of the EU's Deadly B/ordering Regime; Overcoming its Paradoxical Paper, Iron and Camp Borders, Geopolitics, 25:3, 706-733, DOI: 10.1080/14650045.2020.1728743

452. Lefranc, F. 2016. Frans Timmermans: 'The European project can fail'. Euractiv Interview, November 7.

453. C. Oelgemöllet, L. Ansems De Vries, K. Groenendijk, The crafting of a paradox: Schengen inside and out, International Journal of Migration and Border Studies – Volume 6, DOI: 10.1504/IJMBS.2020.108684

454. European Commission, International Cooperation and Development, Human rights.

455. Pierre Vimont, The European Project in Crisis: Myths and Realities, Article, Carnegie Foundation, November 2017

456. The goals and values that form the basis of the EU and are laid out in the Lisbon Treaty and the EU Charter of fundamental rights.

457. Thierry Chopin, Jean-Pierre Jamet, The Future of the European Project, Article, Robert Schuman Foundation, May 2016

Pushbacks also reveal the **lack of coordination between EU institutions and Member States, and among Member States themselves, in the implementation of EU asylum policies**. The inconsistent implementation of asylum rules, in particular when it comes to the Dublin III Regulation, has triggered unnecessary so-called 'secondary movements' of asylum seekers who face separation from family members, deteriorating asylum procedures and reception conditions, and lack of information. While the EU has been concerned with preventing 'secondary movements' for a long time, the EU approach itself, in fact, encourages them. These forced 'secondary movements' are in turn met with, often unlawful or arbitrary, sanctions and restricted access to asylum.[458] More than the 'secondary movements' situation, this situation is described by researchers as a 'continued forced movement' consisting of pushbacks, dispersals and circulation.[459] In addition, the inconsistent implementation of common asylum policies contributes to distrust between Member States which leads to increasingly unilateral decision-making based on supposed national interest, rather than a commitment to the principle of solidarity. Arguably, this contributes to increased **scepticism around the feasibility of the continuation and deepening of the 'European project'** as well as the prospects of a common approach to asylum and migration in line with EU law and agreements.

While border management remains the prime responsibility and competence of Member States, **their obligations regarding respect for fundamental rights, human rights and refugee law are clear under international and European** treaties and legislation. Nonetheless, Member States continue to carry out pushbacks and perpetrate associated severe human rights violations. This trend stands in direct contrast with Commissioner Schinas' description of the so-called 'European way of life', described during a parliamentary hearing as a state of 'being open to the world and extending heart and home to those who are less fortunate'. Schinas furthermore added that, **'at its core, being European means protecting the most vulnerable in our societies'**.[460]

Others have rightly emphasised that, 'how we react to these human rights abuses now defines who we are, and who we become, as Europeans'.[461] Along these lines, the lack of accountability and sense of impunity surrounding illegal pushbacks and related human rights violations against refugees and displaced people are directly **undermining the integrity and credibility of European legal frameworks and political commitments, potentially damaging the European bloc's international reputation and diplomatic standing**.[462] This scenario has been described as the EU suffering from 'autoimmunity', i.e a self-harming protection strategy:

"Since the EU closed its external borders with the introduction of Schengen, its political community has followed an ever deadlier path of discriminatory global self-enclosure that excludes a large portion of the world. Today, the EU is experiencing the limits of this border model: the current politicisation of migration and the measures to curtail the movement of immigrants is shaking the EU to its foundations, endangering the openness of Schengen, the non-discrimination principle, the protection of human rights, solidarity and the rule of law, the liberal-democratic principles of the Copenhagen criteria and, ultimately, the very ethos of the EU." [463]

Photo credit: Jeremy Cothren

"AT ITS CORE, BEING EUROPEAN MEANS PROTECTING THE MOST VULNERABLE IN OUR SOCIETIES"

- Commissioner Schinas

458. Analysis by Naoual Mahroug, Anthopology researcher at Paris University
459. Analysis by Leonie Ansems de Vries, Senior Lecturer in International Relations at King's College London and Chair of the Migration Research Group
460. Hearing of Margaritis Schinas by the LIBE and CULT committees of the European Parliament, 3 October 2019
461. Opinion by Eve Geddie, Birte Hald, Anita Bay Bundegaard in the EU Observer, 23 June 2020
462. Henk van Houtum & Rodrigo Bueno Lacy (2020) The Autoimmunity of the EU's Deadly B/ordering Regime; Overcoming its Paradoxical Paper, Iron and Camp Borders, Geopolitics, 25:3, 706-733, DOI: 10.1080/14650045.2020.1728743
463. Ibid.

AT THE LEVEL OF EUROPEAN SOCIETIES

Pushbacks reflect and feed the anti-immigration climate. Generally, European societies are today faced with increasing challenges from **rising intolerance against refugees and migrants**, which in turn contributes towards an erosion of **social cohesion**. As stressed by United Nations experts, the fight against intolerance needs to involve all states: "Everyone must band together and stand against irrationality, suspicion and the clamour for exclusion. Rather than bow to public opinion, it [is] necessary to aim to lead it, holding firm to values and principles and reaffirming accountability to refugees".[464] In the same vein, the 2030 Agenda on Sustainable Development contains several crosscutting issues relating to inclusion and social cohesion, **clearly emphasising the need to foster inclusiveness, the importance of cultural diversity, non-discrimination and violence prevention** (targets 4.7, 10.3, 16.7). It moreover emphasises the need to build capacities to promote non-discriminatory policies and laws (target 16.b).[465]

However, European states are instead **sending citizens a message of exclusion** through increasingly frequent, violent and visible pushback operations and other rights violations at borders. This contributes to the further **polarisation of societies through the normalisation of violence against newcomers**. As stated by UN experts, unilateral and restrictive measures by States against the entry of people on the move are often fuelled by intolerance towards these groups, as well as racial and ethnic minorities, impeding the realisation of human rights.[466]

464. UN General Assembly, 60th session, Third Committee debate on the rise of intolerance against refugees and displaced, 2005
465. IOM, Global Compact Thematic Paper on Integration and Social Cohesion, p. 2
466. UN General Assembly, 71st session, Third committee debate on Growing Intolerance against Migrants, Minorities Challenges Basic Global Values, 2016

Photo credit: Nidžara Ahmetašević

Systematic pushbacks and associated rights violations at borders also contribute to the tolerance of **populist and xenophobic political groups who instrumentalise the issue of border management** for political gains. Right-wing populist parties across Europe have been able to capitalise on unsubstantiated migration fears in sections of the European population, further opening the way to restrictive migration policies and social division.[467] Another concerning development is that the same language regarding the need to manage and control migration is being employed by a broader spectrum of political voices. Politicians in centrist as well as left of centre parties are using similar narratives regarding the need to control, at least in some European countries. What the left/centre and right/far right might disagree on is the extent of the control that is required. This means that it becomes excessively difficult to foster a different narrative that does not start with or centre around ideas of border control and management.[468] In practice, the overarching political climate risks leading to racist violent attacks and hate speeches towards displaced people as documented by several NGOs and grassroots across Europe, for instance at the Greece-Turkey border.[469]

This vicious circle results in the increased normalisation of pushbacks and associated rights violations at European borders, along with the invisibilisation of European responsibility for them:

"The sophistication of the EU's border system lies in its ability to endow all the abuses that it directly or indirectly causes (rape, torture, kidnapping, murder, robbery, enslavement, etc.) with the appearance of morality. We want to believe it is others who abuse them or cause their demise." [470]

Despite many believing that unlawful practices, violence and abuse would not come to affect them but only third country nationals, it is plausible that unlawful state structures, acting under the radar of any accountability, may one day come to affect anyone. Following on from this, persistent anti-migrant sentiments and discriminatory practices are, according to the UN Office of the High Commission for Human Rights (OHCHR) amongst the **key obstacles to the inclusion of refugees and migrants and their equal access to human rights** in host societies. The OHCHR warns that such sentiments are often reinforced through legislation and policies aimed at restricting migration and the increasing tendency to criminalise 'irregular' migration.[471]

---

467. Oliviero Angeli, Migration and the rise of populism: how closely related are they? Opinion in European Insights N°3, February 2019
468. Analysis by Leonie Ansems de Vries, Senior Lecturer in International Relations at King's College London and Chair of the Migration Research Group
469. HumanRights360, Report, Defending Human Rights in times of Border Militarization, Chapter 7 – An alarming increase in racist speech and acts of racist violence, October 2020.
470. Houtum van, H., and R. Bueno Lacy. 2017. The political extreme as the new normal: The cases of Brexit, the French state of emergency and Dutch Islamophobia. Fennia 195 (1):85–101. doi:10.11143/fennia.64568
471. OHCHR, Combating racism and discrimination against migrants page

Social cohesion is also being eroded through the stark contrast **between national policies and local realities**. Across Europe, border towns and citizens, as well as civil society groups, are taking action to offer humanitarian assistance and other support to displaced people crossing borders, in opposition to national policies and police practices aimed at closing these borders. At the same time, there are also cases of vigilante groups, perpetrating violence against displaced people, being formed at various European borders, for instance in Greece,[472] arguing that neither their government nor the EU are managing borders adequately.

A further **challenge to social cohesion and inclusion of newcomers is rooted in the risk of mental and physical health issues** resulting from prolonged periods displaced individuals spend in inhumane conditions at border zones and transit points.[473] It is widely reported that precarious journeys, long-term displacement, and inadequate living conditions in camps, informal settlements or asylum centres at European borders or in destination countries, **lead to serious consequences for the mental health of displaced people**.[474]

It is well-known that many displaced people reaching Europe have faced violence, torture and extortion in their countries of origin and/or along their journeys. Left behind in transit zones in legal limbo and amid appalling humanitarian conditions,[475] or being **pushed back across European internal borders** rather than being granted access to health care and support, many risk developing severe mental and physical conditions. In relation to pushbacks at external borders, it has been highlighted that people waiting in temporary settlements at these borders are exposed to "**increased health risks and heightened psychological pressure of having hopes crushed after years of waiting, uncertainty** and processing".[476] The widespread decline of mental health among displaced people in Europe has been described as a silent crisis[477] which **risks future damage to individuals and societies across Europe if left unattended**. Europe's approach to asylum and migration ought to take into account the importance of protecting individuals' health to create a safer future environment for newcomers and European host communities.

PEOPLE WAITING IN TEMPORARY SETTLEMENTS AT THESE BORDERS ARE EXPOSED TO "INCREASED HEALTH RISKS AND HEIGHTENED PSYCHOLOGICAL PRESSURE OF HAVING HOPES CRUSHED AFTER YEARS OF WAITING, UNCERTAINTY AND PROCESSING"

Photo credit: Nidžara Ahmetašević, Tuzla

472. The New York Times Article, March 2020
473. As detailed in Chapter 2 of this report.
474. MSF, Luxor Operational Research update, 2018/2019, Addressing the mental health needs of migrants
475. *Ibid*
476. Ecdpm, Migration, mobility, Covid-19: a tale of many tales, Article, 30 March 2020
477. Human Rights Watch, News, 12 July 2017. See also, ECRE Article

CONCLUSION

Photo credit: Jeremy Cothren, Ventimiglia

PUSHBACKS: A EUROPE-WIDE TREND WHICH CAN NO LONGER BE IGNORED

Our report has shed light on **evidence demonstrating that illegal and violent pushbacks**, at the EU's internal and external land and sea borders, increasingly constitute **a systematic Europe-wide approach to migration governance**. The evidence highlights an uncomfortable truth: the Europe in which we now live is a place where displaced individuals are forcibly marked with red crosses when they attempt to access EU territory, where individuals in distress at sea are attacked and fired at by EU coast guards in broad daylight, and where people fleeing war torn countries are shot dead when attempting to cross EU borders.

These rights violations are taking place against the backdrop of the European Union's founding values of human rights and human dignity, emerged from the conviction that adherence to these values was crucial in order to avoid future atrocities, such as those which marked Europe in the early 20th century. We are however witnessing a steady erosion of these very values, while the EU remains largely silent and inert on plans to counter illegal pushbacks at its internal and external borders. Ever increasing funding for border management, and the externalisation of asylum responsibilities through 'cooperation' with third countries further the erosion of **EU Member States' and institutions' commitments under European and international human rights and refugee law**.

The human costs of these developments are staggering. In the evidence section, we demonstrated how practices of pushbacks and associated border violence have a **detrimental impact on the lives of people on the move, through the creation of abysmal humanitarian conditions and the production of unnecessary suffering**. Women, men and children seeking sanctuary in Europe are finding themselves in sub-standard informal settlements and transit camps, or in complete destitution. Access to adequate shelter, medical care, water and sanitation, information and legal guidance as well as access to education for children, are lacking in most of the locations where displaced people remain trapped following pushbacks operations.

The report also outlined the harmful impact of pushbacks **at the level of the European Union, mirroring the ongoing challenges faced by the EU, its institutions and the project as a whole**. We thus argue that pushbacks and other forms of restrictive migration management policies and practices **sharpen the divide around common goals and values**, whilst also undermining solidarity between States by giving rise to distrust.

It was furthermore suggested in our report that pushbacks risk having **a negative impact on European social cohesion**, contributing to the polarisation of societies through the **normalisation of violence against newcomers, and the tolerance of populist and xenophobic political groups** who instrumentalise the issue of border management for political gains. Pushbacks and border violence are **counter-productive to inclusion**, often resulting in **damaging effects on individuals' physical and mental health**, that risk hindering their effective and timely participation in host societies.

> PRACTICES OF PUSHBACKS AND ASSOCIATED BORDER VIOLENCE HAVE A DETRIMENTAL IMPACT ON THE LIVES OF PEOPLE ON THE MOVE, THROUGH THE CREATION OF ABYSMAL HUMANITARIAN CONDITIONS AND THE PRODUCTION OF UNNECESSARY SUFFERING.

The evidence demonstrates that pushbacks constitute an undeniable Europe-wide phenomenon that can no longer be ignored. However, **it is not too late for Europe to reverse this trend**. At a time when European and global constellations are shifting, when a new European Commission is asserting its position and Member States are beginning negotiations on the future of asylum and migration in the EU, civil society across Europe stands ready to support the work for a shift from securitisation, division, exclusion and self-isolation, toward a **Europe that carries its founding values of human rights and human dignity into the 21st century**.