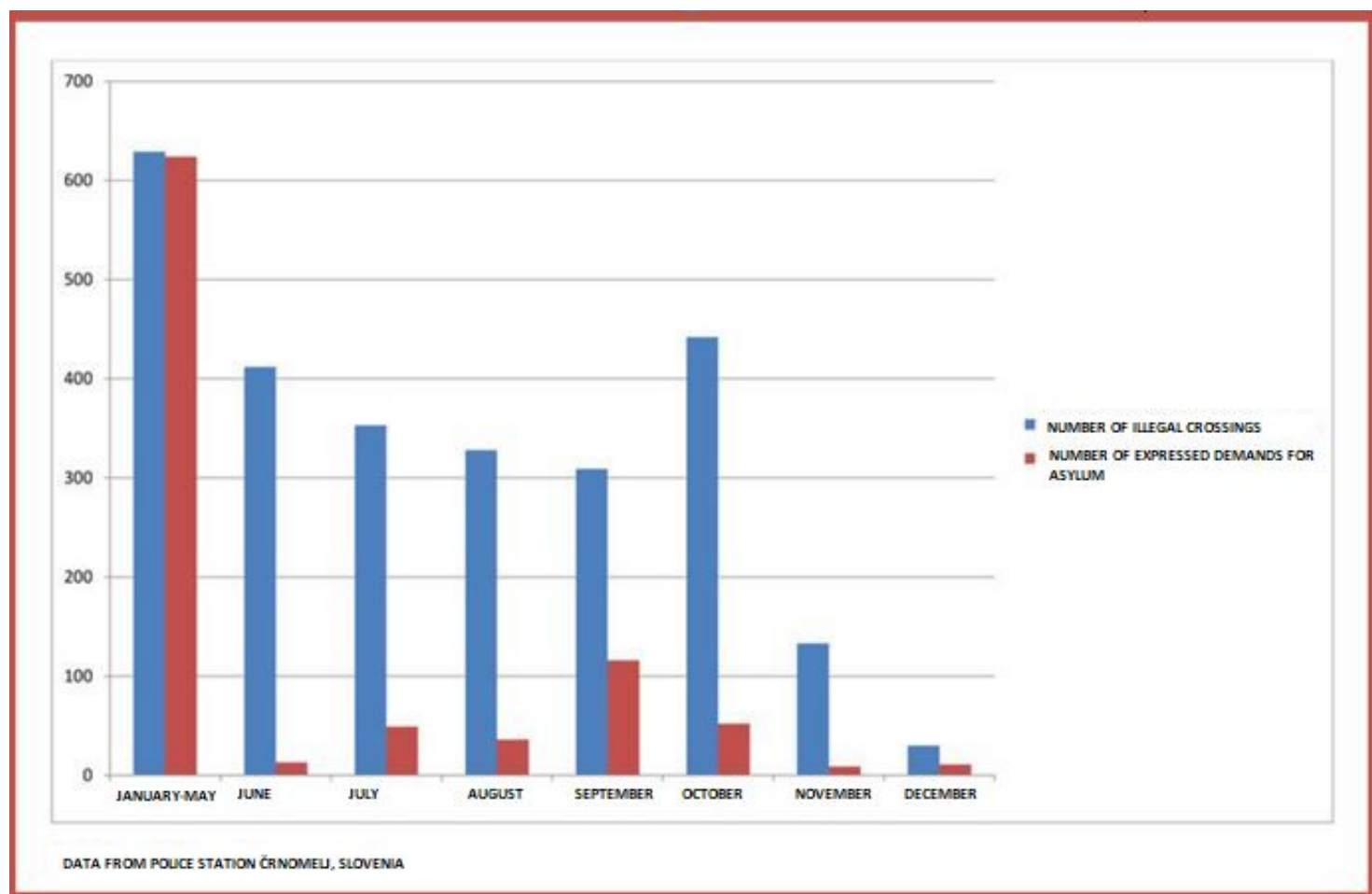


REPORT ON ILLEGAL PRACTICES OF COLLECTIVE EXPULSION AT THE SLOVENE-CROATIAN BORDER



Picture 1: Chart of illegal crossings side by side with demands of asylum in 2018 on border Police Station Črnomelj

Civil initiative **Info Kolpa**
with the assistance of **Border Violence Monitoring**
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Introduction:

This report is the result of the work of civil initiative Info Kolpa, initiated in the spring of 2018. It came as a response to an alarming number of reported illegal actions through which Slovenian police started systematically denying people the right to seek asylum in Slovenia and pushed them back to Croatia under the guise of [a readmission agreement](#)¹ between the two countries signed in year 2006. The number of such people *drastically* increased after May last year (2018). Reports of rejected migrants implied that the Slovenian police is treating them in a way that indicates a serious abuse of power. The police at border police stations had been and still is falsifying interviews with asylum seekers, trying to show as if people do not wish to seek asylum in Slovenia, which gives the authorities a legal option to process people under the readmission procedure. This resulted with the expulsion of 4653 people by readmission mechanisms from Slovenia to Croatia in the last year. Many migrants who had been at Slovenian police stations also report violence, threats, bribery requests and being forced to sign documents without access to any translation.

The abuse and violence continues also at the next border, between Croatia and Bosnia, usually in the form of beating, as well as theft of money and personal property. The Slovenian police is carrying out these expulsions while being fully aware that there is high risk of such torture and abuse on the Croatian side in the process of such collective expulsions to Bosnia and Herzegovina. This violence is undeniable, has been documented, reported and is under investigation for some time now. By denying the right to asylum and conducting collective

¹ The readmission agreement is available here:

<https://www.uradni-list.si/glasilo-uradni-list-rs/vsebina/2006-02-0040?sop=2006-02-0040>

expulsion of thousands of people Slovenian authorities are directly involved in a systematic abuse of human rights in the Balkan region.

With this knowledge, a phone number was established for migrants who were located on the territory of Slovenia and had the intention to apply for asylum. It was then distributed through flyers in Velika Kladuša (Bosnia) in June. The flyers also contained basic information on asylum rights, the Dublin regulation, the issue of pushbacks and what to expect when contacting the number. The purpose was to have a *mediator* between the migrants and police units, which would have hopefully reduced the number of illegal expulsions of people who could not access their right to asylum procedures. When people would cross to Slovenia, they could contact the phone and explain their situation. If they wished to claim asylum in Slovenia, they would send information about their names and country of origin. When the wish to deal with police was expressed, the local police station would be informed either by email or phone. This practice of mediation was successful when the phone *mediator* was a lawyer of an NGO. After pressure from the ministry with threats of criminal charges, in September 2018, the mediating NGO discontinued the phone number, but a group of volunteers (Info Kolpa) continued this practice, using a different phone number, from September to November. Even though some groups of people were able to successfully express their asylum request, the majority was still pushbacked to Croatia. After two months it became apparent that the police ignores the mediation and is acting illegally even with full knowledge that the asylum process is *monitored by a third party*.

Below is a collection of information on power abuse and systematic violence of Slovenian police against migrants. It includes data analysis made available from public sources as well as existing reports prepared by various field organizations, and of information gathered by the phone line Info Kolpa (Kolpa is a river that runs on the border between Slovenia and Croatia on the Balkan route). The telephone line was originally set up in mid-July 2018 by the above-mentioned NGO "Pravno-Informacijski Center - PIC", specialized in legal assistance to migrants. In this time it became clear on the basis of numerous testimonies, that the Slovenian police started systematically violating the right to asylum procedure. This report covers the period between 11th September and 7th November 2018.

The phone line was used when migrants who contacted the phone number were on the territory of the Republic of Slovenia with the intention to seek asylum and would express a desire for the volunteers to inform the police about their location. In such cases the nearest police station was notified. The phone line volunteers would send the geographical location, information on people seeking asylum and a clear statement that people are in dire need of help and wish to apply for international protection in Slovenia to the regional police station. This was done via phone or an email sent to the police station in jurisdiction. The information was also sent to the Office of Ombudsman in Slovenia and different NGOs involved with protection of human rights. The report contains 20 such recorded cases (106 persons); in 6 cases, persons were admitted to the asylum procedure in Slovenia (27 persons); in 7 cases they were pushbacked to Croatia and then illegally expelled to Bosnia and Herzegovina (39 persons); only one person was able to initiate the procedure for international protection after extradition to Croatia and was not expelled to Bosnia and Herzegovina. In 7 cases (39 people) there is no information of what had

happened with the people, as they haven't made any contact after they were apprehended by Slovenian police. There are three reasons for this:

- The people did not want further communication;
- Police officers seized their phones for the purpose of conducting an investigation;
- The phones were destroyed or stolen either by Slovenian or Croatian police.

Toward the end of 2018, the phone communication had died out. It became apparent that the police insists on their illegal practice despite being made aware of people's intention to apply for asylum in Slovenia. This situation has not improved even though state institutions and NGOs dealing with human rights protection had been informed about the police's actions. Hence, the telephone number was no longer serving its original purpose: intervening in illegal and unethical police behavior, as they deliberately and systematically hold plenty of people in inhuman conditions and expose them to brutal violence. The violence also contributes to the fact that people are hiding from the police in forests and are crossing dangerous river currents, which lead to cases of death due to exhaustion, hypothermia and drowning.

Recently, it has become clear that even responsible and competent state institutions refuse to clearly identify and condemn systematic violations of human rights by the police and the Ministry of Interior Affairs.

Accessible data on the systematic rejection of the right to asylum by the Slovenian police

Slovenia represents the edge of the Schengen area within which border controls are supposed to be minimal. In consequence, the control on the external Schengen border is reinforced and militarized in forms of higher police presence, legal measures to reduce illegal border crossings (such as readmission agreements), technology to control movement, expulsions and systemic police violence against migrants. In addition, police stations in Slovenia received an order which instructed that when in mixed patrols of Slovenian and Croatian police, if a person is caught illegally crossing the border, he/she should be returned to Croatia². The Croatian police denied any such cooperation and knowledge of these instructions³. It seems that the order was a *pretext for illegal expulsions*, since many parts of the police instructions on asylum procedures *remain unavailable for the public*. This instruction by itself has not yet been recognised as unlawful by any court, but after this order was introduced, the number of people who were given the right to an asylum procedure reduced drastically. For example, at the police station Črnomelj, which is the closest in walking distance from Velika Kladuša, in May 2018, 379 people were apprehended for illegal border crossing and 371 of them (98%) expressed the

² Report of Slovenian police:

<https://www.policija.si/images/stories/Statistika/MejnaProblematika/IlegalneMigracije/2018/Januar-december 2018.pdf>

³ Newspaper articles with the official statements of Slovenian and Croatian police

<https://www.dnevnik.si/1042857430/slovenija/policija-skriva-ravnanje-z-migranti-in-raje-tozi-informacijas-ko-pooblascenko>, available at ; https://archive.org/details/dnvn_20190628

<https://www.dnevnik.si/1042845762>, available at https://archive.org/details/dnvn_20190628_201906

intention to seek asylum. In June, after these police instructions were introduced, 412 people were apprehended for illegal border crossing, but only 13 of them *managed to express their intention* to seek asylum in Slovenia. This means that **from May to June the percentage of people who crossed to Slovenia and sought asylum with police in Črnomelj dropped from 98% to only 3%**. The percentage of people who were accepted to an asylum procedure increased only slightly in the following months (see picture 1). Those who were denied their right to seek asylum were then eligible to be processed by the readmission agreement. Obvious irregularities in the conduct of the Slovenian police in the treatment of persons who entered Slovenian territory and intended to apply for international protection, are already evident from the statistics themselves: **Slovenian police [published](#)⁴ that in 2018 they dealt with 9149 illegal border crossings and 4653 persons were returned to Croatia under the bilateral readmission agreement.** The number of persons returned to Croatia is more than half of all people who were dealt with due to their illegal crossing of the border. It is worth noting that it is not known how many people were returned to Croatia in an *informal procedure* via direct transport to the border. Many people have also been pushed back more than once, with full knowledge that there is high chance they would be then further expelled to Bosnia and Herzegovina with a high risk of torture and abuse by the Croatian police. The same practice is also present in other police stations along the southern border region such as police station Metlika, police station Ilirska Bistrica, police station Kočevje and border police station Dragonja.

Since the orders on how to deal with migrants who seek asylum in Slovenia and the drastic decrease in number of people expressing intention to seek asylum happened in exactly the same time, it is safe to assume that the instructions came from the top police officials in Slovenia under the former minister of interior affairs Vesna Györköš Žnidar. The persons directly responsible for the systematic violation of human rights on border police stations are:

1. former chief of police Simon Velički, and
2. former deputy and current chief of police Tatjana Bobnar, both of whom have signed documents which contain instructions and guidelines on dealing with migrants who have been apprehended for illegal border crossing.

Despite bringing to light many evidence and reports of illegal action and unlawful conduct of Slovenian police, the Human Rights Ombudsman Vlasta Nussdorfer abstained from any convictions. She even organized a press conference together with the minister of interior affairs Györköš Žnidar at which the latter was allowed to publicly accuse non-governmental organizations of “organizing migration”. This launched [a media lynch](#)⁵ against the NGO Pravno-informacijski center (PIC), even though they were only informing the police of the intention of people who wanted to apply for international protection and were located in Slovenia.

⁴ Report of Slovenian police of illegal crossing and demands for asylum
https://www.policija.si/images/stories/Statistika/MejnaProblematika/IllegalneMigracije/2018/Januar-december_2018.pdf

⁵ A newspaper article of a right wing media outlet, an example of the lynch
<http://nova24tv.si/slovenia/politika/objavljam-ekskluzivne-dokaze-kako-so-slovenske-nevladne-organizacije-vpletene-v-nezakonito-uvazanje-migrantov/>

The start of the systematic practice of denying the access to the right to seek asylum and the commencement of mass returns can be traced to May 25th 2018, which is when the former general director of police Simon Velički issued the instructions inquiring Slovene-Croatian mixed patrols to return people (who were caught illegally crossing the border) to the Croatian police for treatment. The Croatian police denied that they had been informed about this instruction in any way, but it is obvious that the practice was established at the Slovenian police stations in June.

With June 2018 Slovenian police started:

- 1. Denying the right to asylum to majority of people who crossed the border,**
- 2. Practicing systematic collective expulsions to Croatia.**

According to the Human Rights Ombudsman's Office, 1435 persons were dealt with between January and June 2018 due to their illegal crossing of the border in the area of Novo Mesto. 987 of them requested asylum and 434 were returned to the Croatian police. The proportion of asylum-seekers, with regard to the full number of illegal crossings was 68 percent.

In May, 379 people were treated at police station Črnomelj, of which 371 applied for asylum, which is almost 98%. In June, the same police station experienced drastic changes in the management of procedures: out of 412 persons, only 13 persons applied for asylum, representing only 3 percent of all persons compared to the 98 percent in the month of May.⁶ This radical change in conduct correlates with Velički's orders from May 25th.

By the month of June the practice of breaking the law by denying the right to asylum became systematic, with violations also present in areas other than Črnomelj. The current police general director Tatjana Bobnar, who previously held the post of deputy general director, [signed](#)⁷ these instructions, which means she must have been informed about the illegal operations of police officers at the border. Despite the request of the Information Commissioner to disclose the complete instructions, the police are avoiding disclosure of the censored parts with a lawsuit at the Administrative Court. Their argumentation states that the disclosure would jeopardize the implementation of police procedures. **Let us remember that the Croatian police denies having knowledge of such instructions.** The instructions are *not only likely to contain guidelines for dealing with migrants that are inconsistent with the legislation* as well as basic ethical standards for dealing with persons who are in a vulnerable situation, but it is suspected they also *request police officers to make a selection of persons based on their nationality*.

In our opinion, the lawsuit attempts to conceal the police leadership's responsibility of issuing unlawful and unethical instructions for targeting people at the border and moreover of seriously compromising the security of thousands of people by instructing unlawful collective expulsions, making the people further exposed to the possibility of torture and theft on behalf of the Croatian police, which pushes them even further over the green border in Bosnia and Herzegovina, where there is insufficient infrastructure to accommodate a larger number of people without a home.

⁶ Ombudsman report:

[http://www.varuh-rs.si/fleadmin/user_upload/word/2019_2_14_NOVKONF/Koncno_porocilo_o_delu_policie_na_meji_s_Hrvasko - VCP_RS - februar 2019.doc](http://www.varuh-rs.si/fleadmin/user_upload/word/2019_2_14_NOVKONF/Koncno_porocilo_o_delu_policie_na_meji_s_Hrvasko_-_VCP_RS_-_februar_2019.doc)

⁷ Chief of Slovenian police Tatjana Bobnar signed an internal document called *The plan of implementation of a stricter border control*, dated 30.5.2018. A censored version available on: <https://push-forward.org/porocilo/report-illegal-practice-collective-expulsionslovene-croatian-border>.

In the interim report, the Office of the Ombudsman also noted irregularities in the functioning of the police and a reasonable suspicion that these disputed practices indeed do exist. On June 19th 2018, without prior announcement, [the Ombudsman made a visit to the Črnomelj and Metlika police stations](#)⁸, [concluding](#)⁹ there is a lack of serious consideration of the personal circumstances of each individual, in which the police could undoubtedly confirm that a person did or did not submit an application for asylum, or if the request for asylum was heard. On the basis of scarce police notices in official endorsements and other documents, the ombudsman identified a dubious practice of assessing the merits of an asylum application. For example, in one of the records of readmission of persons through the international agreement on return between Slovenia and Croatia, the stated reason for return is that the person is an "economic migrant". And yet, in another record for the same person, there is a clear indication that the person left their war-torn country due to religious persecution.

Also, while Slovenia or Germany were registered as their target country, these persons were returned to Croatia, again, on the basis of the readmission agreement. During this visit, the staff of the Human Rights Ombudsman's Office also confirmed the **presence of a person at police station Črnomelj, which the police dealt with on June 7th, 2018. This person described the conduct of the police as follows: "verbally aggressive (they were saying ugly words to them and their tone was very violent). One of the migrants asked if he could go to the toilet and he got a blow to his face. The other migrant (because he did not understand the English command that he must lie down on the ground), got a kick first, then he lay down into the wrong position, so the policeman gave him a brush with an electric stick (he described it as "It was black color, it was in three steps"). After a personal investigation, the police took them to a small container. While signing the documents, the police assured them that they are signing documents for asylum and that they would be taken to the refugee camp the next day, but they were taken by car to the station of the Croatian border police on the following day."**¹⁰.

Such violent behavior does not apply to all cases, but it nevertheless testifies to the way in which migrants' treatment procedures are handled at police stations. In spite of the obvious evidence of systematic violation of human rights at police stations, on September 7th 2018, the Human Rights Ombudsman's Office, headed by Vlasta Nussdorfer, held a press conference together with former Interior Minister Vesna Györkösi Znidar and former State Secretary Boštjan Šefic, who were at the top of the Ministry of the Interior at the time of the deportations and unlawful conduct of the police. Both are directly responsible for the systematic violation of the right to international protection and the concealment of illegal border check police practices. At the press conference, the Ombudsman's office signaled that on the basis of existing evidence it was ***not possible to confirm or deny the testimonies of persons who were denied the opportunity to apply for international protection*** and were subjected to police violence.

⁸ An article about the visit of the border area by the Ombudsman
<https://www.rtvsl.si/slovenia/urad-varuha-clovekovih-pravic-policia-v-crnomlju-in-metlikizanamarja-osebne-okoliscin-e-prebeznikov/463823>

⁹ An intermediate report of the Ombudsman:
<http://www.varuh-rs.si/medijsko-sredisce/sporocila-za-javnosti/novice/detajl/vmesno-sporocilo-o-aktivn-ostih-in-ugotovitvah-varuha-glede-ocitkov-zavracanja-moznosti-podajan/>

¹⁰ On page 6 of the same document

Also, on 26th and 27th of September 2018, police stations Ilirska Bistrica, Črnomelj and Metlika were visited by a UNHCR delegation from the regional office in Budapest. This visit was announced. The delegation commended the work of the police and did not detect any procedural violations¹¹. On February 15th 2019, the Ombudsman also issued a final report¹² on the conduct of police officers at the border, which included statistics on persons who were dealt with for illegal border crossing, as well as data on the number of persons requesting international protection (see Picture 1). The ombudsman also has the authority to obtain the *full content of censored police instructions* that coincide with a drastic fall in the number of asylum seekers, **but this has not yet been done.**

In their dispatches and reports¹³, the Slovenian police leadership refers to the so-called "abuse of asylum procedures" on behalf of migrants. It is urgent to underline that deciding who is entitled to asylum and who is not, **is not for the police or the translators who accompany them to decide.** It is true that many asylum seekers do not stay in Slovenia after being settled in camps. Instead, they choose to continue their way to other countries, usually to those where their relatives live, who can provide them with a supportive environment. **An important reason for the early departure from Slovenia is the length of asylum procedures in Slovenia: the procedures can last for several years¹⁴, to get a work permit a person must wait for 9 months¹⁵ and the monthly allowance is 18 euros¹⁶.** Such situations, where there is no chance of decent living and integration, force people to leave the country and look for opportunities elsewhere. Long lasting and complicated bureaucratic procedures, restrictive legislation and border violence put Slovenia in the structural role of a state on the border of the European Union, which is making migrations difficult and preventing people from accessing resources for a decent life. Slovenia fulfills this role without regard to the violence and the systematic violations of national and international legislation concerning the protection of human rights.

According to the testimonies of people who were returned to Croatia through Bosnia and Herzegovina, the procedures at Slovenian police stations are in many cases also accompanied by violence, threats, signing of documents in Slovene without translations¹⁷, and in some cases with beatings. After arrest, people are brought to the police station, where the police takes their

¹¹ Official statement by the Slovenian police about the visit of UNHCR:

<https://www.policija.si/medijsko-sredisce/sporocila-za-javnost/sporocila-za-javnost-gpue/95803-testno-sporocilo>

¹² Ombudsman's final report on the conduct of police officers on the border:

<http://www.varuh-rs.si/medijsko-sredisce/sporocila-za-javnosti/novice/detajl/varuh-o-zahtevi-za-oceno-ustavnosti-uredbe-o-hrupu-in-ravnanju-policistov-na-juzni-meji/?cHash=01f3753d10cfc268a8ef4d79dce85363>

¹³ <https://www.delo.si/novice/slovenija/kje-je-meja-nevladnikov-90953.html>. Also see attachment 1 in the report.

¹⁴ <https://www.primorske.si/slovenija/v-sloveniji-ta-mesec-drasticno-upada-stevilo-prose>

¹⁵ Article 23 of the Law on Work and Employment of foreign nationals:

<http://pisrs.si/Pis.web/pregledPredpisa?id=ZAKO6002>

¹⁶ <https://www.mladina.si/183082/ne-2000-pac-pa-18-evrov/>

¹⁷ Pushbacks from Slovenia as reported by Border Violence Monitoring:

<https://www.borderviolence.eu/violence-reports/july-31-2018-1000-slovenia-dol/>;

<https://www.borderviolence.eu/violence-reports/march-17-2019-2100-croatia-slovenia-border-with-mountains-surrounding-them-the-border-police-station-was-in-front-of-them/>

<https://www.borderviolence.eu/violence-reports/december-30-2019-0000-vinica-slovenia/>;

<https://www.borderviolence.eu/violence-reports/august-21-2018-1600-caught-and-attacked-by-the-police-in-the-inner-slovenian-land-in-a-forest-by-the-town-crnomelj-viz-map-below/>

fingerprints and photos of faces, followed by a quick and superficial interview with the help of a translator. NoName Kitchen (NNK) [reports](#) also provide evidence of apparent aggression, racism and bias of some translators¹⁸. Often, translators also interrogate asylum seekers, for which they are not trained nor authorized. This is followed by the acquisition of 250 - 500 euros (confiscated, also forcibly, by the police whilst searching pockets) for the offense of illegal border crossing and costs of accommodation in a cell or container. Sometimes, dry clothes, water and some food are provided, and sometimes people are forced to sleep in wet clothes on the ground, without food or water. After several hours or days, they are returned at the hands of the Croatian police as per the interstate agreement. It is worth noting **that the procedures of this agreement, which have been in force since 2006, are not in line with basic legal principles, since they do not allow minimum legal protection in the form of counselling or complaint.** In the vast majority of cases, there is then a re-examination at the Croatian police station followed by an expulsion to Bosnia and Herzegovina across the green border. As a rule, the border procedure is accompanied by beatings, as well as theft of phones and money.

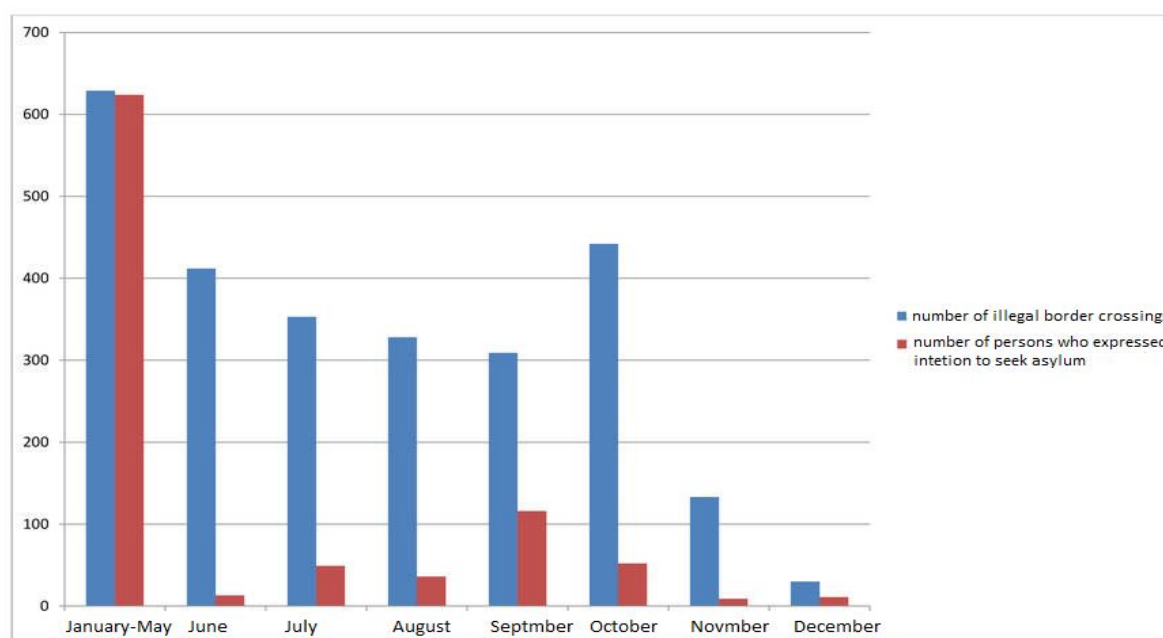
The [UNHCR's Desperate Journeys](#)¹⁹ report, published in September 2018, recorded 1500 cases of refusal of the right to access to asylum and 700 cases of violence in the form of beatings and theft out of 2500 questioned people who were forcibly returned from Croatia to Bosnia and Herzegovina. **To make it clear: as of June, the Slovenian police have consciously massively delivered migrants to the Croatian police, despite knowing that they will be exposed to brutal violence by Croatian state authorities. In this way, Slovenian police actively and in full knowledge violates the principle of non-refoulement in the event of a threat of torture.** It is therefore necessary to terminate the validity of this inter-state agreement, under the guise of which systematic and gross violations of human rights

¹⁸ <https://www.borderviolence.eu/violence-reports/february-10-2019-1430-novo-mesto-slovenia/>

¹⁹ <https://www.unhcr.org/desperatejourneys/>

take

place.



Statistical data for Police Station Črnomelj

Picture 1: Number of illegal border crossings and number of persons who were able to express intention to seek asylum at police station Črnomelj.

EU border externalization and the cooperation between the Slovenian and Croatian police

Since the migration route redirected from Hungary through Croatia and Slovenia, the Croatian police serves as the guardian of the borders of the European Union. They are carrying out physical violence and theft against migrants in order to consolidate the impermeability of its and European borders. Some croatian, but also international media ([Guardian](#)²⁰, [New York Times](#)²¹, ...) as well as international humanitarian organizations ([UNHCR](#)²², [Save the Children](#)²³ and [Human Rights Watch](#)²⁴) have reported brutal violence. Furthermore, in December 2018, [Border](#)

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<https://www.theguardian.com/global-development/2018/nov/14/didnt-give-a-damn-refugees-film-croatian-police-brutality-bosnia>

21 <https://www.nytimes.com/2018/12/08/world/europe/migrants-bihac-bosnia-croatia.html>

22 <https://www.unhcr.org/desperatejourneys/>

23 <https://www.savethechildren.org/us/about-us/media-and-news/2017-press-releases/refugee-and-migrant-children-injured-in-illegal-border-push-back>

24 <https://www.hrw.org/news/2018/12/11/croatia-migrants-pushed-back-bosnia-and-herzegovina>

[Violence Monitoring](#)²⁵ published footage showing 54 cases of collective forced returns ("pushbacks"), conducted between September 29th and October 10th 2018, in which at least 350 people were forced through the green border into the territory of Bosnia and Herzegovina. The clip shows forced returns from Croatia to the Bosnian vicinity of Bihać. Similar locations where collective expulsions are still ongoing daily are located in the vicinity of the border at the town of Velika Kladuša.

The systematic violence of the Croatian police against migrants in the form of theft and destruction of mobile phones has been documented and has been taking place for two years. In 2017 it took place in the vicinity of the **Serbian-Croatian border near the town of Šid**. Last year, however, the same practices began at the **Bosnian-Croatian border**. Madina Hussiny, a six-year-old Afghan girl, lost her life in one of the collective expulsions to Serbia. The family crossed the border from Serbia to Croatia in order to apply for asylum, but the Croatian police forcefully dispersed them. On the night of November 21st, 2017, Madina was hit by a train and died. This case was investigated by the Croatian Ombudsman for Human Rights who requested images of thermal cameras, which the police did not provide because of "technical problems".

After this, the Public Prosecutor's Office was not ready to launch an investigation against the police, as there was insufficient evidence. **This case is currently at the European Court of Human Rights**. Similar examples of concealing evidence of violence by the Croatian police were also present last year, but published footage of collective expulsions, countless testimonies and beaten people who are forcibly displaced to Bosnia and Herzegovina across the green border testify to this systematic violence. According to the testimonies, collective expulsion is carried out in such a way that a group is put in a van and taken close to the green border with Bosnia and Herzegovina in the relative vicinity (usually 20 km) of Velika Kladuša or Bihać. In some cases, police officers have previously dropped tear gas inside the van, and in the winter they would turn on a cold climate and drive wildly²⁶, leading to injuries and vomiting. Then, in the wild near the border, they drop one or two people at a time out of the van. Around this person a circle of black masked men or of masked cops is made, or in some cases a cordon is formed, who then start abusing people with whips, kicks and blows with batons, electric paralyzers or electric poles. Aiming rubber bullets toward the region of the head and chasing with dogs is also a method used to force people to flee across the border back to Bosnia. Prior to this, persons are deprived of their personal property, such as money and telephones, and whoever applies for asylum may receive additional blows. During the winter months, there were also other forms of torture such as the practice of taking people's clothes and footwear, which in snow conditions poses a great risk of subcooling and frostbite of individual body parts and, consequently, brings the risk of amputation. All cases of collective expulsion do not take place in this form, but they are nevertheless common.

In a survey conducted [between January and August](#)²⁷ in which 2500 people questioned, UNHCR confirmed 1500 cases of non-compliance with asylum applications and 700 cases of violence on behalf of the Croatian police. Since June this year, individual [testimonies](#)²⁸ of expulsions from Slovenia and Croatia to BiH have been recorded by No Name Kitchen, SOS Team Kladuša and Balkan Info Van.

²⁵ <https://www.borderviolence.eu/proof-of-push-backs/>

²⁶ pg. 25 <http://www.nonamekitchen.org/wp-content/uploads/2018/11/Violence-Reports-October.pdf>

²⁷ <https://data2.unhcr.org/en/documents/details/65465>

²⁸ <https://www.nonamekitchen.org/en/violence-reports/>

In spite of this proven systematic violence the Croatian police acquired EUR [10 million](#)²⁹ last year from European funds, and this money will be used primarily to accommodate cops near the border, maintain two helicopters, buy off-road vehicles and border control equipment. The European Commission also devoted just over [7 million](#)³⁰ to the Croatian police at the end of the year for the purpose of strengthening the European external border. Both the Slovenian and Croatian police are carrying out the task of [externalizing](#)³¹ European borders through systematic violation of human rights and the implementation of violence against the most vulnerable groups. **Important note: Slovenian police violates the international principle of non-refoulement in the event of a serious threat of torture by returning people who were not let into asylum procedure, but were instead processed under the bilateral international agreement.** Both activist field reports and international organizations reports confirm the existence of this danger.

Example:

On July 29th 2018, Hakim along with a group of five other people from Tunisia, Algeria and Morocco was taken to police station Crnomelj. At the station, *the police interviewed only one person in the name of all six about their intention to apply for asylum.* After the hearing, they spent the night in a container and were handed over to the Croatian police. They led the group to the green border of Bosnia and Herzegovina in the vicinity of Velika Kladusa, where they were severely beaten by masked men. Electric bars were also used for expulsion.³²

The telephone number operation (alarmphone principle)

During visits to Velika Kladuša, some volunteers distributed information to the migrants about the asylum procedure in Slovenia: what is the procedure, which are the competent authorities, what are their rights and obligations in the individual stages of the procedure. Due to the increasingly frequent testimonies of migrants on illegal returns (pushbacks) by the Slovenian police and in the light of the above mentioned unexplained discrepancies in official data on the percentage of migrants who express their intention to seek asylum at individual police stations, volunteers also gave the migrants a telephone number in case of any questions after crossing the border. The number operates according to the "[alarmphone](#)"³³ principle, already proven effective in some other parts of Europe (Croatia, Spain, Greece, Italy) which have faced the same problem at sea and elsewhere (for example the Greek-Turkish border). **The purpose of these telephone numbers is to independently monitor border crossings and monitor police conduct.**

²⁹ <http://hr.n1info.com/English/NEWS/a329994/Croatia-receives-strong-support-for-its-Schengen-area-bid.html>

³⁰ <https://www.total-croatia-news.com/politics/33159-border-management>

³¹ More about the term externalization: <https://repozitorij.uni-lj.si/lzpisGradiva.php?id=106415>

³² <https://www.nonamekitchen.org/en/violence-reports/>

³³ <https://alarmphone.org/en/>

As mentioned above, In mid-July 2018, the NGO Legal Information Center (PIC) set up a 24h telephone line aiming to provide information for migrants regarding their rights as well as to inform the competent police authorities about persons intending to apply for international protection who are located on Slovenian territory. This was a response to the increasing number of worrying testimonies of persons who were violently treated by police, and also prevented from gaining access to international protection. In Bosnia, testimonies also appeared, claiming that minors, families and other vulnerable persons were also denied at the police stations, which meant that Slovenian police in this way exposed people to the dangers of torture and thefts in Croatia, alongside with long-term dwelling in inhumane conditions in IOM camps in Bosnia.

The phone operation involved the provision of basic international protection information and getting feedback on the controversial functioning of the police at the border, as well as getting information about the situation in Velika Kladusa. People called or wrote when they were already in Slovenia. If they decided to do so, they also reported their name, age, country of origin, location and the number of persons in their group. Then, **with their consent**, the adequate authorities were notified on the location of the persons and their intention to seek asylum. Within two months 16 interventions were carried out in cases of groups that had pre-declared their intention to apply for asylum. In 13 cases, border guards complied with the legislation and the persons were submitted to asylum procedures, while in 3 cases the police claimed that the groups were never located in that area. Later it turned out that they were returned/pushed back across the border.

On September 7th 2018, a joint press conference was held between the Ministry of the Interior and the Ombudsman, during which, among other things, interior minister Vesna Györköš Žnidar charged an unnamed NGO with allegedly disputed activity in informing police stations about persons wishing to seek help, and tagged the notification that *police officers have to comply with legislation as problematic (!)*. It did not take long for the media to discover that the unnamed NGO is the Legal Information Center. As mentioned, this was followed by a media lynch and a withdrawal of PIC from the rescue line because the organization's continuing operation was endangered. Info Kolpa continued this practice with another number.

Vesna Györköš Žnidar stated that Info Kolpa volunteers inform the police of the location of migrants *while they were still on Croatian soil*. This, however, is not correct. Yes, in some cases, migrants contacted the telephone number already before the border crossing or even from Velika Kladusa. But in these cases, the volunteers explained the purpose and function of the phone number: that they performed monitoring only on the territory of the Republic of Slovenia, additionally asking them to call *after crossing the border*.

By warning the police that NGOs and the Ombudsman are being informed about cases of migrants who **intend to apply for asylum in Slovenia**, the point was to encourage the police to take more cautious treatment and prevent the illegal return of migrants. The alarmphone's secondary purpose was to record possible illegal police conduct.

Between the 11th and 7th of November 2018, Info Kolpa has intervened 20 times at police stations with e-mails or phone calls. Apart from the police, the presence of such persons was also communicated to the Ombudsman, Amnesty International Slovenia and, in some cases, the General Police Station. In 6 cases, the police guards took the groups to a further asylum procedure, in 6 cases, persons were collectively deported and later they reported back from Bosnia, in 1 case the person called from Croatia. In 7 cases, the

persons contacted no longer appeared, their trail was lost, and their number was no longer active. Possible reasons why people did not report themselves were:

1. they themselves did not want to continue the communication,
2. they were returned to Croatia, where the police deprived them of their phones and broke them in the course of violent expulsions over the green border.

Externalization

The Balkan route has for a long time been one of the key points of entry to Europe. For reasons of nationality or poverty however, legal border crossing has been made impossible for many people. Their journey starts in Greece, where most people come from Turkey with boats to the islands of the Aegean Sea. On five of these islands there are concentration camps funded by European funds. Leaving the islands is prevented, demonstrations due unsustainable dwelling conditions are muted with batons, deportations and court proceedings. Some countries in North Africa have financing arrangements with the European Union, which is delivering boats, jeeps, fences and control equipment for restricting migration. The externalization of European borders takes place in the Balkans as well, just like in North Africa, Turkey and Greece, and also takes the form of large financial grants, bilateral Accelerated Deportation Agreements, biometric censuses and the creation of fingerprint databases, border police trainings and deliveries of equipment for control, hunting, fence construction, and deportation center financing.

The word externalization is descriptive of **extraterritorial action taken by countries in order to prevent migrants and asylum seekers from entering the territory of the countries of destination. "Externalization" mostly stands for the cooperation with third countries, whereby these third countries implement direct and indirect instruments of migration control in line with the policies of their neighboring EU.**

For the purpose of limiting migration the European Union concludes agreements with third countries on conventional control methods, such as:

- increasing police presence at the border
- adopting repressive legislation
- building detention centers which function as prisons for the migrants

Another method of control is the method of returning people to the border (pushback). Returning a person to some place can be done legally or illegally. The concept of a *safe country* is relevant for returning. This is where it becomes obvious that externalization can be viewed as a kind of "outsourcing" of migration management (management of people, of their lives) and if done without respect to the concept of a safe country it is gambling with the lives of people, which is a direct breach of the concept of human rights protection.

More specifically, it means transferring responsibility is also undermining the system of human rights. Countries involved in such externalization processes:

- Spain - Morocco
- Italy - Libya
- Greece - Turkey
- Slovenia - Croatia - Bosnia

Contextualization

The events that have taken place in recent years in the Balkan region have pushed Slovenian society across the edge of hysteria. This is a consequence of government narratives which have created fear related to security, civilizational/cultural struggles and national economy. Such narratives however distract from dealing with migration itself, along with its reasons of being. So if the narrative of fear pervades on one side, the other side of the scale is left solely in the weak hands of humanitarianism, legalism and within their roots - the corrective legal institute of human rights.

As witnessed by the events in Hungary and what is actually a historical tendency, the path to reactionary systemic evil is paved with the search for sinful goats in the most vulnerable groups. Such practice seems to address the problems of domestic poverty and definitely plays on feelings of national identity and security. This reinforces the political position of its instigators who further strengthen the repressive state apparatus until they eventually reach those who do not agree with this political option.

Much of the migrants are fleeing the wars within which NATO, and with it Slovenia, take part. A fact we often hear is that people who have lived on the territory of today's Slovenia historically never used imperial or colonial logic. Yes, historically they were the ones who were overpowered by others. However, at least since Slovenian independence, this fact has changed. The infamous case of the erased 30 000 non-slovenians from the country's national database after the fall of Yugoslavia, multiple financial manipulations around the Balkans, the exploitation of migrant workers, and joining the Euro-Atlantic Empire since 2004 are all proofs of this twist of reality. Slovenia is also in a political and economic relationship with former colonial states that perform neo-colonial practices around the world and contribute to the second largest cause of migration - systematic poverty of many people whose search for survival outside their own country is made impossible.

The Slovenian police sent flyers to people's homes around the border territories where they invite local residents to report when they see a migrant, making it seem that in doing so they will be doing well, that the migrants will be taken care of.

On the other hand much is left in the hands of humanitarian organizations, which are apolitical and thus usually instrumentalized for purposes of controlling, regulating and preventing the movement of people.

Therefore, we must look to the support of any actor, including ourselves, who sees the need to address this issue politically. And this involves a different kind of politics: the politics of equality, emancipation, solidarity and freedom. If we see the current European trend is not only the criminalization of migration, but also criminalization of solidarity, of responding to empathy for a fellow human being, then it is our duty and the appeal to the people that in addition to demanding rights, we will also begin to create these rights ourselves.

Legal approaches

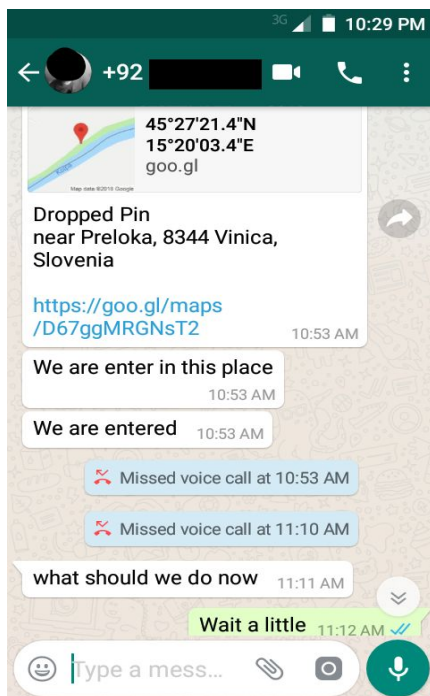
The government of the former prime minister and current Minister of Foreign Affairs Miro Cerar adopted two laws between the years 2015 to 2017:

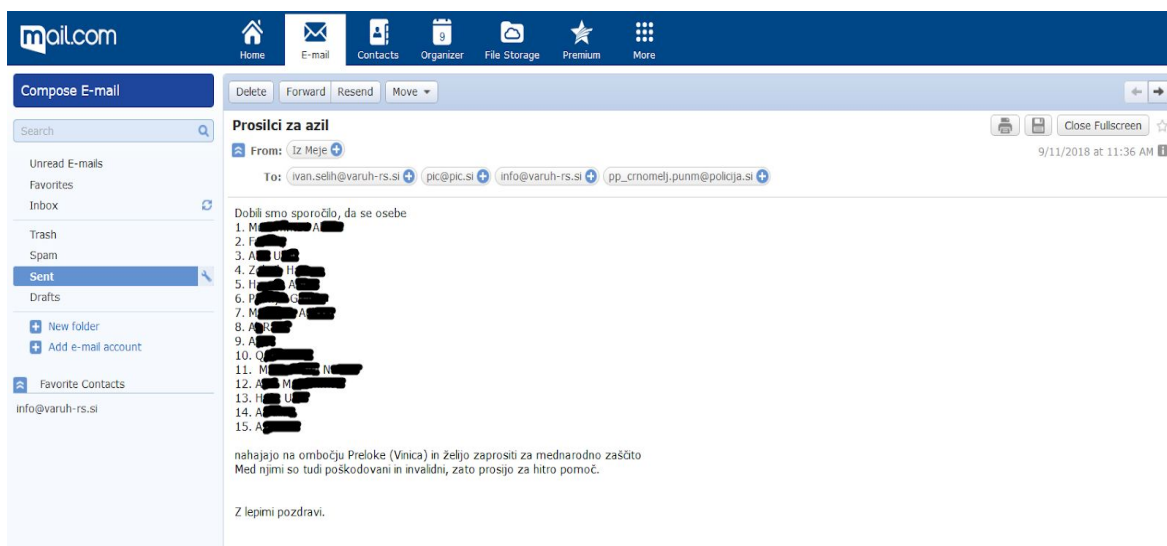
1. The novelty of the Defense Law, which in the event of an emergency, grants the army the power of the police and thus expands the power of the state's military apparatus into the civil sphere, and
2. The amendment to the Aliens Act, which, when a state of emergency arises, enables policemen to effectively close the border and prevent the exercise of the right to international protection on the territory of the Republic of Slovenia.

In the course of its mandate and in the name of security, this government significantly increased the power of repressive organs vis-à-vis both non-nationals and citizens.

Testimonies

Report 1





Time and place: 11 September 2018, Preloka near Vinica

Reception procedures at: Police station Črnomelj

What happened to people: Policemen from Police station Črnomelj caught a group of 15 people from Afghanistan, Iran and Pakistan. 3 minors were allowed to apply for asylum, other 12 were denied to claim asylum and were returned to Croatia

Description of the events: On September 11th 2018 a group of 15 people from Afghanistan, Iran and Pakistan contacted the alarmphone; at around 11 a.m. they crossed the border in Preloka near Vinica, which is under the jurisdiction of Police station Črnomelj. The group, in which there were also families and minors, at first contacted the number of PIC (Legal-Informational Centre for NGOs), but they refused to mediate between them and the police station because of the controversy and pressure in the social media. We were allowed to contact the police, after it was explained that only the police is responsible for dealing with asylum procedures and a direct help to migrants may be considered a criminal offense. Around 11.30 a.m., police station Črnomelj, Human Rights Ombudsman and PIC were informed via e-mail about the location of the group and their intention to apply for asylum. Between the hours of 4 and 5 p.m., the group also called the police emergency number and they were advised to move to the nearest road, so that the patrol could spot them. Three days later one person from the group contacted us from the Asylum Home in Ljubljana. Of the 15 people in the group, 3 minors were allowed to apply for asylum, 12 were returned to Croatia.

Report 2

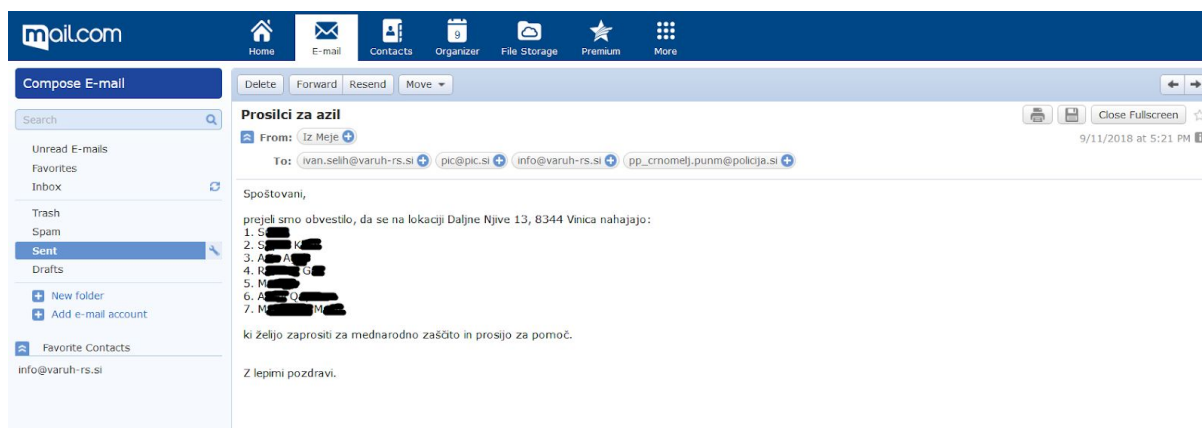
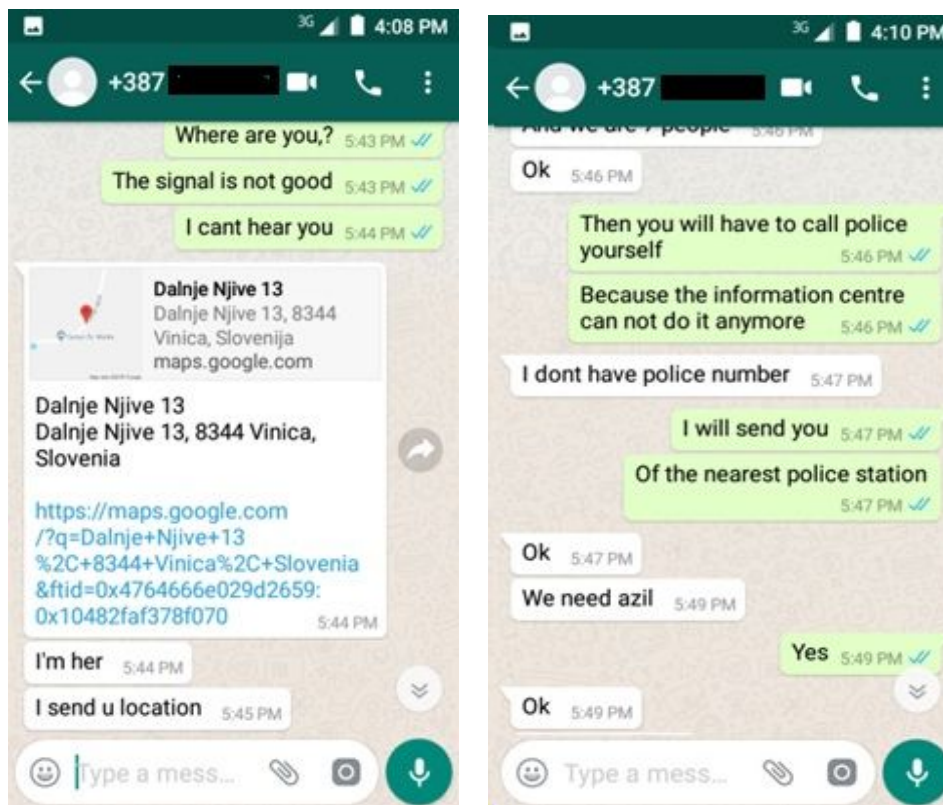
Time and place: 11 September 2018, near Dalnje Njive and Vinica

Reception procedures at: Police station Črnomelj

What happened to people: 7 adults, what happened to them is not known

Description of the events: On September 11th 2018 at around 6 p.m., a group of 7 Afghans contacted the alarmphone and sent their location - near Dalnje Njive (the surroundings of Vinica). The group expressed its intention to seek asylum. Around 6.30 p.m. the Police station Črnomelj, the Human Rights Ombudsman and PIC (Legal-Informational Centre for NGOs) were

informed. What happened to these seven people is not known, their phone number was no longer active.



Report 3

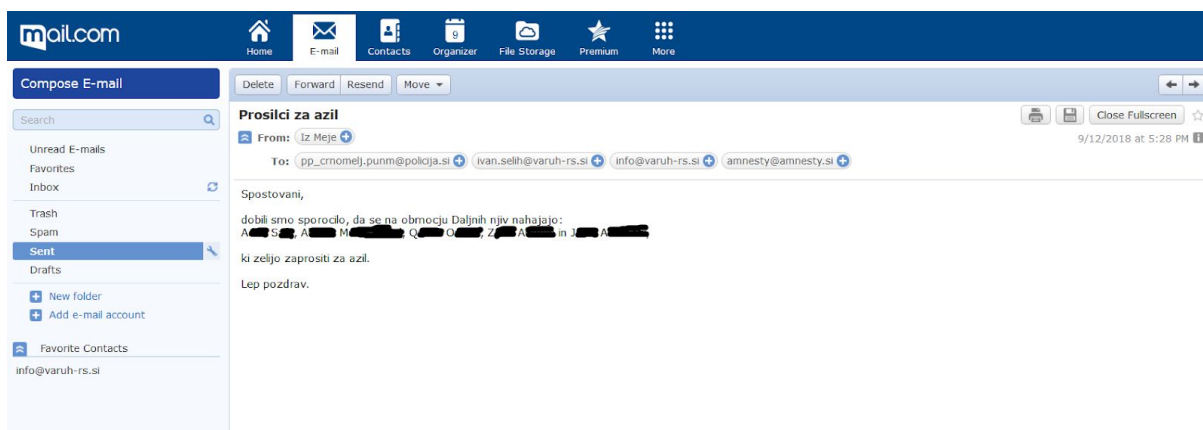
Time and place: 12 September 2018, in Dalnje Njive near Vinica

Reception procedures at: Police station Črnomelj

What happened to people: 4 adults from Afghanistan, what happened to them is not known

Description of the events: The alarmphone was contacted around 2 p.m. by a group of four people, crossing the border near Dalnje Njive. At 5.30 p.m. the Police station Črnomelj, the

Human Rights Ombudsman and Amnesty International were informed. The next day at 2 pm the group was still somewhere in the forest, afterwards contact with them was lost and the number was inactive.



Report 4

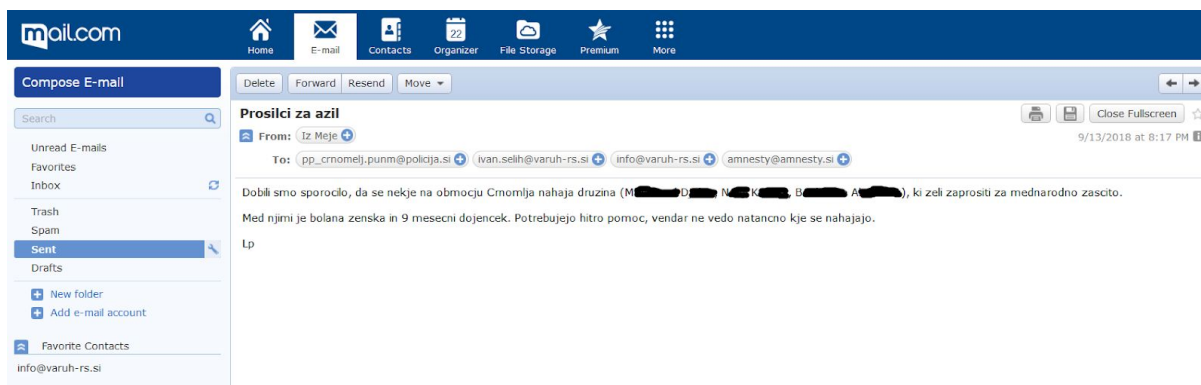
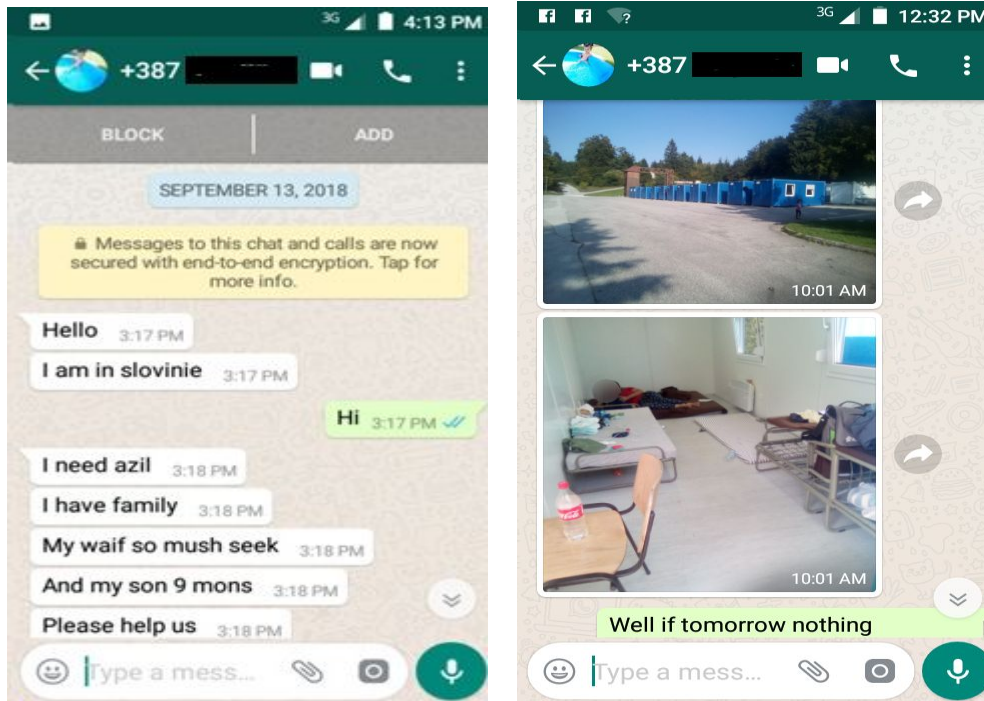
Time and place: 13 September 2018, location was not sent.

Reception procedures at: not known

What happened to people: A husband and wife with a 9-month-old baby were able to apply for asylum

Description of the events: A little after 3 p.m. the alarmphone was contacted by an Algerian family, who was in the territory of Slovenia. The husband called, his wife was supposed to be suffering from breast cancer and they were travelling with a 9-month-old baby. Due to fear of

deportation to Croatia and then to BiH, they didn't send their location and also refused to call the police. Because they made a request for volunteers to contact the police, Police station Črnomelj was informed. The family spent the night outside, after some persuasion the next day they agreed to call the police themselves. On September 15th, the family contacted us from a refugee camp (most likely in Logatec).



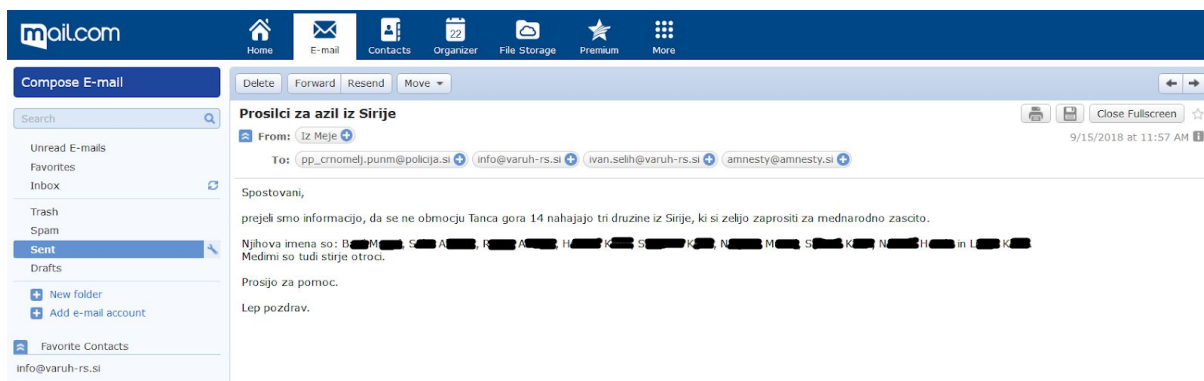
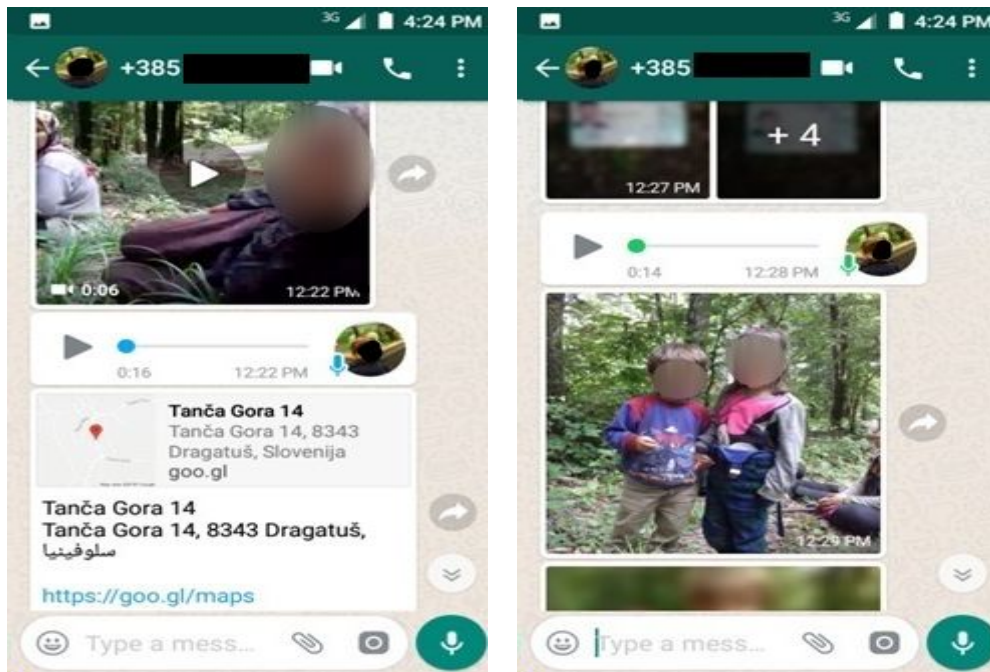
Report 5

Time and place: 15 September 2018, Tanča Gora near Črnomelj

Reception procedures at: Police station Črnomelj

What happened to people: 9 people (3 families, among them 4 children), what happened to them is not known

Description of the events: The alarmphone was contacted on September 15th at 12:20. Three families from Syria called from the forest on the Slovenian side. A man (on the move with his son) said that they wanted asylum, but they had no credit on the phone to call the police station. That is why Info Kolpa informed the Police station Črnomelj, Human Rights Ombudsman's Office and Amnesty International Slovenia. Two hours later the group could no longer be reached by phone and it is not known what happened to them.



Report 6

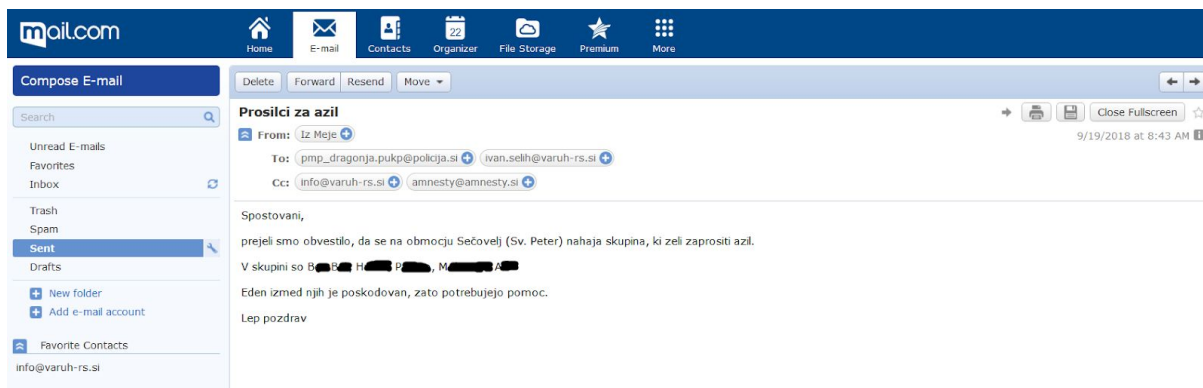
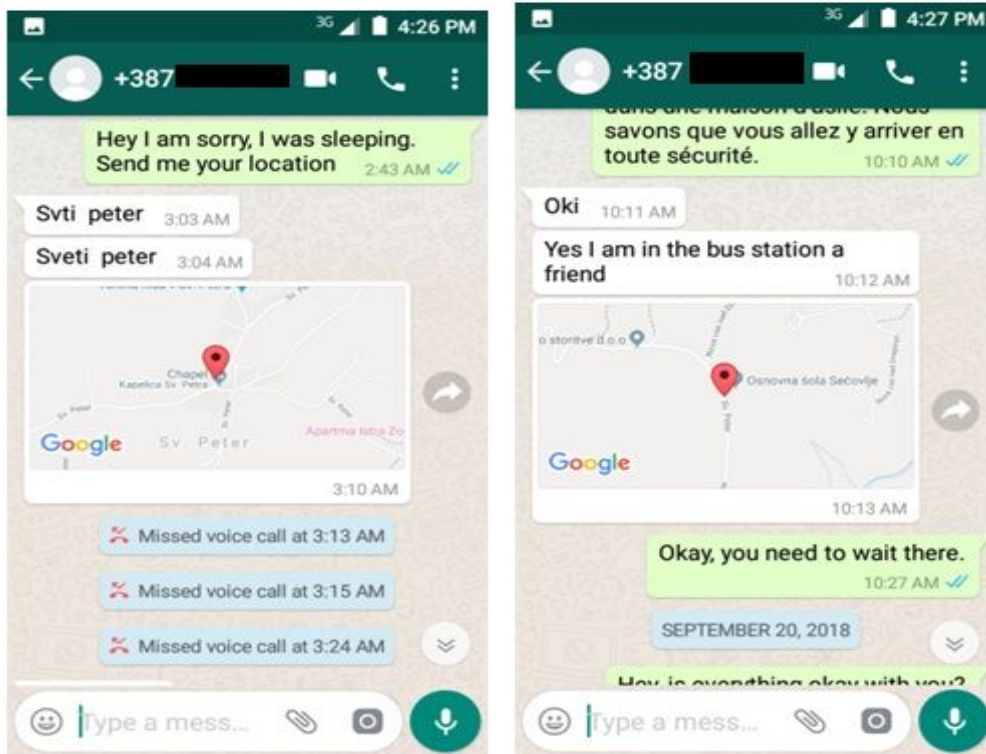
Time and place: 19 September 2018, Sveti Peter (near Sečovelje)

Reception procedures at: Border police station Dragonja

What happened to people: For 3 people asylum procedure has been started

Description of the events: At 2.40 p.m., a group contacted the alarmphone with the information that they are located in Slovenia near the village Sveti Peter; they also reported that

one person from the group is injured. Around 9 a.m. the next morning the Border police station Dragonja was informed, the group was told to wait at the bus station. On September 21st they contacted us and reported they were accommodated in a refugee camp.



Report 7

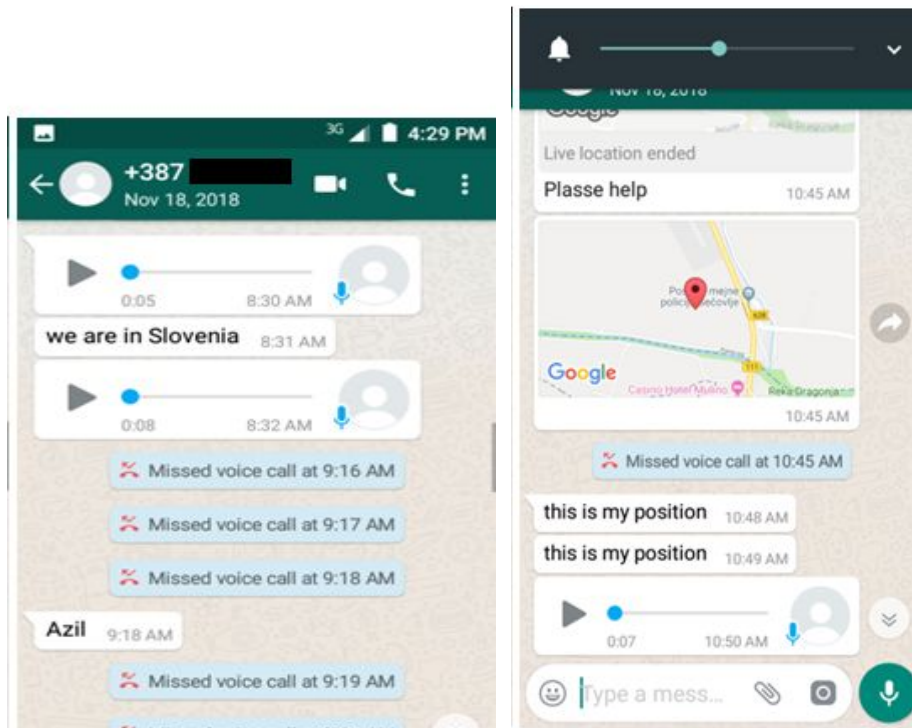
Time and place: 19 September 2018, Sečovelje

Reception procedures at: Border police station Dragonja

What happened to people: 3 people, what happened to them is not known

Description of the events: The alarmphone was contacted at around 2.30 a.m. by a group of three from Algeria, who were already located on Slovenian territory; they said that for the last three days on the road they've been without any food or water. They were told to go to the first village and ask for help. In the morning around 9.30 Info Kolpa notified the Border police station

Dragonja, Human Rights Ombudsman and Amnesty International Slovenia about their intention to apply for asylum. The police were also sent their phone number and their exact location - they were waiting at the bus station at the primary school Sečovlje. What happened to them is not known.



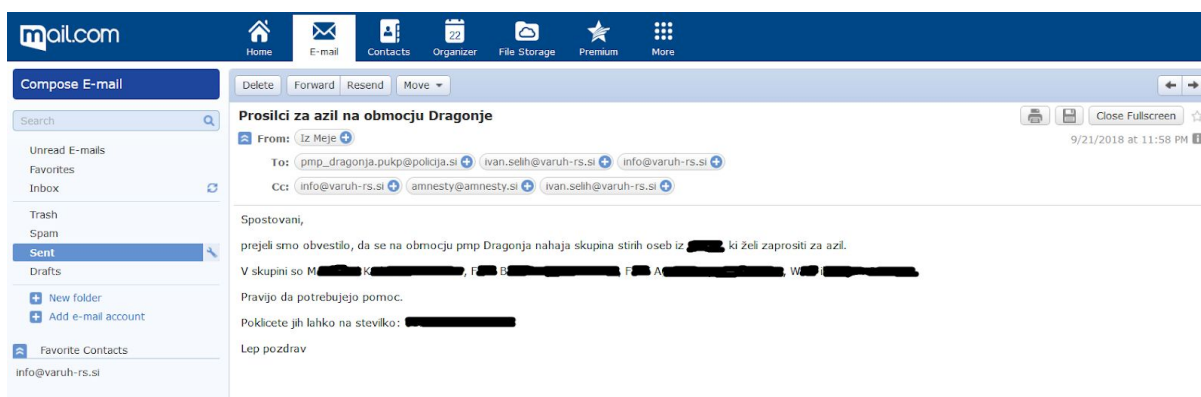
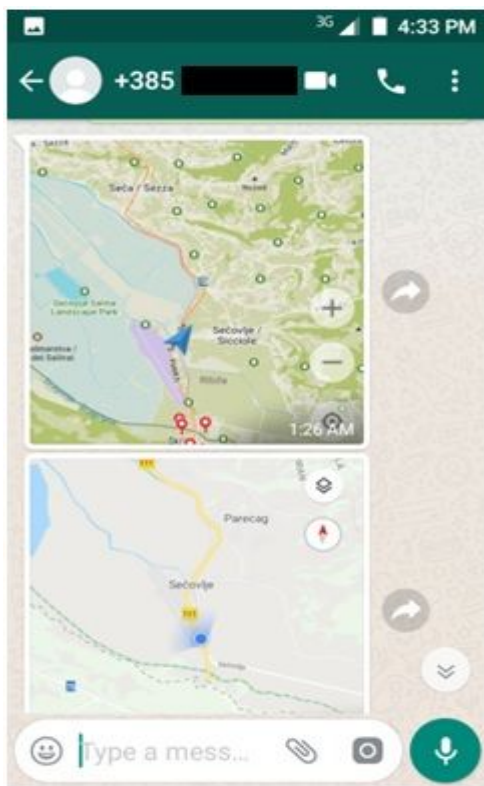
Report 8

Time and place: 21 September 2018, Sečovlje

Reception procedures at: Border police station Dragonja

What happened to people: For 4 people asylum procedure has been started

Description of the events: On September 21st just before midnight, a group of four people from Algeria contacted the alarmphone, after crossing the border to Slovenia somewhere near Sečovlje. They have sent their names and birth dates. The caller told us through a voice message that he was ill, they've been walking for several days. They also sent their exact location, so Border police station Dragonja, Police station Piran, Ombudsman's Office and Amnesty International were informed. In two days the callers reported that they have been accommodated in the closed section of the refugee camp in Ljubljana.



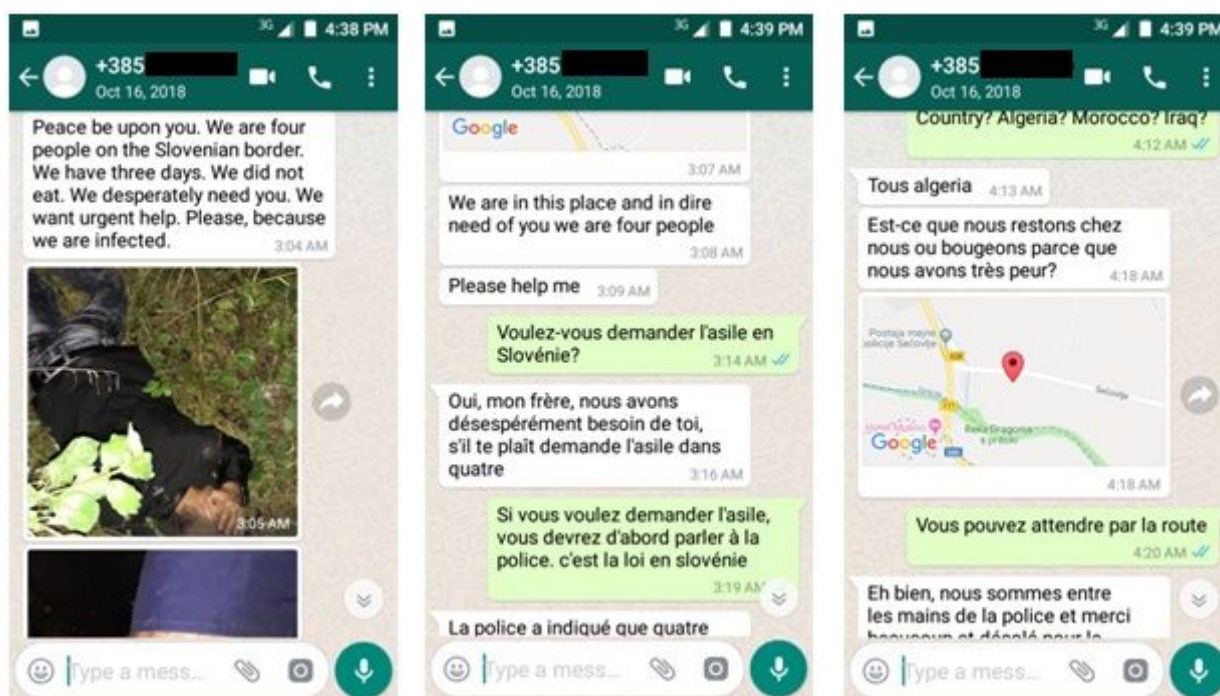
Report 9

Time and place: 22 September 2018, near Sečovlje

Reception procedures at: Border police station Dragonja

What happened to people: For 4 people asylum procedure has been started

Description of the events: At about four in the morning, on September 22nd 2018, the alarmphone was contacted by a group of 4 people from Algeria who were located near the road between Border police station Sečovlje and the village of Dragonja. They reported that they had not eaten for several days and they are in need of medical care. There were also two minors in the group. At 4.00 a.m. Info Kolpa informed Police station Piran, Border police station Dragonja, Human Rights Ombudsman and Amnesty International about their location and the intention to seek asylum. On the 4th of October the group informed us they were accommodated in a refugee camp in Ljubljana.



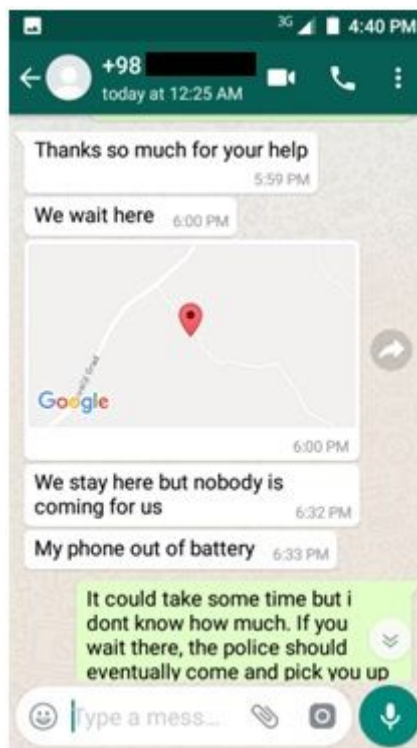
Report 10

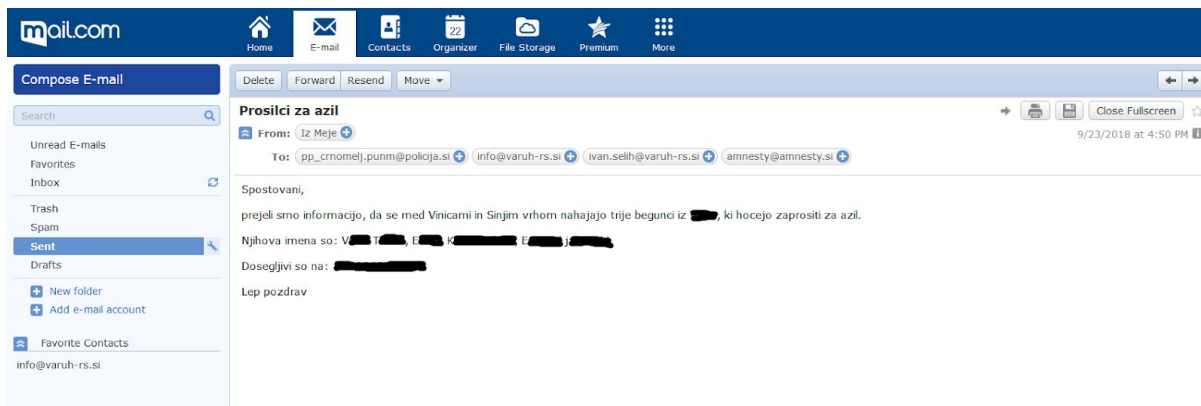
Time and place: 23 September 2018, somewhere between Vinica and Sinji Vrh

Reception procedures at: Police station Črnomelj

What happened to people: 3 persons from Iran were pushed back from Slovenia to Croatia and then expelled to BiH

Description of the events: Around 5 p.m. a group of three people from Iran contacted the alarmphone, they were located in the area under the jurisdiction of Police station Črnomelj. After confirming their location Police station Črnomelj, Ombudsman and Amnesty International were informed (about the location and their intention to apply for asylum). They have also received the group's contact number. Two days later the three people from Iran called the alarmphone again - from Velika Kladuša in BiH. After the reception procedures, the Slovenian police handed them over to the Croatian police, and then they were returned to BiH. At Police station Črnomelj 230 euros was taken from them – a fine for illegal border crossing, and then a collective expulsion took place.





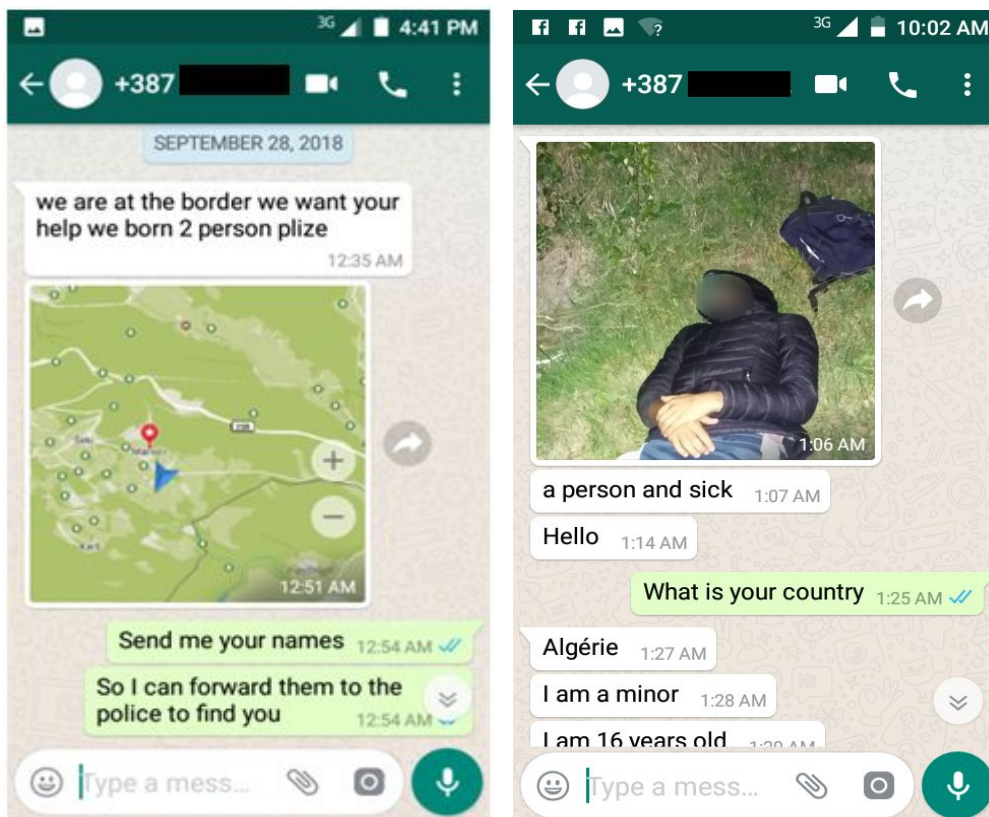
Report 11

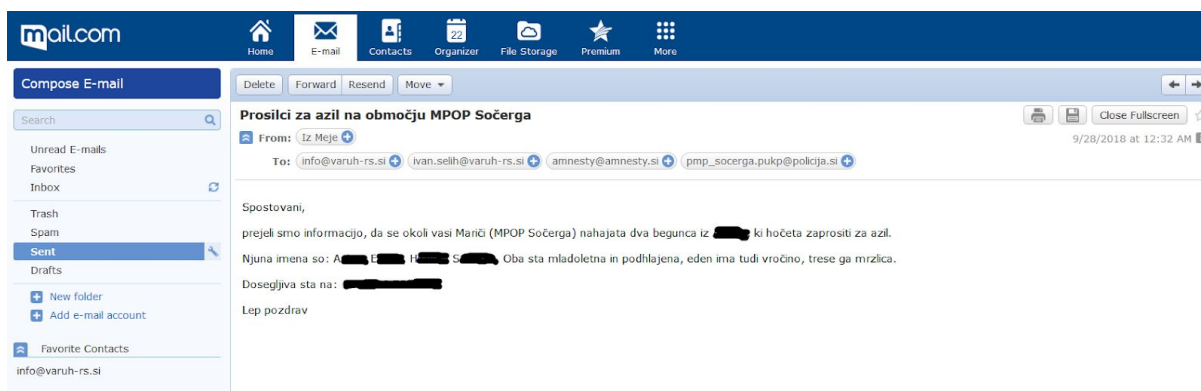
Time and place: 28 September 2018, surroundings of the village Marsiči, near the border crossing point Sočerga

Reception procedures at: Border police station Sočerga

What happened to people: 2 minors from Algeria, what happened to them is not known

Description of the events: On September 28th, at about 1.30 a.m., two minors from Algeria sent their location to the alarmphone. One of them was ill and couldn't continue with the journey. Border police station Sočerga was informed immediately, and they were also forwarded the minors' contact number. The minors haven't contacted the alarmphone after that and it's not know what happened to them.





Report 12

Time and place: 30 September 2018, between Vinica and Dalnje Njive

Reception procedures at: Police station Črnomelj

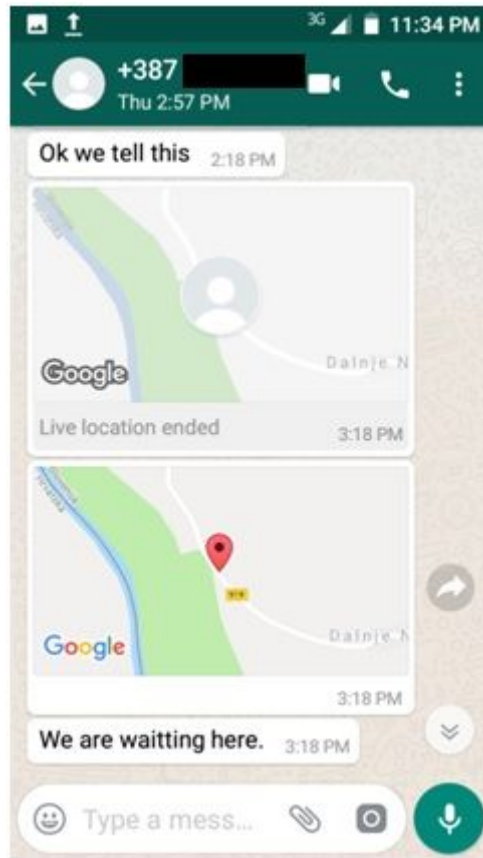
What happened to people: 5 people (1 minor) were deported to Croatia and then to BiH

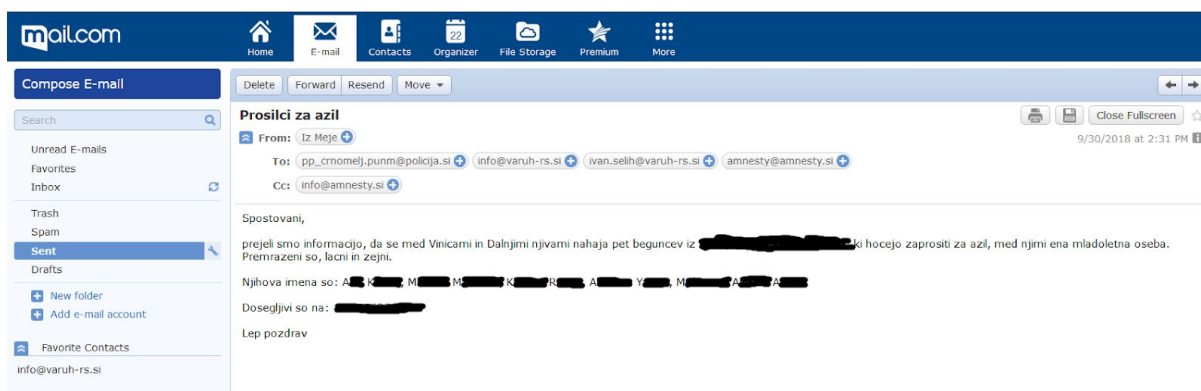
Description of the events: At around 9 a.m. a group of five contacted the alarmphone and reported that they are currently in the territory of Slovenia and wish to apply for asylum. After they sent their names and location, the Police station Črnomelj was informed about the location and their intention to seek asylum; the e-mail was also sent to the Ombudsman and Amnesty International. There was also a minor in the group. On October 2nd, the caller contacted the alarmphone again - from Bosnia and Herzegovina, explaining that the Slovenian police had handed them over to the Croatian police; they were then beaten, their personal possessions were taken and they were expelled to BiH.

Testimony of a person from the group about the events that have taken place at the Police station (interview recorded on October 5th, 2018)

A group of five people, one of whom was a minor, was detained by the Slovenian police. One of them told us that after being arrested by the police, he has stated he wants asylum in Slovenia, but his request was ignored. *"I tell him I want asylum in Slovenia, he tell me no"*, the interviewee describes his conversation with the Slovenian policemen. The same happened to a minor in the group (17-year-old).

After being arrested, they were taken to the police station where they were photographed and their fingerprints were taken. After waiting for about six hours, the interviewee was taken by car and handed over to the Croatian police, who immediately drove him to BiH. *"Yes yes, [they] take me 150 euro. And my phone [...] Yes everybody. Look, me just money but my friend all the telephone"*, the interviewee answered when asked, whether the Croatian police has taken their money. On the green border a few dozen kilometers away from Bosnia, they were driven out of the vehicles and told to go towards Bosnia.





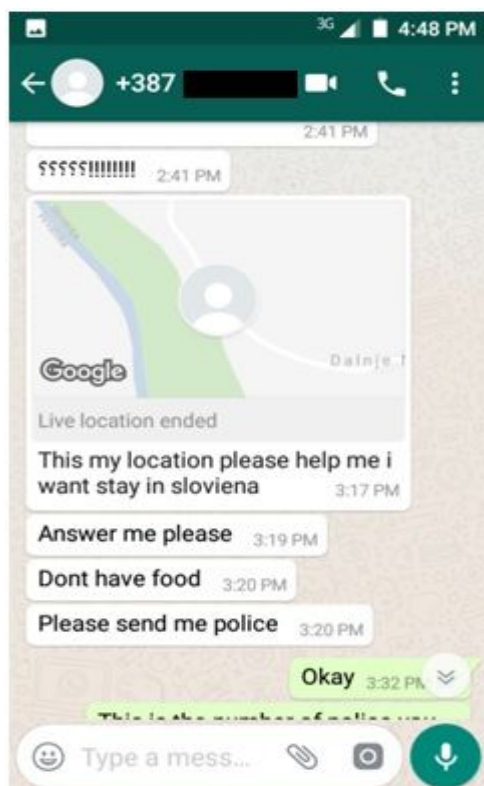
Report 13

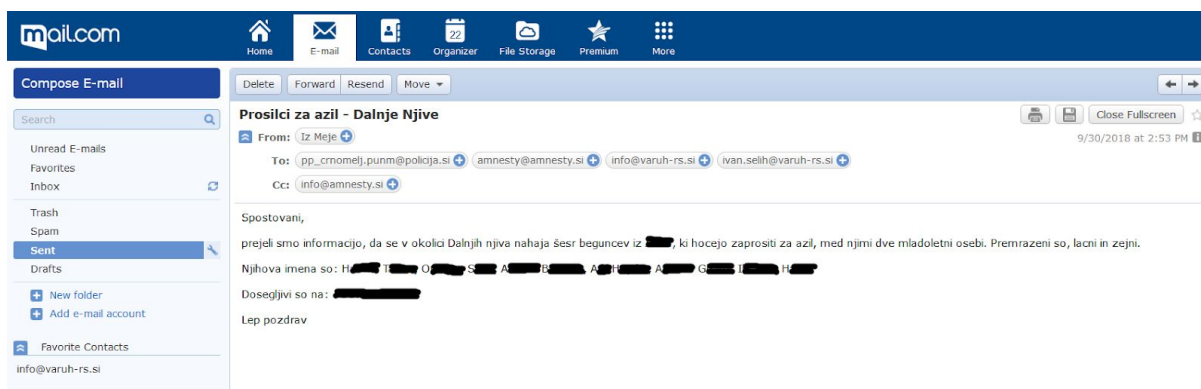
Time and place: 30 September 2018, the vicinity of Dalnje Njive

Reception procedures at: Police station Črnomelj

What happened to people: 6 people from Iraq, what happened to them is not known

Description of the events: On the 30th of September, at about 9.30 a.m. the alarmphone was contacted by a group of six people from Iraq, including two minors. They reported that they are located somewhere near Dalnje Njive and they wish for us to contact the police station, they also said they've been without food for a while and they are exhausted. We informed the Police station Črnomelj and the group's contact number was sent, also the Ombudsman and Amnesty International were informed. At around 3.30 p.m. the caller reported that the police arrived. Afterwards the alarmphone has not been contacted by them and their number was inactive. What happened to them or whether they were allowed to apply for asylum is not known.





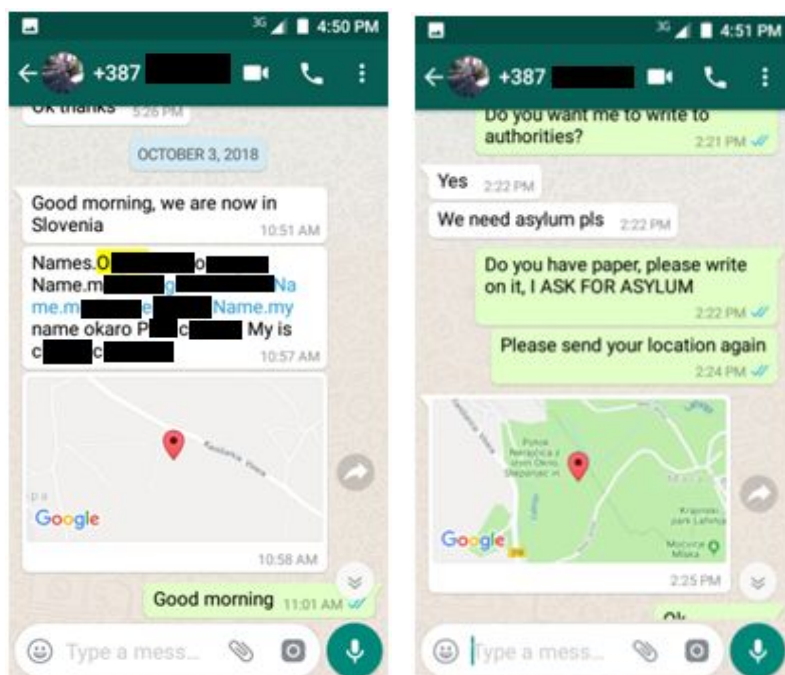
Report 14

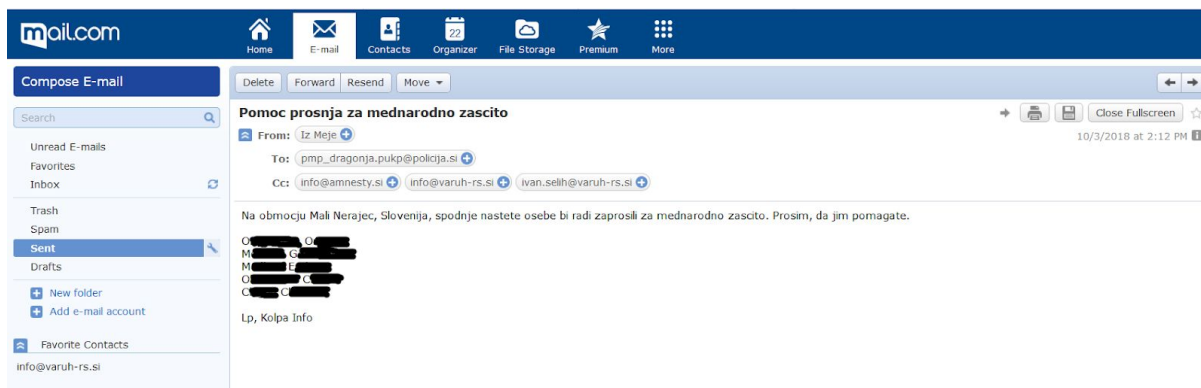
Time and place: 3 October 2018, Mali Nerajec

Reception procedures at: Police station Črnomelj

Who: 5 people deported to Croatia and then to BiH

Description of the events: At 11 a.m. the alarmphone was contacted by a group of five people, located in the area under the jurisdiction of Police station Črnomelj. After they've agreed we forward their location to the organs of state security, Police station Krško and Border police station Dragonja were informed - considering bad past experience with Police station Črnomelj. The Ombudsman and Amnesty International were also informed. The group was later caught by the police, then returned to BiH through Croatia.

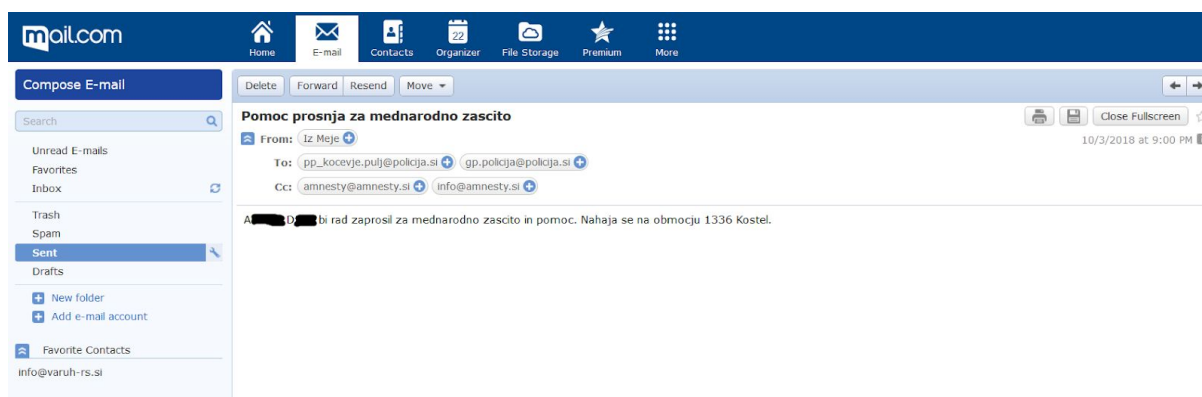




Report 15

What happened to people: 1 person was deported to Croatia and was able to apply for asylum there

Description of the events: On October 3^d, at around 9 p.m., a person from Algeria contacted the alarmphone. The caller was located in the vicinity of Pirče pri Kostelu and at their request, the authorities were informed of the intention to apply for asylum. Police station Kočevje, General Police Directorate and Amnesty International were notified via e-mail. The person was deported to Croatia, but allowed to apply for asylum there.



Report 16

Time and place: 4 October 2018, surroundings of Preloka near Vinica

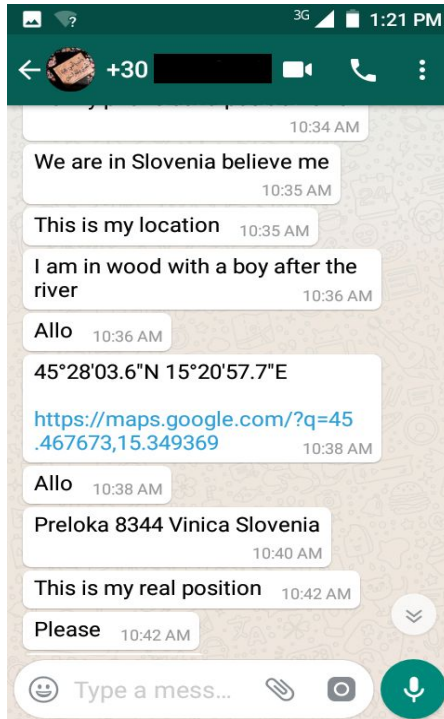
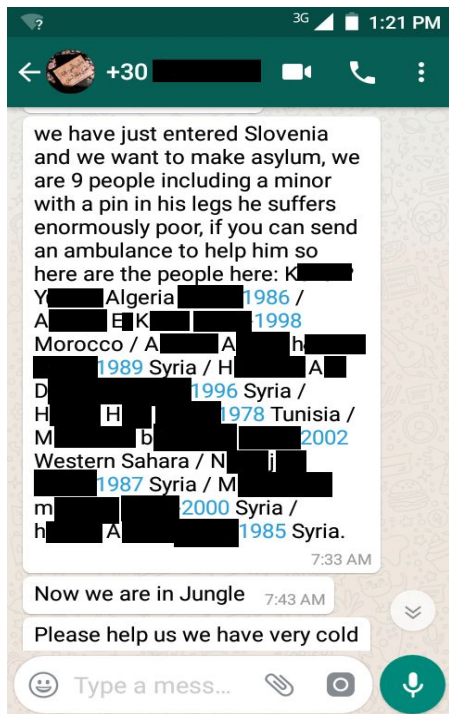
Reception procedures at: Police station Črnomelj

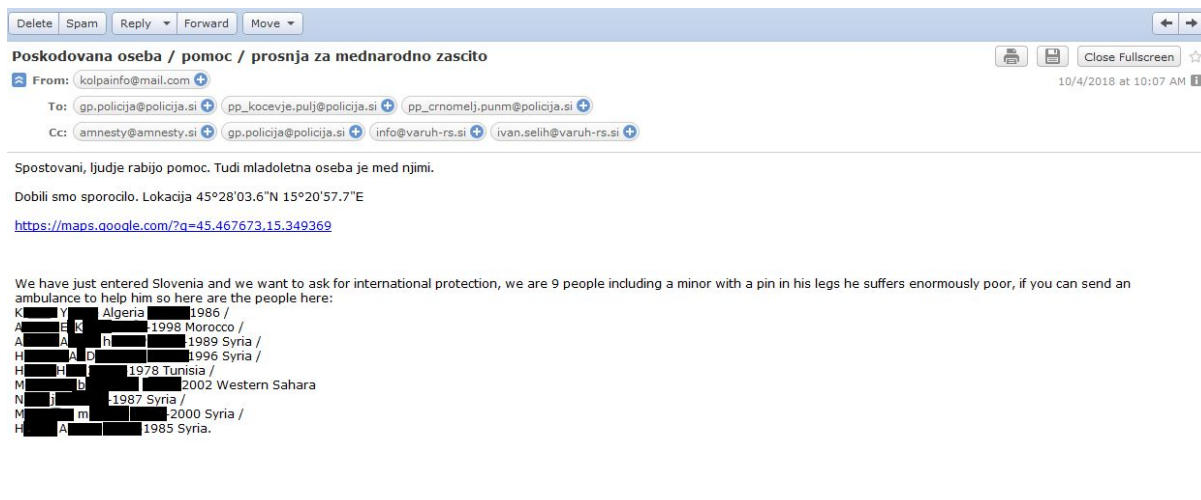
What happened to people: 9 people from Algeria, Morocco, Western Sahara and Syria. 8 people were sent back to BiH, 1 minor was allowed by Slovenian police to apply for asylum

Description of the events: Around 7 a.m. on the 4th of October 2018, a group of 9 people contacted the alarmphone with their personal information (names, birth dates, homelands) and their exact location. They also reported that the minor in the group has a wounded leg. A little after 10 a.m., at their request the police were informed of their whereabouts and the intention to apply for asylum. Police station Črnomelj, Police station Kočevje, General Police Directorate, Ombudsman's office and Amnesty International office in Slovenia were informed.

Testimony of a person from the group about the events that have taken place at Police station Črnomelj (interview recorded on October 27th, 2018):

The interviewee said that, together with eight other people, the Slovenian police captured him in the forest at the location they've sent to Info Kolpa. After being caught, they said they want asylum, but "the police replied 'we don't have asylum for you'" (*»The police tell me, we don't have asylum for us«*). Afterwards they were taken to the police station, where they spent two nights in detention. According to the interviewee, a few people at the station also wore military uniforms. The translator at the police station conducted an interview, during which he stated that they do not grant asylum in Slovenia. To the interviewee's claim that he wants to come to Slovenia the translator replied "you don't know Slovenia" (*»He tell me you don't know Slovenia«*). What followed was signing of documentation in Slovenian language without translations, translator also refused to translate the documents. The group had been photographed and had their fingerprints taken, after which they've been driven to the Croatian border and handed over to the Croatian police. The interviewee described the events on the Slovene-Croatian border: "Yes on the border we gave money. And the money of my friend, he gave 100 € and another friend 5 € and the phone, just one phone." (*"Yes in the border, we give money. And the phone. friend 5 euro and phone, just one phone."*) Afterwards they were taken to a police station somewhere in Croatia, then with a van to the green border with Bosnia, where they were driven across the border to the Bosnian side. The interviewee tried to cross the border seven times, twice the Slovenian police forcibly deported him and handed him over to the Croatian police.





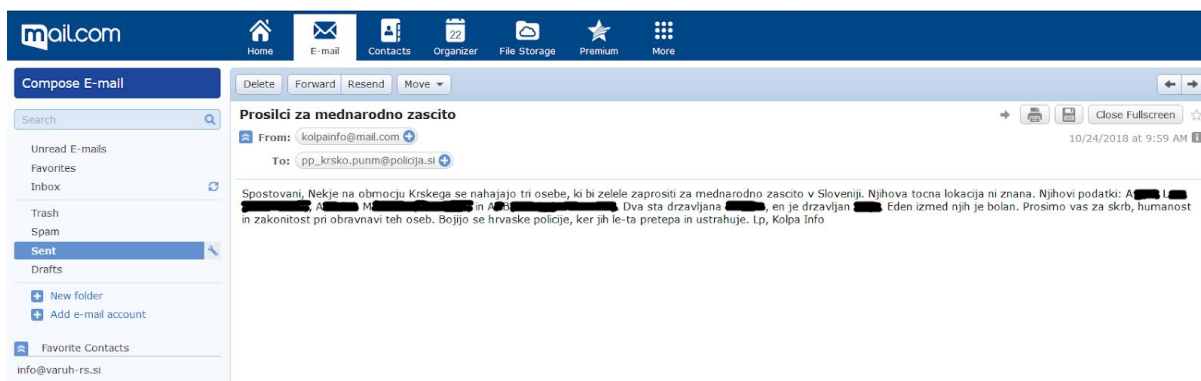
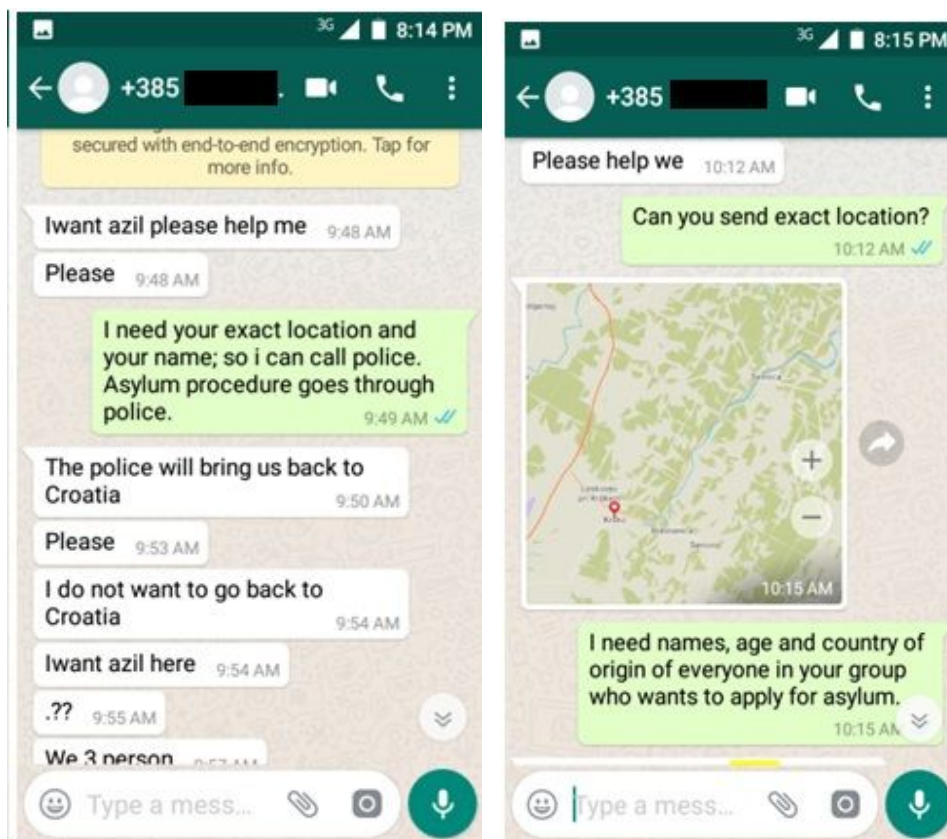
Report 17

Time and place: 24 October 2018, vicinity of Krško, Ljubljana

Reception procedures at: Asylum Home Vič (Ljubljana)

What happened to people: 3 people (minors) have been granted access to an asylum procedure

Description of the events: On October 24th at around 10 a.m. a group of three minors, located in the surroundings of Krško, contacted the alarmphone. The group expressed its intention to apply for asylum and told us they are currently somewhere in the vicinity of Krško, but did not send their exact location. Police station Krško was informed of their intention to seek asylum. The group contacted the alarmphone again the next day, saying they were in Ljubljana. The next day they reported that they are in Ljubljana. They were sent the address of the Asylum Home Vič in Ljubljana and they informed us they were on their way, later they reported they were staying in the Asylum Home in Ljubljana.



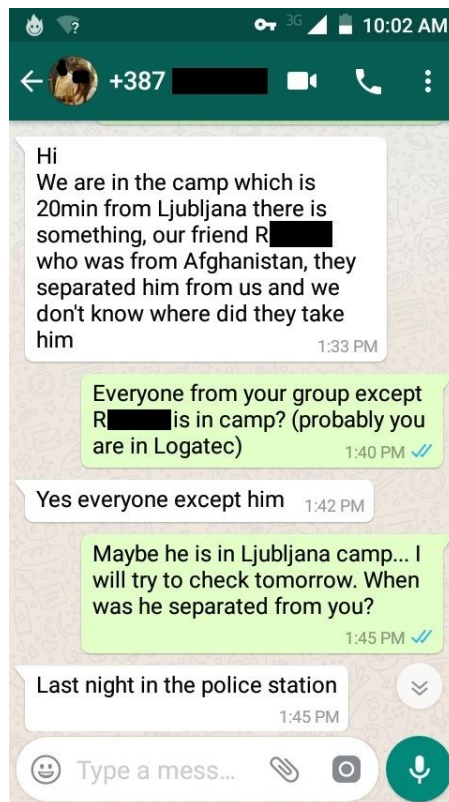
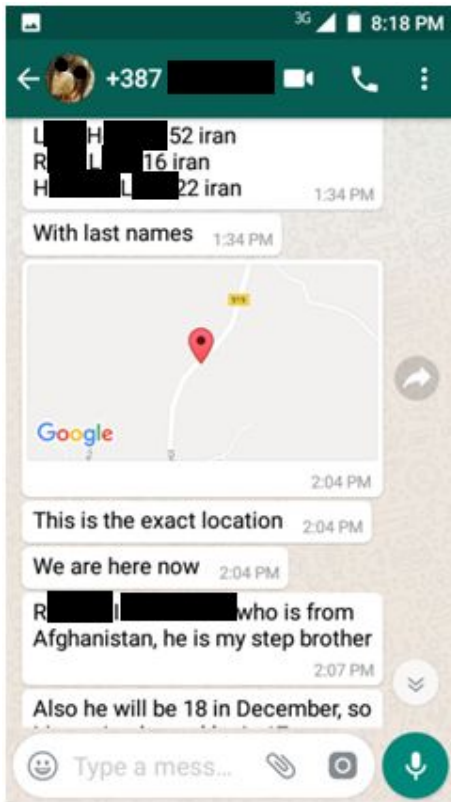
Report 18

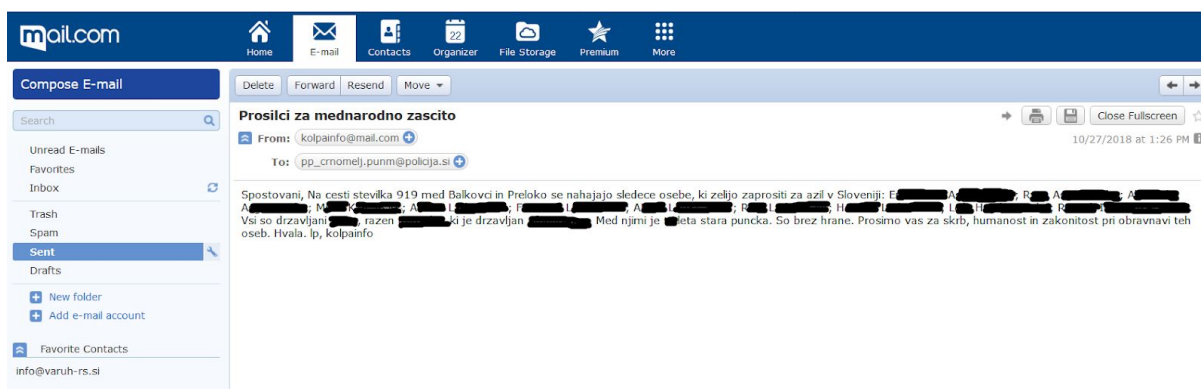
Time and place: 27 October 2018, the road between Balkovci and Preloka

Reception procedures at: Police station Črnomelj

What happened to people: 11 people; 10 people from Iran were granted access to an asylum procedure, 1 person from Afghanistan returned to BiH)

Description of the events: At around 1.30 p.m., a group of 11 people from Iran and Afghanistan contacted the alarmphone, they told their names and location; Info Kolpa then informed Police station Črnomelj about their location. There were four minors in the group, the police started the asylum procedure for 10 people from Iran. At the police station one person (a 17-year-old from Afghanistan) was separated from the group, he was prevented from applying for asylum, deported to Croatia and then to BiH.





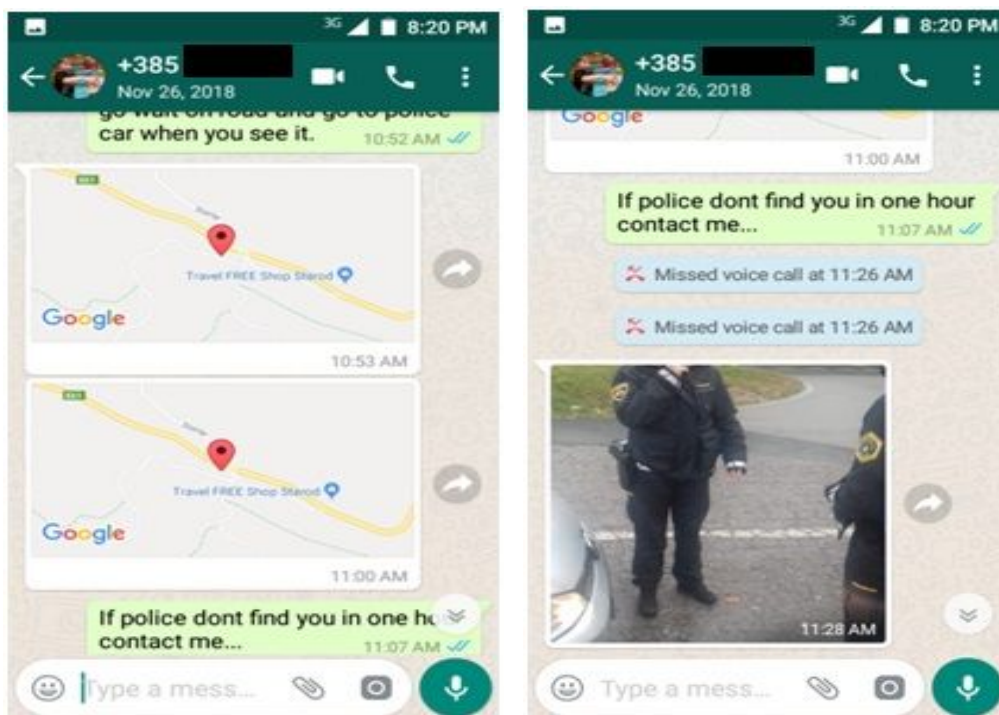
Report 19

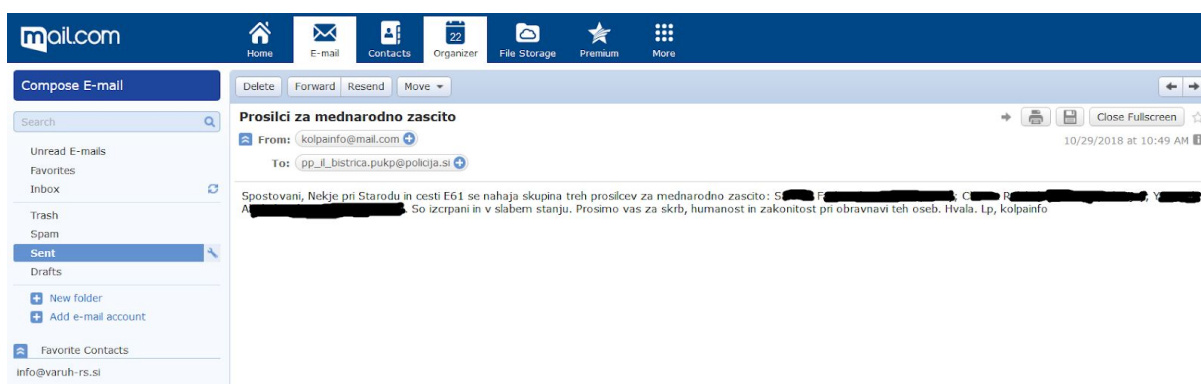
Time and place: 29 October 2018, near Starod (Ilirska Bistrica)

Reception procedures at: Police station Ilirska Bistrica

What happened to people: 3 people were denied the right to apply for asylum, deported to Croatia and then to BiH

Description of the events: On October 29th, at about 10.30 a.m., three people from Iraq and Algeria contacted the alarmphone and expressed their intention to apply for asylum in Slovenia. Police station Ilirska Bistrica and the Human Rights Ombudsman were informed, while the group was instructed to wait for the police by the road. At around 11.30 a.m., the group was found by the police and taken to the police station, where their fingerprints were taken. Afterwards collective expulsion to Croatia and then to BiH took place. According to the testimony, they've been beaten during deportation.





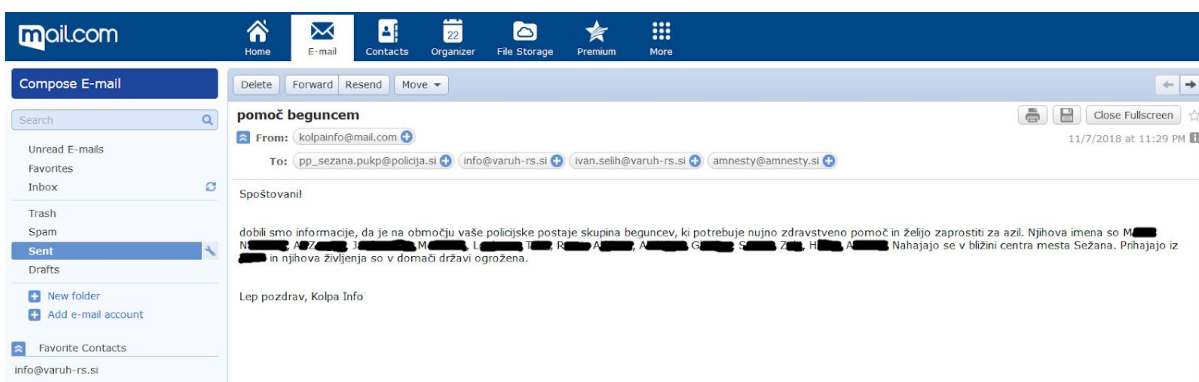
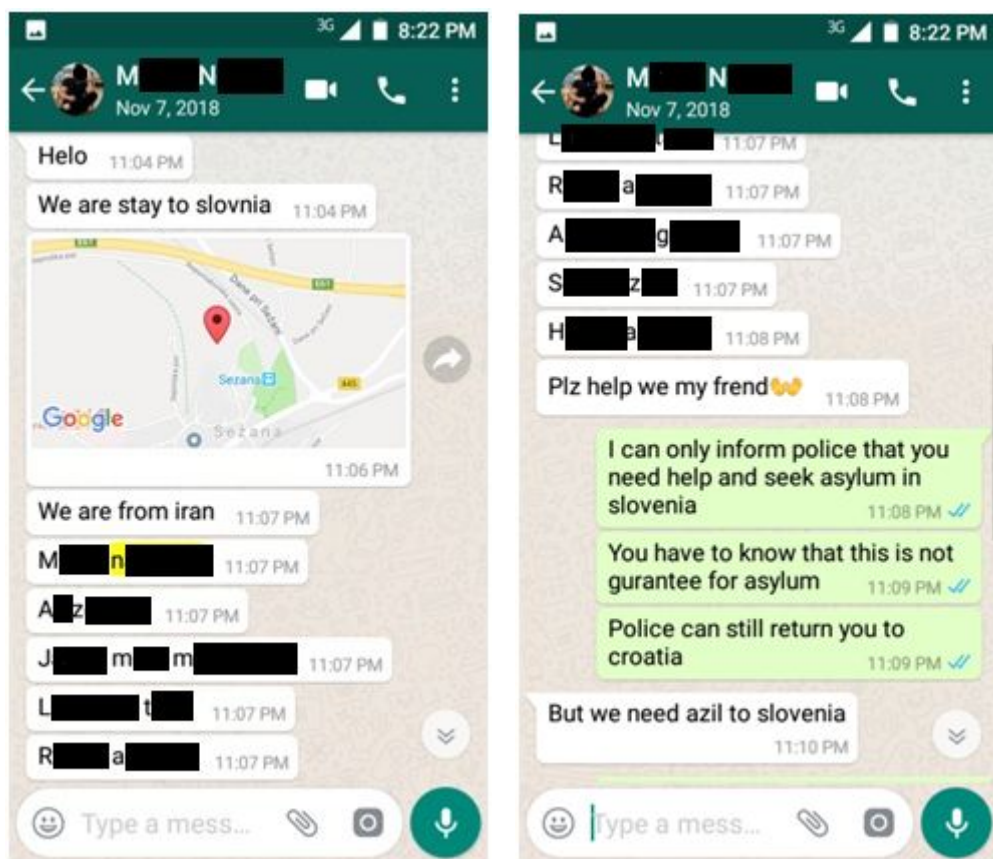
Report 20

Time and place: 7 November 2018, Sežana

Reception procedures at: Police station Sežana

What happened to people: 8 people from Iran, what happened to them is not known

Description of the events: On November 7th at about 11 p.m., a group of 8 Iranian citizens reported they are currently located in Sežana and wish to seek asylum in Slovenia. Info Kolpa informed Police station Sežana; the policeman said over the phone that one group of migrants has already been found. The group of 8 people from Iran didn't contact the alarmphone again, it is not known what happened to them.



Testimonies from border police stations in Slovenia

This is a selection of numerous testimonies of people who were chain pushbacked from Slovenia to Croatia and then to Bosnia and Herzegovina. The full testimonies are written in reports that were made from June 2018 to January 2019 by volunteer groups No Name Kitchen, Balkan Info Van and SOS Team Kladuša, available at: <https://www.nonamekitchen.org/en/violence-reports/>).

1.)

On the 13th of June 2018 group of 4 people from Afghanistan (16, 17, 30 and 39 years old) crossed the border near the village of Zilje. Soon after border crossing the group was caught by a patrol of Slovenian police. One of the policemen noticed that Hamid is using GPS and he accused him of smuggling. Then he attacked him verbally and with hits to the head. The group was taken to police station in Črnomelj, where procedure of identification was done. Hamid expressed intention to seek asylum in Slovenia, but the police ignored his request. The Group was forced to sign documents in Slovene language without translations. One of the documents which Hamid signed was about legal representation in official procedure because he was underage. This document was issued by Social Work Centre in Črnomelj and his cousin in group was written as legal guardian. They were kept at Police station Črnomelj for 7 hours before they were expelled to Croatia and then BiH.

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CENTER ZA SOCIALNO DELO ČRNOMELJ
8340 ČRNOMELJ, UL. 21. oktobra 9
☎ Telefon: +386 (07) 30 62 360, faks: (07) 30 62 372

Številka: 1203-42/2018
Datum: 13.06.2018

Center za socialno delo Črnomelj izdaja po uradni dolžnosti, na podlagi 10. b člena in 214. člena Zakona o zakonski zvezi in družinskih razmerjih (Uradni list RS, št. 69/04 – UPB1, 101/07, 90/2011, 84/12, 82/15 in 15/17, v nadaljevanju ZZZDR) ter na podlagi 207. člena Zakona o splošnem upravnem postopku (Uradni list RS, št. 24/06-UPB, 105/06-ZUS-1, 126/07, 65/08, 8/10 in 82/13, v nadaljevanju ZUP) v povezavi z 82. členom Zakona o tujcih (Uradni list RS, št. 1/18 – uradno prečiščeno besedilo in 9/18 – popr.), v nadaljevanju ZTuj-2) ter 86. členom Zakona o mednarodnem zasebnem pravu in postopku (Uradni list RS, št. 56/99, 45/08, v nadaljevanju ZMZPP) v zadevi postavitve skrbnika za posebni primer mladoletnemu tujcu, naslednjo

ODLOČBO

1. Za mld. H. S. roj. 10.04.2002, državljan Afganistan, bo naloge in dolžnosti skrbnika za poseben primer opravljal bratranec N. S. roj. 16.02.2000, Afganistan, ki ga spremlja od izvorne države celo pot.
2. Naloge in dolžnosti, ki jih bo opravljal skrbnik so:
 - zastopanje mld. varovanca iz prve točke izreka te odločbe v postopku odločanja policije o vrnitvi mladoletnega tujca,
 - seznanjanje mld. varovanca iz prve točke izreka te odločbe s pravicami, ki jih lahko na ozemlju Republike Slovenije uveljavlja kot mladoletni tujec,
 - zagotavljanje najboljšega interesa mld. varovanca iz prve točke izreka te odločbe pri nastanitvi v primerne ustanove za nastanitev mladoletnih oseb,
 - zastopanje mld. varovanca iz prve točke izreka te odločbe v postopkih odločanja pred organi v Republiki Sloveniji.
3. Pritožba zoper odločbo ne zadrži izvršitve.
4. V tem postopku ni bilo posebnih stroškov.

Obrazložitev:

CSD Črnomelj je bil dne 13.06.2018 s strani Policijske postaje Črnomelj obveščen, da se na Policijski postaji Črnomelj nahaja mld. tujec H. S. v spremstvu polnoletnega bratranca, zaradi nezakonitega prestopa državne meje. Imenovani je bil prijet na območju občine Črnomelj ob nezakonitem vstopu v Republiko Slovenijo.

Strokovna delavka CSD Črnomelj je bila seznanjena, da bo mld. tujcu H. S. brez spremstva staršev mld. spremlja od izvorne države celo pot polnoletni bratranec N. S., roj. 16.02.2000, ki opravlja vlogo skrbnika in je to nalogo pripravljen opravljati tudi v naprej.

V skladu z določbami o mednarodnem zasebnem pravu in postopku (Ur. RS, št. 56/99, in 45/08-Zarbit) mora organ RR z nujnimi začetnimi ukrepi zavarovati osebnost, pravice in interese tujega državljan, ki je v RS in o tem obvestiti organ njegove države (86. člen), s seznanjenim soglašata.

ZTuj-2 v 82. členu določa, da se mladoletnega tujca brez spremstva staršev ali zakonitega zastopnika ne sme odstraniti v matično državo ali tretjo državo, ki ga je pripravljena sprejeti, dokler mu tam ni zagotovljen sprejem. Pred odstranitvijo se je potrebno prepričati, da bo mld. tujec vrnjen članu družine, izbranemu skrbniku ali ustreznim sprejemnim centrom v državi vrnitve. Pred odstranitvijo mld. tujca brez spremstva mora policija o tem nemudoma obvestiti center za socialno delo, ki mora mladoletnemu tujcu nemudoma postaviti skrbnika za poseben primer.

Iz vpogleda v zapisnik o opravljenem razgovoru z dne 13.06.2018 izhaja, da je mlč. H. S. seznanjen, da mu bo Center za socialno delo Črnomelj postavil skrbnika za poseben primer in da se za skrbnika imenuje njegov bratranec N. S. Skrbnika bo mlč. varovanca zastopal v postopkih odločanja policije o vrnitvi mlč. tujca brez spremstva, ga seznanjal s pravicami, ki jih lahko na ozemlju Republike Slovenije uveljavlja kot mladoletnik brez spremstva, da bo zagotavljal njegov najboljši interes pri nastanitvi v primerne ustanove na nastanitve mlč. oseb ter da ga bo zastopal v postopkih odločanja pred organi Republike Slovenije.

Na podlagi 1. odst. 86. člena ZMZPP organ Republike Slovenije z nujnimi začasnimi ukrepi zavaruje osebnost, pravice in interese tujega državljanca, ki je v Republiki Sloveniji ali ima v njej premoženje in obvesti o tem organ njegove države.

V skladu s določili 214. člena ZZZDR ukrene center za socialno delo v neodložljivih primerih kar je potrebno za varstvo osebnosti, pravic in koristi tujega državljanca, dokler organ njegove države ne ukrene, kar je potrebno.

Lipotevajoče največje koristi otroka je naslovni center na podlagi 2. odstavka 236. člena ZUP odločil, da morebitna pritožba ne zadrži izvršitve iz razloga, ker je organ ocenil, da otrok nemudoma potrebuje skrbnika, ki mu bo pomagal ščititi njegove pravice in koristi v postopkih, ki jih določa Zakon o tujcih. V primeru, da postopek imenovanja skrbnika ne bi bil končan v čim krajšem možnem času, bi se mladoletniku kršilo njegove temeljne pravice, ki pa jih je država v takšnih primerih dolžna oziroma omogočiti in jih zaščititi.

V ugotovljenem postopku je Center za socialno delo Črnomelj ugotovil, da je postavitve skrbnika za poseben primer v tem primeru smotna in nujno potrebna in da s skrbništvom niso kršene pravice in koristi stranke v postopku.

S tem je odločba utemeljena.

V skladu s petim odstavkom 213. člena ZUP mora organ v izreku odločiti o tem ali so nastali stroški postopka. Glede na to, da posebni stroški postopka niso nastali, je CSD Črnomelj odločil, kot je razvidno iz 6. točke izreka te odločbe.

Odločba je na podlagi 22. člena Zakona o upravnih taksah (Uradni list RS, št. 106/2010-UPB 5, 14/15-ZUJFO, 84/15-ZZelP-J in 32/16, v nadaljevanju ZUT) takse prosta.

PRAVNI POUK:

Zoper to odločbo je dovoljena pritožba na Ministrstvo za delo, družino, socialne zadeve in enake možnosti, Kotnikova 28, Ljubljana, v roku 15 dni od vročitve. Pritožba se vloži pisno ali ustno na zapisnik pri Centru za socialno delo Črnomelj, Ulica 21. oktobra 9, 8340 Črnomelj. Za pritožbo se plača taksa po tarifi št. 2 ZUT, v znesku 18,10 EUR.

Postopek vodila:
Maša Huskič
univ. dipl. soc. delavka

Direktorica:
Marjetka Papež

Vročiti:

1. Mlč. H. S. - vročiti osebno na PP Črnomelj
2. N. S. - vročiti osebno na PP Črnomelj
3. V spis - zbirka dokumentarnega gradiva.

Po pooblastilu direktorice
št. 020-2/2014, z dne 2.6.2014
Marija Žunič, dipl. ekon.

2.)

On July 8th 2018 Benedict crossed the border to Slovenia in a group with 9 other people. After the group crossed the Kolpa river each made their own way. Benedict went to the nearby city of Vinica to find a bus stop, but a local woman called the police when she saw him. At police station Črnomelj he expressed intention to seek asylum many times because his life would be in danger if he returned to Nigeria. He also wanted legal help but the policeman in procedure started screaming at him to stop talking and was generally aggressive. The policewoman in procedure told him to stop talking about asylum otherwise she will smash something on his head. Then he was forced to sign a document in Slovene with no translation and no knowledge

of what he is signing. He was then detained in a cell with 9 other people. The following day he was deported to Croatia, and then BiH.

3.)

On 27th of July a group of six men from Algeria, Tunisia and Morocco arrived to the vicinity of Črnomelj after many days of walking from Velika Kladuša. A local woman saw the group and called the police, which took them to nearby police station. Hakim expressed the intention to seek asylum in Slovenia many times, but the Palestinian translator said they have no option to apply for asylum because of their nationality. Out of six people the police made interview with only one person for the whole group.

“We all asked for asylum, but he did not want to accept our application. The translator made a report and he told us: “Why you are choosing this country? You do not want to stay in Slovenia, you prefer to go to France, so why are you applying here?”. The translator also told us that if we enter any country, we don’t have the right to apply for asylum. He also told us that we did not have any chance to get protection because we were Algerians and Moroccans. He was very unkind to us” (Hakim).

The following day they were forced to sign documents in Slovene language, and then around 19.00 Slovenian police took them to a place that looked like rubbish dump where there were collectively handed over to Croatian police. From there they were driven with a van to a green border with Bosnia and Herzegovina near Velika Kladuša. People left the van in groups of two and when they stepped out they were attacked by police in masks and beaten, policeman also used electric sticks.

“When we arrived at the border, they told us to leave the car in groups of 2. When I went out of the car with other of my mates, there was one policeman with blue suit who started beating us with a baton. I tried to run away. It was dark and we were in a forest. I thought that if I run I would enter Bosnia and then, they could do nothing to me anymore. But after like 3 meters, they were some men with black suits that I could not see properly because it was dark, and they had night vision glasses, so they could see me. I was running with flip flops and I fell down when I tried to escape. He caught me and was beating me. He put this stick with electric shocks in my neck, after I felt down in the floor, and I swear I thought he wanted to kill me” (Hakim).



4.)

On August 5th 2018 after 10 days of walking, a group of 13 people from Afghanistan and Iran (2 families and 2 single men) entered Slovenia near the town of Ilirska Bistrica. In the forests they were seen by police patrol. In first contact the husband of Asma asked for international protection but the policeman responded they will be deported tomorrow. On the site they were forced to take off their clothes, including children and women, after which police made inspection. The policeman in patrol took the hijab from Asma and threw it on the ground. The police also said curse words "Pičko mater" and "Here is Slovenia, here is no Islam". After inspection they were taken to a police station in Ilirska Bistrica where there was personnel of UNHCR and IOM, but they were not present in the asylum procedures. When people from the group were questioned a translator from Iran was there and they gave information about their names, country of origin, location where they crossed the border to Slovenia and what is their intention in Slovenia. The police then took pictures of their faces and took their fingerprints. They were also forced to sign documents which they did not understand and which the translator did not wish to translate. Their group was kept at police station for one day after which they were driven by van to a place where they were collectively handed over to Croatian police. The Croatian police then took them to the green border with BiH near Velika Kladuša, where they broke their phones and physically attacked adults, after that the people were forced to walk to Bosnia.

5.)

On August 15th 2018 Ahmad entered Slovenia with a group of 8 people and wanted to continue his journey towards Italy. A police patrol stopped the group near the village of Stara Lipa and a police van was called to the site. They arrived at the police station in Črnomelj after a 20 minute drive. At the police station they filled questionnaires with their personal information and Ahmad was the only person who did not ask for asylum. The police took fingerprints from everybody and, when they saw Ahmad was already before in Slovenia they, accused him of smuggling. Two policemen took Ahmad to a container and started threatening and hitting him. During the beating two policewomen for also present in the container but were not directly involved in the beating. Ahmad was the only person in the group who was beaten. The police took 8 people from the group to the border and handed them over to the Croatian police after which they were collectively expelled to Bosnia and Herzegovina. In Slovenia, only a 16 year old boy was accepted for an asylum procedure and taken to camp.

6.)

On August 21st 2018, after 6 days of walking, an Iranian family of three members (17 and around 40 years old) crossed the border to Slovenia. After around 15 kilometers of walking they were spotted by a local man, who called the police. After that, 13 policemen came and the family in fear of being deported said they were from Syria. Policemen were acting aggressive and demanded that they lie down on the ground, then proceeded to make inspection. In the underwear (bra) of Zahra (the mother) they found 1000 euros, which they never returned. One of the policemen demanded from Darius (the son, 17 years old) to unlock his phone, which he refused to do. He was then attacked by the said policeman with kicks which resulted in a broken arm. The police also physically attacked his mother and father. Later they were taken to a police station in Črnomelj. Darius who was complaining because of pain in his arm was taken to a nearby health clinic. There he was checked by a doctor and given an arm brace but the

doctor made no report from this visit by police. At the police station there was an arabic translator and the family explained that they are from Iran and because of fear from deportation they said earlier they are from Syria. They all asked for international protection but their request was ignored by the police. They were forced to sign documents without translation and were later handed over to the Croatian police. They were they collectively expelled to Bosnia and Herzegovina and had to walk for 20 kilometers from the green border to Velika Kladuša.



7.)

On September 2nd 2018, after two weeks of walking across Croatia, a group of 10 men from India, Nigeria and Ivory Coast were apprehended by the Slovenian police near the village of Obrov. Policemen drove them to the border with Croatia. The police then wrote down their

names, nationality, age and made photographs. When people asked for asylum the police officers said only "No". They were then taken in silence through border customs department and handed across to the Croatian police. The Croatian police immediately stationed them in containers, where there were locked up overnight without food or water. The police also took their money. In the morning they were driven in a van to the green border near Velika Kladuša. They were driving for five hours and because of lack of oxygen some of the people in the van started vomiting. At the border, the Croatian police told the group to start walking towards Bosnia. When one of the persons asked for his mobile phone, the policeman broke it in front of him, when another person asked for his money, they ripped 100 euros that were confiscated before in half. The group had to walk to Velika Kladuša for several hours.

8.)

On August 16th 2018, a 36-year old man from Afghanistan crossed the border to Slovenia, successfully asked for asylum and was admitted to the asylum camp Vič in Ljubljana. When he was already in camp for 9 days and had a card of an asylum seeker in Slovenia, he was apprehended (on 27th of August), by police near the main bus station, while he was walking towards the centre of the city. He was taken to closed detention center (probably in Postojna) where he was locked up for 10 days. On the 5th of September Slovenian police drove him to the border with Croatia where two policemen handed him over to Croatian police, who were waiting on the other side with a van. After six hours of driving, the van stopped at the croatian-bosnian border near village of Šturlić. When he left the van 4 policemen from Croatia started beating him with batons. After the beating, the police told him to start walking towards Bosnia and Herzegovina.

9.)

On 16th of September 2018, a group of 14 people (among them two minors and a 60-year old man) was spotted by a policeman. They had already walked approximately 10 km into Slovenian territory. When police backup arrived, they started an inspection, police officers removed their property and drove them to the police station. There was no translator stationed at the police station and policemen ignored their request for asylum procedure. They had to sign documents in Slovene and police officers forced the minors to sign as adults. Policemen at the station conducted a basic interview and took their fingerprints. After seven hours they were taken by van to the Croatian border and from there the Croatian police drove them to a place where they were stationed in containers. The people in the group again expressed their intention to seek asylum but the request was again ignored. The police again took their personal information and fingerprints and the minors were also forced to register as adults. The groups was detained without food or water for approximately 10 hours. To receive some food they had to pay to the police officers to buy it for them, and for water they had to drink from the toilet. After that, they were driven by van to a location near the border. They were driving for 5 hours. When they left the van there were 4 policemen in black masks waiting with 2 other policemen. They started beating people with batons one by one. An Iranian man was called out from the van and was offered a bag with broken mobile phones. When he reached out for the bag the policemen started beating and screaming at him. Their confiscated property was never returned. When one person from the group asked for his belongings to be returned, the police refused, but they stopped the beating because "If they know someone can speak English they

don't beat that person because they (the Croatian police) know the person can pass the information (about the border violence)".



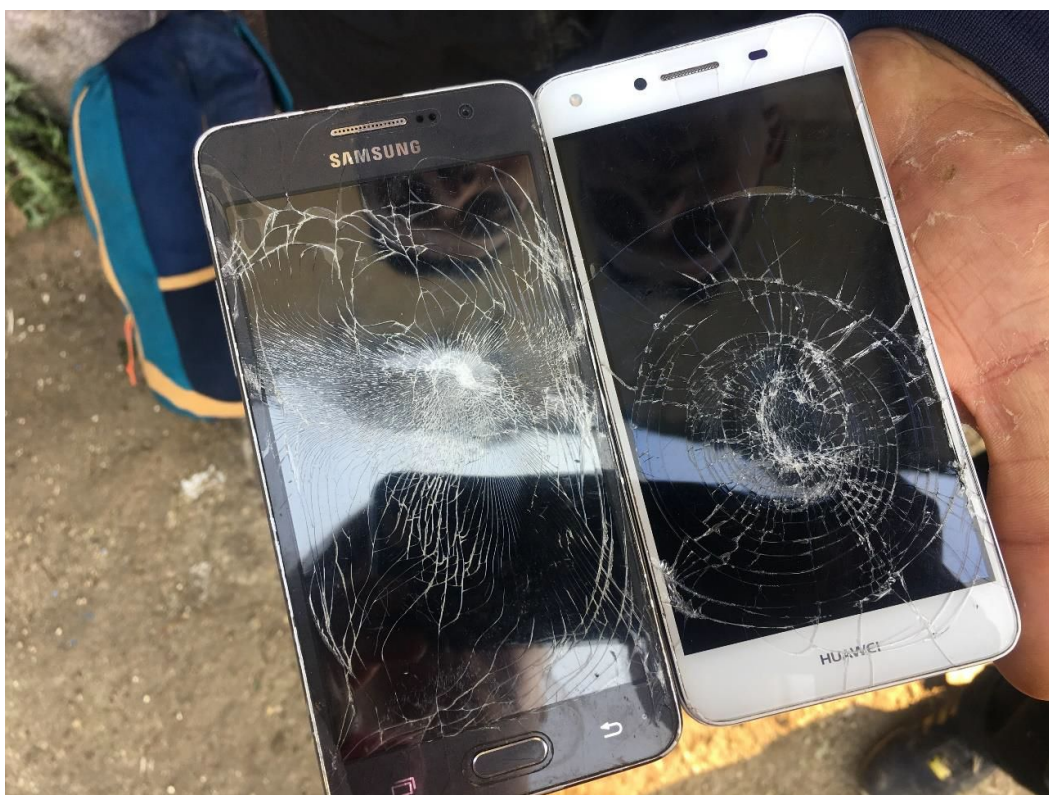
10.)

On 13th of September 2018 a group people from Pakistan and Afghanistan (among them also a minor) was deported from Croatia to Bosnia and Herzegovina. Before their deportation to BiH they were apprehended by Slovenian police 10 km from the slovenian-italian border. They were walking for 10 days from Velika Kladuša. When the group was caught in Slovenia the police confiscated their phone chargers, money and mobile phones. Their belongings were never returned. When they were taken to the police station one of the persons in group asked to apply for asylum in Slovenia, but the police responded with "In Slovenia, asylum is closed". They were held at the police station for 24 hours and after that they were handed over to Croatian police. They drove the people to a border near Šturlić. 5 policemen ordered them to step out of the van. The police then destroyed their phones and started beating them with batons. The person who was interviewed was at the time of the interview already four months in BiH and tried to cross the European Union border five times. Every time he tried he was caught, robbed, beaten and expelled to Bosnia.

11.)

On October 9th 2018, a group of 3 Moroccans was forcefully expelled from Croatia to Bosnia and Herzegovina. Before their deportation to BiH they were caught by Slovenian police (near the village of Sušak and Rupa). The police took them to a station where they were detained for one day. At the police station the translator was present, he said to the group there is no asylum in Slovenia and they should go back to Bosnia. They had to sign documents on detention in Slovene (picture below). The Slovenian police took the group to a police station in Croatia, near the border, where they were closed in a small cell for two days. The cell was overcrowded with people and they received only one meal in 48 hours. Together with 7 other people, the Croatian police drove them for a few hours to an area where they had to wait in the van for 10 hours. There was an extreme lack of oxygen inside the vehicle. Around 02:00 at night they were taken to a place in the woods near the river on the border with Bosnia and Herzegovina. There was a group of policemen in black uniforms and black masks waiting for them. The police broke their phones, stole their money and brutally beat them with batons and kicks. They screamed at them to go back to Bosnia.





Številka: 2202-376/2018/1 (3B696-122)
Datum: 7.10.2018

☒ SKLEP o pridržanju
☐ ODLOČEA o zadržanju

Zoper _____, _____, _____
(ime in priimek) (EMŠO) (državljanstvo)

CASABLANCA, MAROKO
(stalno ali začasno prebivališče)

Policijski postopek se je začel 7.10.2018 ob 16.30
(datum) (ura)

Pridržanje je bilo odrejeno 7.10.2018 ob 16.33 na podlagi člena:
(datum) (ura)

- ☐ 109/2 zakon o prekrških (ZP-1, sklep)
☐ 110/2 Zakon o prekrških (ZP-1, sklep)
☐ 24/1 Zakon o pravilih cestnega prometa (ZPrCP, sklep)
- ☐ 64/1 Zakon o nalogah in pooblastilih policije (ZNPPol, sklep – do 12ur)
☒ 64/1 Zakon o nalogah in pooblastilih policije (ZNPPol, sklep – do 48 ur)
☐ 32/1 Zakon o nadzoru državne meje (ZNDM-2, odločba)

Ob odreditvi pridržanja je bila oseba v _____ arabskem (brošura) _____ jeziku seznanjena s spodaj navedenimi pravicami in jih je tudi razumela:

z razlogi za pridržanje; da ni dolžna ničesar izjaviti; da ima pravico do takojšnje pravne pomoči zagovornika, ki ga svobodno izbere; da se na njeno zahtevo o pridržanju obvesti njene najbližje, če je oseba tujec pa tudi diplomatsko-konzularno predstavništvo države, katere državljan je.

Pridržana oseba ima tudi pravico do zdravniške pomoči, vključno s pravico, da jo na njene stroške pregleda zdravnik, ki ga sama izbere.

Obrazložitev razlogov - opis dejanja Oseba se pridrž, ker jo je potrebno izročiti tujim varnostnim organom. Oseba _____ je od dne 7.10.2018 od 16.30 ure v postopku zaradi nedovoljenega vstopa v državo in jo je potrebno izročiti tujim varnostnim organom. Oseba _____ je državno mejo med R Hrvaško in R Slovenijo prestopila d 7.10.2018 ob 14.30 uri mejna prometna povezava Lisac (RH)-Sušak (RS), mejna sekcija H-1)

Pravni pouk: Zoper ta akt je dopustna pritožba, dokler traja pridržanje. Pisna pritožba se vloži pri organu, kjer se izvaja pridržanje, ta pa jo bo odstopil pristojnemu sodišču. Pritožba ne zadrži ukrepa odvzema prostosti.

Akt je bil vročen pridržani osebi 7.10.2018 ob 21.30
(datum) (ura)



Pooblaščen uradna oseba
Osman MURATOVIC
(pristojna oseba)

(pridržana oseba)

Opombe o vročitvi: _____

JRM-3

Številka plačilnega naloga: 0000116356879

ZAPISNIK O IZJAVI KRŠITELJA

V skladu s 55. členom Zakona o prekrških je bil kršitelj pred izdajo plačilnega naloga poučen, da se lahko izjavi o dejstvih oziroma okolnostih prekrška, da pa tega ni dolžan storiti niti odgovarjati na vprašanja, če pa se ni izjavil ali odgovarjal, pa ni dolžan opovedati zoper sebe ali svoje bližnje. Prav tako je bil kršitelj poučen, da mora v izjavi navesti vsa dejstva, ki dokazuje v svojo korist, ker jih sicer v postopku ne bo več mogli uveljavljati.

Kršitelj je dal naslednjo izjavo dne 7.10.2018 ob 22.10 uri vlna LJUBLJANA, DISTRICIA

IZ NAROKA SEM SE ODPRAVIL V ŠPANJO, KER BI SL. RAD, OBTVARIL BOLJŠE ŽIVLJENJE.

Opomba: PRISOTEN JE BIL PREVAJALC ZA ARABSKI JEZIK

[Signature]
podpis kršitelja

[Signature]
ime in priimek ter podpis policista

KRATEK OPIS DEJANSKEGA STANJA Z NAVEDBO DOKAZOV

[Redacted] SE 7.10.2018 OD 12.30 NEDOVOLJENO VSTOPIL
 IZ RH V RS NA MEJNI PROMETNI POVEZAVI LISAC (RH) - SUŠAK (RS)
 IN TAKO KRŠIL DOLOČILA 115. ČLENA ZAKONA O TULCIH, 1. ODSTAVEK
 NJEGOVA IDENTITETA JE BILA UGOTOVLJENA NA PODLAGI NJEGOVE
 LASTNE IZJAVE.

Potrdilo o uveljavitvi

12.)

On October 23d, a group of 23 people from Bangladesh was forcefully expelled from Croatia to Bosnia and Herzegovina. Two days before their deportation to Bosnia they were caught by Slovenian police near highway A1 in Slovenia. They asked for asylum in Slovenia but they only

received a response: “No, no, no”. After the police took their fingerprints and photographed them, they also had to sign documents in Slovene without any translation. Only two boys from the group who were 18 years old were allowed to apply for an asylum procedure, the other 30 people were handed over to Croatian police the next day. The Croatian police drove them with a van to a location near the border crossing Maljevac, where the police ordered them to leave the van one by one and start running towards Bosnia and Herzegovina. When they started running downhill, they tripped on a rope which was set up by police. The police came rushing behind them and started beating them with batons.



13.)

On November 11th, a group of 17 migrants from Bangladesh and Pakistan tried to cross river Kolpa on the croatian-slovenian border near the town of Vinica. Four of them did not know how to swim so they decided to wait on the Croatian side, the rest crossed the river. The Slovenian police probably saw them crossing, so they waited up for them on the riverbank on the Slovenian side. They also notified Croatian police about the four people who decided not to cross the river. The Slovenian police drove 13 migrants to a police station where they had to sign documents in Slovene without any translations. They also expressed intention to seek asylum in Slovenia but their request was ignored. Two of the minors explicitly wrote in the documents that they wish to seek asylum in Slovenia, but the police crossed the words out and wrote *Italy* as the intended country of journey. According to the interviewee, a policewoman with brown hair and identification number 00448801 was present during the procedure. Around 10.00 the next day they were handed over to Croatian police. After that, 14 people were driven to an unknown location, where they were locked in van for a whole day without food, water or option to go to the toilet. Around midnight they were collectively taken in a group of 30 people (mostly from Afghanistan and Pakistan) to the border with Bosnia and Herzegovina. The police broke their phones and stole their money. They were separated into groups of three and had to move from the van to the road where there were two lines of policemen waiting. A person then had to move through the lines while

the police were beating them. In this incident the policemen only beat the men in the group and left the women alone.

14.) Drowning

On November 27th 2018, a group of 11 men from Algeria were spotted by the police near river Reka and the persons in the group tried to run away from the police officers. One person from the group jumped into the river and his friend followed, but he did not know how to swim. Firefighters were notified about a possible case of drowning and later found the body of the deceased. One of the people in the group jumped after the person who was drowning but was unsuccessful, he was then apprehended by police and was taken to a hospital. After a one hour stay at the hospital he was taken to a police station, where other people of the group were already being held. They waited at the police station for approximately for 4 hours. After that, they were taken to an official border crossing between Slovenia and Croatia, where 14 policemen waited for them. There they undressed and were inspected one by one. Their phones and money were confiscated. They had to give fingerprints, they were photographed and were forced to sign documents. Then the police drove them to an unknown location where they changed to another van. They drove for 20 minutes to an area near the border between Maljevac and Buhača. At around 1:40 at night they had to leave the van one by one and the police started beating them. The policemen were dressed in black uniforms and had black masks.

15.)

On the 2nd of December, a group of 5 people (among them a 4 member family) surrendered to the Slovenian police 5 km from the border with Croatia due to exhaustion. The police took them to the nearest police station. They were driving for approximately 30 minutes. The minor in the group was accused of lying by the police when he said he is part of the family. His asylum request was ignored. The interviewee said the police took him to a secondary location, which he described as prison and was approximately a 1 hour drive away from the police station. He was later transferred to an official border crossing with Croatia and was held there. From there, the police drove him for about 2 hours to a far away location near the border with Bosnia and Herzegovina which was about 27 kilometers from Velika Kladuša. The police started beating him and he was forced to run to Bosnia.

16.)

On December 2nd 2018 an Algerian man was brought to the police station Brežice after he was stopped in a taxi. He was traveling from Velika Kladuša, for part of the way he was walking and in part he was using the taxi service. In Slovenia, his taxi was stopped by two policemen wearing army green uniforms. At the police station the policemen took his personal information and he had to sign documents. He expressed an intention to seek asylum in Slovenia, but was denied. The next day they drove him to the official border crossing Obrežje and handed him over to Croatian police. He was held at the border police station for 10 hours without food or water. The Croatian policemen then drove him by van to a location near the border with Bosnia and Herzegovina between Maljevac and Buhača. He arrived there at 11.00, there were 5 policemen waiting for him in black masks and black uniforms.

Our demands

In regard of all of the above we would like to conclude this report with a set of demands:

SLOVENIA:

1. Active assistance to human beings should be encouraged as it represents a minimum standard of coexistence in accordance with the basic principles of (humanitarian) law. Decriminalization of solidarity = step towards the maintenance of human rights;
2. We demand the full disclosure of the concealed / censored information contained in the disputed police directives;
3. We require investigation of the police leadership: against the former Director General of the Police, Simon Velički, current Director Tatjana Bobnar, former Interior Minister Vesna Györköös Žnidar and former Ministry of Interior officer Boštjan Šefić, for suspected misuse of powers
4. An investigation is required against individual police officers responsible for excessive physical force in the form of punches and kicks against persons they dealt with at individual police stations at the southern border
5. We demand the suspension of readmission agreement's application, and the immediate ending of returns to Croatia;
6. It is required to establish compulsory civil control over the work of the police, especially in the reception and registration centers;
7. We demand a solution to the problem of the orality of the asylum procedure. So that the police can not falsely claim they didn't hear the migrant asking for asylum.

EU:

1. Instead of meeting human rights obligations only formally, we require clear mechanisms for their protection;
2. Border cooperation with non-governmental and grassroots bodies should be established and encouraged (civilian control over police work);

3. .The European Commission should include in its progress reports and in legislative proposals chapters on human rights risks and measures to reduce the negative effects on human rights;
4. Decriminalization of solidarity at the EU level as a minimum standard, sanctions for the criminalization of solidarity;
5. Incentives for the reception of migrants and solidarity, stimulation of grassroots organizations;
6. Changing the official narrative of the "migrant crisis" into a language of solidarity and acceptance: taking away the space of politics / language of intolerance;
7. Revisiting already concluded agreements (EU level vs. bilateral) to establish control mechanisms (returns, mixed patrols)
8. A resolution of court cases (eg Madina);
9. Strengthening international protection in transit countries;
10. Bring a stop to the conditioning of third countries during the making of bilateral and other memoranda and agreements that enforce a certain migration policy (adaptation to third countries);
11. Supporting curricula and other education programs instead of additional funds for the support of police;
12. Introducing the right of access to safe territory (by the example of the already established right to leave the state in international and European law);

Attachment 1:

Police instructions from may 25th 2018

1 priloga

mailN20180525-230680-UGDP_GF_1.txt

REPUBLIKA SLOVENIJA
MINISTRSTVO ZA NOTRANJE ZADEVE
POLICIJA
GENERALNA POLICIJSKA UPRAVA

Številka: 225-2/2018/13 (2131-3)
Datum: 25.05.2018 14:52
Podpis: Simon VELIČKI

Naslovnik: Vse PU, GPU UUP CT, GPU UUP SMP SENDM
V vednost:
GPU SGDP, GPU UKP, GPU NFL in GPU UPS OKC

Zadeva: Postopek za delo z migranti - naročilo
Zveza: naša dokumenta, št.: 225-2/2018/3 (2131-3), 2. 3. 2018 in 225-2/2018/5 (2131-3),
21. 3. 2018

Slovenija v letošnjem letu beleži izredno povečanje ilegalnih prehodov. V obdobju od 1. 1. 2018 do 20. 5. 2018 je bilo na območju Republike Slovenije obravnavanih 1.796 ilegalnih prehodov državne meje, v lanskem letu pa 484. Število se je glede na enako obdobje preteklega leta povečalo za 257 odstotkov. Spremenila se je tudi struktura državljanstev tujcev, in sicer so v porastu tujci, ki prihajajo iz severnoafriških držav. Pri tujcih, ki na nedovoljen način vstopijo v Republiko Slovenijo, opažamo tudi pogoste zlorabe azilnega postopka, o čemer smo vas že obvestili z dokumentom pod zvezo. Hkrati smo vas tudi obvestili in posredovali naročilo o postopanju v primeru prijete in izraženega namena oziroma podane prošnje za mednarodno zaščito.

Če iz okoliščine posameznega primera izhaja, da gre za izražen namen podaje prošnje za mednarodno zaščito zgolj z namenom odloga vračanja v sosednjo državo. Iz prakse postopanja, določenega z dokumentom pod zvezo, izhaja, da omejitve gibanja, izrečena po Zakonu o mednarodni zaščiti, praviloma niso vzdržale sodne presoje. Sodišča v postopku pritožbe niso sledile obrazložitvam MNZ, zato je bila tujcem odpravljena omejitev gibanja.

Zaradi nenehnega pritoka novih tujcev, ki na nedovoljen način vstopijo v Republiko Slovenijo, ter zaradi množičnih zlorab azilnega postopka (samovoljne zapustitve), vam naročamo naslednje:

1. Postopek s tujcem, ki je na nedovoljen način vstopil v Republiko Slovenijo

- po prijemu tujca se opravi obvezna najava HVO v skladu s Sporazumom med Vlado Republike Slovenije in Vlado Republike Hrvaške o izročitvi in prevzemu oseb, katerih vstop ali prebivanje je nezakonito,

Stran 1

- v kolikor se v postopku s tujcem ugotovi, da ima v Republiki Hrvaški kakršenkoli status oziroma je prosilec za mednarodno zaščito, se ga v skladu s sporazumom vrača v Republiko Hrvaško.

če ima tujca v postopku mešana slovensko-hrvaška policijska patrulja, se ga preda v obravnavo hrvaškim varnostnim organom, *NO SLOVENSKI OZNAČU*

- če tujec izrazi namen podati prošnjo za mednarodno zaščito v Republiki Sloveniji in se s tujcem ne ravna po prejšnji alineji, se opravi najava hrvaškim varnostnim organom v skladu s sporazumom. Nato se izvedejo vsi utečeni postopki z osebo, ki je izrazila namen podati prošnjo za mednarodno zaščito

- Direktorat za upravne notranje zadeve, migracije in naturalizacijo (DUNZMN), ki je pristojen za sprejem in reševanje prošnji za priznanje mednarodne zaščite, bo za posameznike v skladu z Uredbo 604/2013 Republiki Hrvaški podal zahtevo za sprejem. Hkrati bodo v skladu z Zakonom o mednarodni zaščiti tujcu omejili gibanje. Tujca se bo nastanilo v Center za tujce, in sicer predvidoma za obdobje do 60 dni, dokler ima Hrvaška rok za odgovor na slovensko zahtevo po sprejemu.

V zvezi izvajanja zgoraj navedenih nalog:

- v kolikor bo Hrvaška zavrnila sprejem tujca v skladu z Uredbo 604/2013, bo DUNZMN tujca nastanil v Azilni dom in sprožil postopke odločanja o priznanju mednarodne zaščite

2. Postopek s tujcem, ki je samovoljno zapustil sprejemne prostore azilnega doma

- tujca, ki izrazi namen podati prošnjo za mednarodno zaščito v Republiki Sloveniji, se namesti v sprejemne prostore Azilnega doma dokler uradnik DUNZMN ne sprejme njegove prošnje. Ob namestitvi v sprejemne prostore se tujca seznani s pravicami in obveznostmi, vključno z informacijami o posledicah samovoljne zapustitve sprejemnih prostorov, v njem razumljivem jeziku. S samovoljno zapustitvijo sprejemnih prostorov se smatra, da je tujec odstopil od namena, da v Republiki Sloveniji poda prošnjo za mednarodno zaščito,
- tujca, ki samovoljno zapusti sprejemne prostore Azilnega doma oziroma se ga zazna ali ga ima policija v postopku izven sprejemnih prostorov, se ga obravnava po Zakonu o tujcih in se izvede ustrezen postopek v skladu z Zakonom o prekrških.

V zvezi izvajanja nalog pod številko 2.

- Urad vlade za oskrbo in integracijo migrantov bo zagotovil posredovanje ažuriranih podatkov o samovoljnih zapustitvah sprejemnih centrov
- policisti se dnevno seznanjajo s seznamom samovoljnih zapustitev sprejemnih centrov.

- vse policijske enote so pri svojem rednem delu pozorne na identifikacijo tujcev, ki so samovoljno zapustili sprejemne prostore,
- v primerih zaznave tujca je enota, ki ima tujca v postopku, zadolžena za izdajo Sklepa o pridržanju ter za takojšnje obveščanje enote prve obravnave. Prav tako enota zaznave opravi vnos pridržanja v FIO, enota prve obravnave pa pridržanje zaključi,
- enota zaznave ali druga enota iste policijske uprave tujca odpelje do enote prve obravnave, ki je pristojna za vračanje tujca (prva enota prejema ob nedovoljenem vstopu),

3. Postopek s tujcem, ki je samovoljno zapustil azilni dom

- če je iz uradnih evidenc pristojnega organa razvidno, da je prosilec samovoljno zapustil Azilni dom ali njegovo izpostavo in se v treh dneh od samovoljne zapustitve ni vrnil, se šteje njegova prošnja za umaknjeno. V tem primeru, kot tudi v primeru, če še niso minili trije dnevi od njegove zapustitve Azilnega doma, se tujca samo napoti nazaj v Azilni dom ter o tem obvesti Urad vlade za oskrbo in integracijo migrantov
- Urad za oskrbo in integracijo migrantov bo zagotovil posredovanje ažuriranih podatkov o samovoljnih zapustitvah Azilnega doma
- policisti se dnevno seznanjajo s seznamom samovoljnih zapustitev Azilnega doma.

Za dodatna preverjanja statusa tujcev oziroma ostalih vprašanj o posameznih primerih se lahko pridobijo podatki 24/7 na:

- Urad za oskrbo in integracijo migrantov,
- DUNZMN - dežurni operativci Sektorja za postopke mednarodne zaščite,

Naloge se pričnejo izvajati z dnem 28. 5. 2016 in se izvajajo do preklica.

Lep pozdrav,

Attachment 2:

A report from the office of the Ombudsman following the visit to border police stations

REPUBLIKA SLOVENIJA
VARUH
ČLOVEKOVIH
PRAVIC

REPUBLIKA SLOVENIJA
MINISTRSTVO ZA NOTRANJE ZADEVE

Številka: 8.6 - 3 / 2018 - 3 - KO
Datum: 06.07.2018

Ministrstvo za notranje zadeve
Kabinet ministrice
Štefanova ulica 2
1000 Ljubljana
gp.mnz@gov.si

REPUBLIKA SLOVENIJA
MINISTRSTVO ZA NOTRANJE ZADEVE
POLICIJA

06.07.2018
M
Sig. znak:
Vredn.:
Priloge:
Številka zadeve: 091 - LG / 2018 / 1
Vredn.: 12
13
1-01
1-03

10.07.2018
UP
Vredn.:
Priloge:
Številka zadeve: 214 - 35 / 2018 / 1
Vredn.:

Spoštovani,

Varuh človekovih pravic RS (Varuh) se je na podlagi novinarskega vprašanja, ki mu je bilo posredovano dne 12. 8. 2018, seznanil s primeri pričevanja oseb o domnevnih ravnanjih slovenskih policistov, ki naj bi ob njihovem prijetju na meji med Republiko Hrvaško in Republiko Slovenijo ter v notranjosti (večinoma pri Črnomlju) zavračali možnost prošnje za azil. Da naj bi do takšnih primerov prihajalo, je med drugim poročal tudi časopis Dnevnik v članku z naslovom "Ali v Sloveniji res ni več azila? Kaj naj storimo zdaj?" in "So vam obstrelili otroka? Dobrodošli v Evropi!", ki sta bila objavljena dne 14. 6. 2018 oziroma 15. 6. 2018. Prispevek na to temo je bilo mogoče zaslediti tudi v oddaji Globus, ki je bila dne 14. 6. 2018 na prvem sporedu Televizije Slovenija. Z namenom preveritve navedb, ki se nanašajo na položaj tujcev, ki nedovoljeno prestopijo državno mejo na območju Policijske postaje Črnomelj in Policijske postaje Metlika, je Varuh brez predhodne najave 19. 6. 2018 obiskal omenjeni policijski postaji.

Iz prejete informacije novinarja, ki je vsebovana v novinarskem vprašanju z dne 12. 6. 2018, izhaja, da sta osebi ~~Stevan Mirošević~~ in ~~Abdulah~~ med njegovim obiskom v Veliki Kladuši (BiH) dne 11. 6. 2018 trdili, da sta v Sloveniji zaprosili za azil, vendar so jima policisti rekli, da "ni azila v Sloveniji". Vrnjena sta bili na Hrvaško in od tam v Bosno in Hercegovino. Iz izpisa elektronske knjige pridržanj na PP Črnomelj, ki smo ga pridobili 19. 6. 2018, sta omenjeni osebi zavedeni pod št. zadeve 000069855. Skupaj z njima so bile v postopku, ki je bil 8. 6. 2018 začel ob 17:19 uri, obravnavane še tri druge osebe. Predmetna zadeva se vodi v spisu št. 2253-195/2018 (legalni prehod 8. 6. 2018 Bojanci). V zapisniku o izročitvi in sprejemu oseb po skrajšanem postopku na podlagi tretjega in četrtega odstavka 2. člena Sporazuma med Vlado Republike Slovenije in Vlado Republike Hrvaške o izročitvi in sprejemu oseb, katerih vstop ali prebivanje je nezakonito, ki je v tem spisu, so pri vseh petih posameznikih kot razlog za zapustitev matične države navedene vojne razmere oziroma versko preganjanje. Kot njihova ciljna država pa sta navedeni Slovenija oziroma Nemčija.

Državljan ~~Stevan Mirošević~~ (v knjigi pridržanj na PP Črnomelj se kot št. zadeva vodi pod 000089935; čas začetka postopka je 7. 6. 2018-ob 11:45) je novinarju dejal, da je v Sloveniji zaprosil za azil, a je bil v nadaljevanju odpeljan nazaj na Hrvaško od tam pa v Bosno in Hercegovino. Iz knjige pridržanj PP Črnomelj je prav tako razvidno, da so policisti v postopku dne 7. 6. 2018 od 20:13 ure dalje obravnavali skupino petih oseb, glede katerih je

novinar, ki se je s štirimi od njih pogovarjal v BiH zapisal: "Prijeti 8. junija 2018 okrog 20h pri Črnomlju (ta dan je sicer malo vprašljiv, saj je bila tisti dan, kolikor se spomnim, v Črnomlju huda toča, oni pa tega niso omenjali; lahko, da so se zmotili za kakšen dan. Trdijo, da so zaprosili za azil. Trdijo, da so jim policisti neposredno po prijettu pobrali denar (vsote okrog 100 evrov). Eden od njih je kasneje vprašal na slovenski policijski postaji, kje je njegov denar druge policiste, ki so jih sprejeli na postaji, vendar niso o denarju vedeli nič. Domnevajo, da je razlog za odvzem denarja, odvzem možnosti, da bi še kdaj poskusili pot v Slovenijo. Odpeljeni nazaj na Hrvaško in od tam v Veliko Kladušo - Bosna in Hercegovina, kjer se nahajajo na dan 11. junij 2018. Pokazali razbite telefone - počena stekla in uničeni kontakti za polnjenje (nisem dobro razbral, ali so jim jih razbili hrvaški ali slovenski policisti). Pravijo, da je namen razbijanja, da ne bi več uporabljali telefonov, kot GPS napravo z zemljevidom, s pomočjo katerih se podajo na pot (pešačijo) preko Hrvaške v Slovenijo".

Ob obisku PP smo med primeri, ki jih je v juniju 2016 obravnavala ta policijska postaja, naključno pregledali še spis št. 2253-196/2018. Iz zapisnika o izročitvi in sprejemu oseb po skrajšanem postopku, ki je v tem spisu, izhaja, da je bilo na mejnem prehodu Petrina izročeni šest državljanov Pakistana, ki so vsi kot razlog za zapustitev matične države navedli vojne razmere. Tako v spisu št. 2253-195/2018 kot tudi v spisu št. 2253-196/2018 smo poleg istovrstnih razlogov za zapustitev matične države zasledili še nekatere druge podobnosti. V obeh spisih so tako izjave oseb v postopku razvidne zgolj iz uradnih zaznamkov o ugotovljenih dejstvih in okoliščinah ter uradnih zaznamkih o zbranih obvestilih, ki so v obliki povzetka zapisani s strani policista. Uradni zaznamki so glede vsebine v pretežni meri identični in se osredotočajo zgolj na potovanje in prehod meje. Iz spisa št. 2253-196/2018 je iz kronološkega zapisa opravi med pridržanjem razvidno, da je razgovor z osebo (skupaj s še nekaterimi opravi) trajal povprečno po tri minute, med tem, ko so bili razgovori z osebami, ki so zavedene v spisu št. 2253-195/2018, opravljeni istočasno za vse v trajanju petih minut. Vsem osebam je bil v obliki pisne odločbe izdan zgolj sklep o pridržanju, v katerem je kot razlog pridržanja navedeno: "oseba je ilegalno prestopila državno mejo in jo je potrebno izročiti tujim varnostnim organom". Posamezna oseba je bila ob tem seznanjena zgolj o pravicah, ki gredo pridržani osebi. V zvezi z njihovo izročitvijo na podlagi Sporazuma med Vlado Republike Slovenije in Vlado Republike Hrvaške ni bila nikomur izdana pisna odločba, ki bi vsebovala razloge za odločitev in pravna sredstva (ta sicer za tovrstne primere niti ni predvidena). Tako tudi ni iz nobenega pisnega vira, ki je v omenjenih spisih, razvidno, da bi glede položaja, ki se tiče njihove vrnitve, tujci prejeli kakršnakoli ustna pojasnila glede razlogov (npr. v obliki stavka, ki bi poleg povedi zajeti v sklepu o pridržanju, vseboval še pojasnilo, da je oseba treba izročiti tujim varnostnim organom, ker v Republiki Sloveniji ni zaprosila za mednarodno zaščito).

Odbor za migracije, begunce, in demografijo Parlamentarne skupščine Sveta Evrope (Odbor) je v svojem poročilu z dne 18. 3. 2010 (Readmission agreements: a mechanism for returning irregular migrants) že izpostavil stališče zagovornikov "sporazumov o vračanju", ki navedajo, da tovrstni sporazumi le zagotavljajo pravni okvir in so zgolj sredstvo, ki omogoča lažji način vrnitve, da pa so vprašanja, ki se tičejo človekovih pravic, že upoštevana pri sprejetju odločitve o vrnitvi. Če se tovrstni sporazumi izvajajo skrbno, lahko prispevajo k skrajševanju negotovosti, kot tudi časa, ko je tujcu omejeno gibanje. Odbor se je dotaknil tudi kratkih časovnih rokov, znotraj katerih je takšna oseba lahko fizično prisotna v državi, v katero je prispela. Opozoril je, da je takšen čas lahko prekratek; da bi oseba podala prošnjo za azil. Zaradi ozkega časovnega okvira, pa obstaja tudi velika nevarnost, da je njena prošnja spregledana.

Upoštevač navedeno Varuh meni, da izvajanje sporazuma o vračanju ne sme spodbujati k sprejemanju vprašljivih odločitev glede vrnitve, ki sicer ne bi bile sprejete, če takšnih sporazumov ne bi bilo. Kot je bilo že zgoraj pojasnjeno, so tovrstne vrnitve izpeljane brez pisne odločbe ob odsotnosti pravnih sredstev, s katerimi bi lahko posameznik učinkovito izpodbijal sprejeto odločitev. Ker gre za odločitve, ki so sprejete v zelo kratkem časovnem obdobju (parih dni), je pomembno, da se pristojni organ, ki opravi vrnitev, predhodno skrbno prepriča, ali ne gre za osebo, ki morda želi izraziti namen, da bo vložila prošnjo za mednarodno zaščito. Ker pisni sklep o vrnitvi osebe ni izdan, je še toliko bolj pomembno, da se dosledno dokumentirajo vse okoliščine (tudi izjave), ki tudi kasneje dopuščajo vpogled v pravilnost in zakonitost tovrstne sprejete odločitve. To sicer ni pomembno le za posameznika, ki je bil obravnavan, temveč tudi za učinkovit nadzor nad delom policistov. Ugotavljamo, da prihaja trenutno, zaradi neobstoja neposrednega spremljanja policijskega dela s tujci (npr. s strani nevladnih organizacij) v fazi vse od začetka njihovega prijetja (oziroma pridržanja/zadržanja) pa do izročitve po sporazumu, do nezaupanja, ki se v nasprotujočih si izjavah pojavlja tudi v medijih (npr. glede sodelovanja policije z nevladnimi organizacijami objavljeno v že omenjenem prispevku v Dnevniku 14. 6. 2018).

Po prvem odstavku 42. člena Zakona o mednarodni zaščiti (ZMZ-1) lahko državljan tretje države ali oseba brez državljanstva, ki je v Republiki Sloveniji, pri katerem koli državnem organu ali organu samoupravne lokalne skupnosti v Republiki Sloveniji izrazi namen podati prošnjo za mednarodno zaščito. V zadevi Policijske uprave Novo mesto št. 225-14/2018/4 (3J4-16) z dne 25. 5. 2018 z naslovom Postopek za delo z migranti - naročilo, je v okviru postopka s tujcem, ki je na nedovoljen način vstopil v Republiko Slovenijo, zaslediti naročilo policijskim enotam, da se tujca, če ga ima v postopku mešana slovensko-hrvaška policijska patrulja, preda v obravnavo hrvaškim varnostnim organom, ne glede na to, ali je bil tujec prijet na slovenskem ali hrvaškem ozemlju oziroma ne glede na to, ali je mešana patrulja izvajala naloge na slovenskem ali hrvaškem ozemlju. Naslednja alineja omenjenega naročila predvideva takšno ravnanje, tudi če tujec izrazi namen podati prošnjo za mednarodno zaščito v Republiki Sloveniji. Naročilo zgolj v nadaljevanju omenja, da v primeru, če se ne ravna po zgornjem naročilu, se izvedejo utečeni postopki glede osebe, ki je izrazila namen podati prošnjo za mednarodno zaščito. Takšna ureditev po naši presoji odstopa od prej omenjene zakonske ureditve in v praksi lahko pomeni, da se osebe, ki se nahajajo na slovenskem ozemlju brez kakršne koli odločbe izročijo drugi državi in sicer tudi, če v času, ko se nahajajo v Republiki Sloveniji, izrazijo namen podati prošnjo za mednarodno zaščito. Koliko je takšnih primerov in ali do njih prihaja, Varuh ob obisku PP Črnomelj in PP Metlika ni preverjal, je pa po stališču Varuha morebitno takšno postopanje sporno.

Na PP Črnomelj smo s strani pomočnika komandirja g. Petra Vipavca pridobili podatek, da je bilo na območju PU Novo mesto letos (po dostopnih podatkih ob našem obisku) obravnavanih 1435 migrantov, od katerih jih je 987 zaprosilo za azil. Od preostalih jih je bilo v Republiko Hrvaško vmjenih 434. Trinajstih oseb pa ni bilo mogoče vrniti, ker je šlo za mladoletnike brez spremstva. Omenjen podatek glede števila obravnavanih in deleža prosilcev za azil na območju PU Novo mesto, je lahko približen pokazatelj trenda, koliko oseb je v nekem obdobju zaprosilo za azil. Teh je bilo 68 %. Ker je v omenjenem članku v Dnevniku z dne 15. 6. 2018 navedeno, da je "junija počil film in da odtlej tudi slovenska policija na Kolpi arbitramo zavrača prošnje za azil", smo preverili, koliko oseb je v mesecu juniju (od 1. 6. 2018 do 19. 6. 2018) obravnavala PP Črnomelj. Po besedah pomočnika komandirja so v juniju do našega obiska obravnavali 325 oseb. Od teh je bilo le sedem oseb oziroma 2 % odpeljanih v Azilni dom, medtem ko je bilo 318 oseb vmjenih v Republiko

Hrvaško. Za primerjavo navajamo, da je PP Metlika, glede na podatke, ki nam jih je posredoval pomočnik komandirja g. Robert Krajnc, letos obravnavala 371 oseb (v času med 1. majem in 19. junijem pa 259 oseb), od katerih jih je 343 zaprosilo za mednarodno zaščito, kar je 92 %.

Izpostavljenja pričanja posameznikov, v prejšnjem odstavku omenjena znatna razhajanja v odstotkih in naročilo za delo z migranti v depeši PU Novo mesto z dne 25. 5. 2018, po mnenju Varuha, nakazujejo na obstoj resne bojazni, da bi lahko prihajalo do skupinskih izgonov tujcev, ki so po 4. členu Protokola št. 4 h Konvenciji o varstvu človekovih pravic in temeljnih svoboščin prepovedani. V pregledanih primerih (npr. na PP Črnomelj - spis št. 2253-196/2018 in 2253-195/2018, na PP Metlika - pa spis št. 225-96/2018/6) pogrešamo (resno) obravnavo osebnih okoliščin vsakega posameznika na način, ki bi lahko odpravil dvom, ali je imela oseba, ki se je nahajala v pridržanju na PP, namero podati prošnjo za mednarodno zaščito oziroma ali jo je podala, pa je bila ta morda preslišana. Izjave tujcev, ki so praviloma izredno skope in se v pretežni meri nanašajo na potovanje ter prehod meje, so zajete v obliki uradnih zaznamkov, iz katerih pa (po tem kar smo lahko ugotovili ob pregledu zgolj nekaterih spisov) niso dosledno prenesene v zapisnike o izročitvi in sprejemu oseb po skrajšanem postopku. To velja na primer za razloge za zapustitev matične države, ki je lahko pomemben dejavnik pri morebitni nameri za mednarodno zaščito. Če smo tovrstne primere na PP Črnomelj zgoraj že izpostavili, pa smo to zasledili tudi v edinem primeru, ki smo si ga ogledali na PP Metlika. V zapisniku o izročitvi in sprejemu oseb št. 225-98/2018/6 z dne 8. 6. 2018 je pri podatkih o osebah, glede razloga za zapustitev matične države, navedeno "ekonomski migrant", čeprav sta dva od njih na vprašanje policista povedala, da sta matično državo zapustila zaradi groženj. Ob tem pa tudi ni z nobenim dodatnim stavkom pojasnjeno, za kakšne grožnje je šlo. Skope izjave, zajete v obliki uradnih zaznamkov, porajajo dvom, če so policisti vsakega posameznika v zadostni meri obravnavali na način, da bi ugotovili, ali potrebuje mednarodno zaščito, oziroma če ima namen zaprositi za mednarodno zaščito. Varuh je že v letnem poročilu za leto 2004 sicer izpostavil, da uradni zaznamki o zbranih obvestilih, ki ga sestavi delavec policije, ne vsebuje nujno tista vsebine, ki je bila dejansko povedana ali ugotovljena. Gre pač za listino, ki jo delavec policije zapiše (morda celo po spominu) po opravljenem uradnem dejanju. Vsebinsko uradnega zaznamka določi zgolj oseba, ki to listino sestavi in zapiše. Oseba, katere izjave je (ali naj bi bila) v uradnem zaznamku zapisana, niti ne ve, kaj je o njeni izjavi zapisano. Ta oseba uradnega zaznamka ne vidi, ne prebere, ne avtorizira njegove vsebine in ga ne podpiše. Uradni zaznamek podpiše zgolj delavec policije, ki je zbral obvestila, opravil razgovor ter uradni zaznamek tudi sestavi in zapiše. Pri tem lahko nehote pride do vsebinskih pomanjklivosti ali netočnosti v zaplasi (na primer zaradi nepazljivega poslušanja sogovornika, napačnega razumevanja, netočnega povzemanja izjav, površnega opazovanja ali pomanjkanja strokovnega znanja s področja, ki je predmet zapisa, itd.). V delu s tujci bo do tega lahko prihajalo tudi zaradi nepoznavanja jezika in kulture, zato je še posebej pomembno, da so policisti ustrezno usposobljeni, tudi pri zaznavi oseb, ki potrebujejo mednarodno zaščito, pa tega morda ne znajo povsem nedvoumno izraziti.

Čeprav je iz 42. člena ZMZ-1 mogoče razbrati, da posameznik svojo željo po mednarodni zaščiti izrazi sam, brez kakršnega koli predhodnega vpliva s strani organa, pa menimo, da je v tovrstnih primerih, ko je odločitev o vnitvi praviloma izvedena v roku enega dne od časa pridržanja, pomembno, da policisti vsem osebam, ki potrebujejo mednarodno zaščito, po potrebi čim prej zagotovijo tudi ustrezne informacije glede azilnih postopkov v jeziku, ki ga razumejo in jim omogočijo dovolj časa, da se lahko izrazijo, če bi želeli podati prošnjo za azil.

in če želijo, da jim to tudi omogočijo (tako tudi Odbor v omenjenem poročilu z dne 16. 3. 2010). To zahtevajo tudi okoliščine teh primerov. Iz že omenjenih uradnih zaznamkih o zbranih obvestilih, je namreč mogoče razbrati, da gre pogosto za osebe, ki so ob prijetju izčrpane. Nadalje, tako iz opravič med pridržanjem kot uradnih zaznamkov izhaja, da so osebe prve ure po prijetju podvržene določenim postopkom, ki služijo ugotavljanju dejstev (glede identitete, kraja vstopa ...). To lahko vse dodatno vpliva na okoliščine, da ima oseba manj časa in priložnosti, da izrazi namero podati prošnjo za azil. Menimo, da bi bilo v teh primerih, ko je odločitev o vrnitvi sprejeta v tako kratkem času in brez pisne odločbe ter tudi brez možnosti uveljavljanja učinkovitega pravnega varstva (oseba se lahko pritoži le zoper odločitev o pridržanju), morda na mestu, da se od posameznika pridobi izjavo, ali ima namero podati prošnjo za mednarodno zaščito v Republiki Sloveniji in se to tudi ustrezno dokumentira.

Sklicujemo se na na 7. in 9. člen Zakona o varuhu človekovih pravic ter vljudno prosimo, da se opredelite do zgornj izpostavljenih pomislekov, stališč in ugotovitev Varuha in nam posredujete svoj pogled o njih oziroma, da nas seznanim z morebitnimi že sprejetimi ali predvidenimi ukrepi glede izpostavljene problematike.

Iz dopisa Policijske uprave Novo mesto, št. 007-4/2017/102 z dne 15. 11. 2017; zadeva EURODAC - preverjanje tujcev, ki nezakonito/nedovoljeno prestopijo državno mejo, je mogoče razbrati razlikovanje med izraženim namenom podati prošnjo za mednarodno zaščito in nedvoumno izraženim namenom podati prošnjo za mednarodno zaščito. Ker iz izjav, s katerimi se je Varuh seznanil na podlagi novinarskega vprašanja in dopisa Pravno-informacijskega centra nevladnih organizacij, izhaja, da naj bi bile prošnje posameznikov za mednarodno zaščito preslišane, prosimo, da nam posredujete stališče tudi o tem, kaj pomeni izraziti namero za vložitev prošnje za mednarodno zaščito. Ob tem vas prosimo, da nas seznanim, ali ste v zvezi z izražanjem namer za vložitev prošnje za mednarodno zaščito posredovali kakršna koli navodila ali usmeritve pristojnim organom ter če je glede tega, od kar se (učinkovito) izvaja Sporazum med Vlado Republike Slovenije in Vlado Republike Hrvaške o izročitvi in sprejemu oseb, katerih vstop ali prebivanje je nezakonito, prišlo do sprememb.

Pravno-informacijski center nevladnih organizacij je Varuha seznanil tudi z imeni nekaterih drugih oseb, ki naj bi ob njihovem obisku v Veliki Kladuši in Bihaču zatrjevale, da so bile vrnjene v Republiko Hrvaško, čeprav so v Sloveniji zaprosile za azil. Ob tem izpostavljamo samo dva primera in sicer ~~XXXXXXXXXX~~, državljana Pakistana, ki naj bi bil po podatkih iz izpisne knjige pridržanj na PP Črnomelj pridržan dne 9. 6. 2018 od 8:27 do 12:22 ter ponovno 10. 6. 2018 od 11:02 do 14:05 (glede na njegovo trditev nas, poleg vaših ugotovitev v njegovi zadevi, zanima tudi pojasnilo, kje se je nahajal v vmesnem času, ko se njegovo pridržanje ni izvajalo na PP Črnomelj in kakšen je bil njegov status v tem času). Sporočite nam tudi, kako je bil obravnavan ~~XXXXXXXXXX~~, državljan Sirije, katerega okviri datum nezakonitega prehoda naj bi bil 21. 6. 2018 v okolici Črnomlja. Odpeljan naj bi bil na PP Metlika. Mejo naj bi prečkal v spremstvu sedmih oseb, ki naj bi bili vsi državljani Sirije. Med njimi naj bi bil tudi mladoletnik brez spremstva, zaradi česar nas primer še posebej zanima.

Varuh je v obravnavo prejel tudi pobudo tujca ~~XXXXXXXXXX~~, državljana Pakistana. Tujec navaja, da je v Slovenijo vstopil 3. 5. na območju Ilirske Bistrice. Na glavni ulici sta s prijateljem zagledala dva policista, šla do njiju in v angleščini izjavila, da želite zaprositi za azil. Tudi na policijski postaji, kamor sta bila odpeljana, sta ta tujca preko prevajalca za farsi jezik zaprosila za azil, po njegovem odhodu pa še enkrat v angleščini.

Policisti so odgovorili, da morajo pripraviti dokumentacijo in da ga bodo potem odpeljali na »urad za azil«. Ko je bil prepravljan na kraj, kjer naj bi prenočil, je še enkrat zaprosil za azil. To je storil tako, da je rekel, da je begunec, da bi rad ostal v Sloveniji in zaprosil, da ga peljejo v begunski kamp. Zjutraj 4. 5. pa ga je policija prepeljala na Hrvaško in ga izročila hrvaški policiji.

Nekaj tednov kasneje (točnega datuma se tujec ne spomni) je zopet prečkal mejo s Slovenijo v skupini sedmih migrantov. Približno 20 km od meje (točnega kraja tujec ne ve, vendar iz dokumentacije, ki smo jo pridobili na PP Črnomelj, izhaja, da je bil ta tujec obravnavan na tej postaji 7. 6. 2018) so odšli na policijsko postajo, da bi zaprosili za azil. Policisti so jim ukazali, da se uležejo na tla. Ob postopku naj bi bili policisti na splošno verbalno agresivni (govorili naj bi jim grde besede in njihov ton je bil zelo osoren). Eden izmed tujcev je na vprašanje, če lahko gre na stranišče, dobil udarec v obraz, drugi tujec (ker ni razumel angleškega ukaza, da se mora uleči na tla) pa je najprej dobil brco, nato se je ulegel v napačno pozicijo in takrat ga je policist oplazil z električno palico (to je opisal kot *it was black colour it was in three steps*). Po osebni preiskavi jih je policija peljala v manjši kontejner. Policija jim je ob podpisu dokumentov zagotovila, da podpisujejo dokumente za azil in da jih bodo naslednji dan odpeljali v begunski kamp, a jih je naslednji dan z avtom odpeljala na postajo hrvaške mejne policije.

Predlagamo, da se tudi ti očitki na postopek policistov natančno preučijo in da nas seznaniš s svojimi ugotovitvami in morebitnimi ukrepi v tej zvezi. V tej zvezi opozarjamo na mnenje agencije FRA 6.1 (vir: Poročilo o temeljnih pravicah 2018), da morajo države članice FRA okrepiti preventivne ukrepe, da bi zmanjšale verjetnost nasilnega vedenja posameznih policistov ali mejnih uslužbencev na mejah. Kadar pa se pojavijo poročila o okrutnem ravnanju, jih je treba učinkovito preiskati, storilcem pa soditi.

Vaš odgovor pričakujemo v 30 dneh po prejemu tega dopisa.

Lep pozdrav,

Ivan Šelih
namestnik varuhinje človekovih pravi

