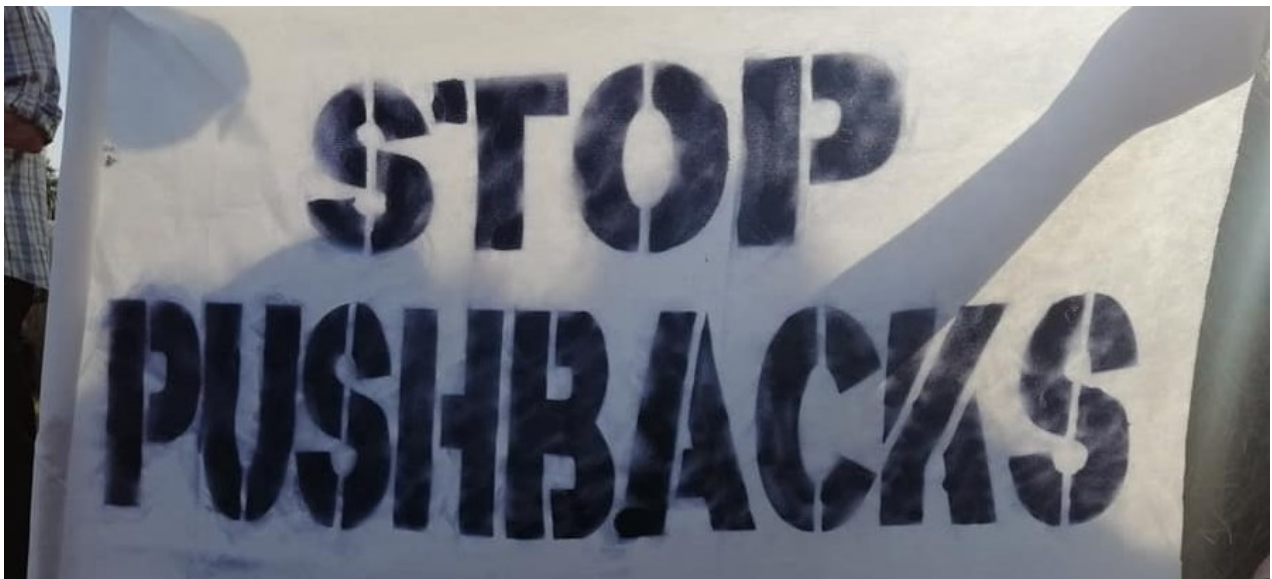


# Chain Pushbacks and State Violence on the Balkan Route **Slovenia (2019-2021)**



Infokolpa, September 2021

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# Introduction

European migration policy is based on externalising borders – strict border controls and migration prevention at the EU's external borders and in countries with global migration routes. If migration is a problem, you can always just move it out of your area and out of direct view. Just as the European Union has made a deal with Turkey to keep majority of migrants and refugees in return for funding, so too is the European migration regime in the Balkans being set up in such a way as to keep people on the move from Europe's gates – this is not the case for those who, even with such a strict migration regime, represent cheap labour for wealthier countries. The borders, although at first glance they look perfectly clear, like the very anchor point that makes it possible to distinguish between one side and the other, between the outside and the inside, are, on closer inspection, plastic and elusive. And since, especially in the modern world, which declares itself against large demarcations, but which therefore has an inexhaustible multitude of small borders forming behind its back, these borders are plastic, they quickly move inwards. Thus, last year, chain pushbacks began to take place from Italy and Austria, via Slovenia and Croatia, to Bosnia and Herzegovina (BiH). This year, the illegality of such chain returns on the grounds of disregard for the right to asylum and the right to protection from torture and collective expulsion was recognised by both the Supreme Court in Slovenia and the Court in Rome. The fact that the practice of chain returns is illegal and constitutes a state crime is clearly demonstrated by the conduct of the Croatian security authorities, who often beat, rob and destroy phones before deporting persons back to BiH. Croatia, as an EU border Member State, represents the centre of a border regime on the periphery – a border regime that forms one, that is to say, European, border with the practices of forced returns or pushbacks from Italy, Austria and Slovenia.

Slovenia started the practice of deportations under the government of Miro Cerar in June 2018, after the top police officials issued a series of instructions to police stations on the modified management of procedures at the border when dealing with irregular border crossings. A practice of systematic denial of the right to international protection and mass refoulement to Croatia was established at police stations and is still being carried out today. From 2018 to August 2021, according to official data, the Slovenian police carried out 28,235 readmission to Croatia. The continuation of the violent border policy was continued by the Janez Janša government, which adopted amendments to the International Protection Act and the Foreigners Act that, in addition to introduction of dangerous provisions legalising pushbacks and suspending the right to asylum, also severely restricts the rights of migrant workers to family reunification and access of non-EU students to education in Slovenia. Borders are not static, the border regime is not only implemented at geographical borders, it is also implemented in the form of detention of undocumented persons, restrictive asylum policy and inhumane treatment in the state institutions. In early 2020, the Ministry of the Interior rejected, without serious justification, the asylum applications of almost all Eritrean asylum seekers in Slovenia who had fled from a dictatorship which forces its citizens into slave work. In other EU member states, more than 80% of Eritrean asylum seekers are granted international protection status, while in Slovenia they face a bureaucratic wall.

Borders adapt and change. Since borders seem to have no boundaries, this report seeks to record the most significant systemic violations of fundamental rights and the various forms of resistance to repressive migration policies between 2019 and 2021. Starting primarily from the context of the Slovenian territory, we aim to establish common points of reference in the opaque fluidity of the border regime. Not only to make it easier to think national borders, but also to act against the existing border regime and the violence it produces.

## Police violence at the border: Croatia

Since 2017, numerous reports by various organisations have recorded testimonies from people on the Balkan route about various practices of police violence, both at borders as well as in the interior of countries, and in institutions such as detention centres and police stations. The most serious problem is that of forced pushbacks from Croatia across the green border into BiH. The testimonies of different deportees which report brutal violence describe a similar story which occurs daily at the borders of the European Union. Groups of persons are intercepted en route by Croatian police units, either alone or at the call of the local population. They are taken to a police station where they undergo a short hearing, the aim of which is not to establish the individual reasons for migration and to record any asylum applications, but simply to identify them (name, surname, country of origin, photograph). In the course of this procedure, expressions of intention to apply for asylum are either overheard or punished with violence and threats. Detainees are stripped naked to be searched by the police. They are humiliated and ridiculed. Croatian police officers confiscate their personal belongings, including phones and money, and usually do not return them.<sup>1</sup> If they are detained at the police station overnight, they sleep on the floor and are rarely given water or food. This is followed by transport to the Serbian or Bosnian border. In the back of the vans that they use for this purpose, they sometimes cram as many as 15 people at a time. The air in these rooms is suffocating, as there are no windows, they are closed in for hours at a time during the journey, the air is extremely bad, according to witnesses, and many people suffocate. In addition, drivers deliberately drive wildly, accelerating and braking suddenly, so that people are thrown over and against the wall of the van.<sup>2</sup> When the vans finally reach the border, people are often let out singly or in pairs. Outside, they are met by two columns of masked, black-clad policemen with batons in their hands, forming a corridor through which they have to make their way as punches rain down on them.<sup>3</sup> Not everyone has been deported to BiH in such a brutal

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<sup>1</sup> "They forced us to throw everything inside the fire. They put the phones in a plastic bag and held it over the fire a little bit, pretending like they will burn them, then they took them away somewhere, keeping them for themselves." Testimony given by an Iraqi family deported by Croatian police in a mass deportation in BiH on 30th of September 2019. Border Violence Monitoring Network, Black Book of Pushbacks (Vol.2), 2020, pp. 910-913. Available at:

<https://documentcloud.adobe.com/link/track?uri=urn:aaid:scds:US:b10a04a4-25dd-45f1-8b2d-e9c25946cb44>

<sup>2</sup> "According to the respondent, instead of making them get out the van, the officer aimed a canister of pepper spray into the back of the van, causing the individuals to choke and cry. The skin of the individual sitting next to the door was burnt from the intensity of the assault. The doors were slammed again, and they continued driving towards the Bosnian border.." The deportation of 10 persons from Pakistan to BiH, aged between 19 and 51, took place on 12th of September 2018, where the testimony was also recorded. Border Violence Monitoring Network, Black Book of Pushbacks (Vol.2), 2020, pp. 1301-1302. Available at:

<https://documentcloud.adobe.com/link/track?uri=urn:aaid:scds:US:b10a04a4-25dd-45f1-8b2d-e9c25946cb44>

<sup>3</sup> "The six officers then lined up in rows of three across from each other and told the respondent to go to the middle of them, trapping him in between. The six officers proceeded to beat the respondent concurrently in a systematic fashion; the respondent described that one officer would beat his head, another his feet, another his torso area, one officer on each arm, and one on each leg. He said that the beatings came in such force and in such great amounts that they felt as though they were coming down upon

manner, but the vast number of testimonies of torture reveals that the violence is organised in a systematic way by the Croatian police. In some cases, people have also testified of the presence of persons wearing German state symbols and the symbols of the European border police Frontex during pushbacks.

This is the story, with slight variations, told by people who have tried to cross Europe's external borders. This is the terror that Croatia is perpetrating in order to divert a mass of people fleeing poverty and war from the hope of a decent life in Europe. The coordination of those involved, the standardised methods of torture and the routine nature of the forced returns leave no doubt that the violence is coordinated from the top of the police force, and is not simply a matter of individual violent police officers. Further evidence for the state's support of border violence is the persistent refusal of the Croatian police to cooperate with the State Ombudsman, and the unwillingness of the Public Prosecutor's Office to initiate proceedings for border violence despite Ombudsman's appeals.<sup>4</sup>

In November 2020, it emerged that the European Union institutions were working with the Croatian authorities to conceal information about systemic violence. In December 2018, the European Commission granted Croatia €6.7 million in aid to strengthen its borders with non-EU countries. As a condition for receiving these funds, Croatia had to commit to setting up an independent monitoring system to ensure that migrants are treated humanely by border guards. Of the total amount, €300 000 was ordered to set up the monitoring mechanism, but Croatia has not spent the funds as agreed. Intercepted correspondence from senior European Commission officials, revealed by The Guardian, shows that despite knowing about Croatia's non-compliance with the agreement, the Commission decided not to disclose this information due to its fear that it would create a scandal.<sup>5</sup> Following pressure from civil society, a monitoring mechanism has only recently been put into place. The case shows that Croatian border violence is also European violence, because it is obvious that the European Union institutions, in order to keep the external borders as nonporous as possible, are prepared to cover up brutal violence and to provide the means for the continuation of state violence on the Balkan route. Indeed, large-scale violence would not have been possible without European funds for the purchase of vehicles, thermovisual cameras and other technological equipment. Individual member states have also provided support to the

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him "like rain". After several minutes of this beating, one officer screamed 'Go quickly, run back to Bosnia!'" The violent deportation took place on 9th of September 2020. 22 people from Afghanistan, aged between 16 and 32, were deported to BiH. Border Violence Monitoring Network, Black Book of Pushbacks (Vol.2), 2020, pp. 719-721:  
<https://documentcloud.adobe.com/link/track?uri=urn:aaid:scds:US:b10a04a4-25dd-45f1-8b2d-e9c25946cb44>

<sup>4</sup> Due to the unresponsiveness of the Public Prosecutor's Office, the Ombudsman Lora Vidović has decided to make public an anonymous letter from a police officer who has decided to explain the illegal actions of the police. Publication of the letter:  
<https://www.ombudsman.hr/hr/institucije-bez-reakcije-na-anonimnu-prituzbu-policijskog-sluzbenika-o-nezakonitim-postupanjima/>

Anonymous interview with a Croatian police officer about violence on the border made by Barbara Matejčić:

<https://www.telegram.hr/velike-price/prvi-intervju-u-kojem-hrvatski-polica-jac-tvr-di-sefovi-nam-nareduju-da-ilegalno-protjerujemo-migrante/>.

Anonymous interview with Ombudsman Lora Vidović: <https://www.jutarnji.hr/vijesti/hrvatska/pucka-pravobraniteljica-u-velikom-intervjuu-za-jutarnji-stat-cu-iza-svakog-polica-jca-koji-odluci-progovoriti-o-nasilju-nad-migrantima-9157892>

<sup>5</sup> The Guardian, *Inquiry launched into EU commission's protection of migrants at Croatia border*, 10.11.2020:

<https://www.theguardian.com/global-development/2020/nov/10/inquiry-launched-into-eu-commissions-protection-of-migrants-at-croatia-border>

Croatian police, with the German Embassy donating €835,000 worth of off-road and transport vehicles to the Border Police in December 2020.<sup>6</sup>

In 2020, the violence of the Croatian police has become more brutal, and reports of deportations show an increase in cases of cruel and sadistic behaviour of police officers. On 6th of May 2020, a group of around 20 people were forcibly deported across the Croatian-Bosnian border near Poljane in BiH. During the deportation, they were beaten and robbed, and Croatian police officers drew crosses on their heads with red or orange spray paint.



Photo: Danish Refugee Council

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<sup>6</sup> Croatiaweek, *Germany donates vehicles for Croatian border police worth €835,000*, 11.12.2020:  
<https://www.croatiaweek.com/germany-donates-vehicles-for-croatian-border-police-worth-e835000/>



On 26th of May 2020, five people from Pakistan were captured by police officers near Plitvice Lakes at around 23:00. They were then tied up and subjected to horrific abuse by police officers for hours, who shot their guns in the vicinity of their ears, pistol-whipped them and kicked them all over the body. Some were cut deeply with knives and then had ketchup and mayonnaise squeezed into their wounds. After the torture, they were taken to the border, from where they found an ambulance and hospital care with the help of a local resident in BiH.<sup>7</sup>



Photo: Danish Refugee Council

On 22nd of October 2020, a group of 36 people, including families from Syria and some from Algeria, was caught by police after a day of walking on their way north. The group was caught in the early hours of the morning in the forest and forced to walk to transport. Some had to do it barefoot. According to testimony, random people were ordered to undress and then the police officers hit their genitals with branches, while others were beaten with sticks. During the drive to the BiH border, the police drove wildly, causing some of the migrants in the back to vomit. When they were deported, they had to hand over their phones one by one, after which the last of them had to throw all of the telephones into the fire.<sup>8</sup>



Photo: Danish Refugee Council

<sup>7</sup> "They struck on my head many times using the pistol butt and in spite of bleeding from my head which had three or four open wounds they continued hitting me even when they saw the blood. I don't want anyone else to go through what I went through." Border Violence Monitoring Network, *Black Book of Pushbacks* (Vol.2), 2020, pp. 762–765. Available at: <https://documentcloud.adobe.com/link/track?uri=urn:aaid:scds:US:b10a04a4-25dd-45f1-8b2d-e9c25946>

<sup>8</sup> Border Violence Monitoring Network, *Black Book of Pushbacks* (Vol.2), 2020, 883–886: <https://www.guengl.eu/issues/publications/black-book-of-pushbacks-volumes-i-ii/>

Despite the multitude of recorded testimonies and video evidence of the police violence, the Croatian government continues to deny any misconduct of its police force, as violence against migrants becomes a common practice in European border management.

## Police violence at the border: **Slovenia**

Slovenia is responsible for state crimes on the Balkan route by carrying out mass collective deportations to Croatia under the pretext of a readmission agreement. Since June 2018, the Slovenian police have been systematically denying the right to international protection through the malversation of official procedures and physical and verbal violence in police stations. Many people who apply for asylum in Slovenia are denied this right and are taken to the border and handed over to the Croatian police. Through mass deportations, Slovenia is violating the right to protection from torture and collective deportation. In this way, the Republic of Slovenia is participating in chain returns by handing people over to Croatia despite the clear knowledge that they are at risk of violence and deportation to BiH. Chain returns via Slovenia have also been increasingly frequent in 2020 from Italy and Austria.

The systematic abuse of official procedures and the introduction of mass deportations under the readmission procedure followed the publication of an official directive by the former Director General of Police, Simon Velički, on 25th of May 2018. The directive, which is only partially publicly available, states, among other things, that a person who crossed the border between Slovenia and Croatia illegally and was caught by a mixed Slovenian-Croatian patrol should be handed over to Croatia for processing. Even if the directive did not contain instructions on direct illegal police action, a fundamental change in the conduct of procedures at police stations followed immediately after its publication. The police began systematically denying the right to asylum to the majority of persons seeking protection in Slovenia, and began carrying out mass expulsions to Croatia. This is clearly evident from the statistics of the number of irregular border crossings and intentions to apply for asylum, published by the Ombudsman's Office in February 2019. In May 2018, 379 persons were processed for irregular border crossings at the Police Station Črnomelj<sup>9</sup>, of whom 371, i.e. almost 98%, expressed their intention to apply for asylum. In June, after the above-mentioned directive was sent to police stations, this ratio changed drastically. Out of 412 persons processed for irregular border crossing, only 13, i.e. approximately 3%, officially expressed their intention to apply for asylum in Slovenia, others were deported to Croatia.<sup>10</sup> Such a change clearly indicates that the introduction of the systematic denial of the right to international protection and practice of mass expulsions was coordinated by the heads of the police force and other state institutions.

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<sup>9</sup> PP Črnomelj is located on the southern Slovenian border, some 70 kilometres from the Croatian-Bosnian border near Velika Kladuša. In the spring, most people on the Balkan Route crossed the Croatian-Slovenian border at this location, but after 2018, mass deportations from Slovenia to Croatia have led to more and more people taking the route through the Ilirska Bistrica area in the hope of arriving directly in Italy.

<sup>10</sup> Ombudsman of the Republic of Slovenia, *Final Report on the activities and findings of the Ombudsman on the treatment of refugees and foreigners by police officers at the border with Croatia*, 2019, available at: [https://www.varuh-rs.si/fileadmin/user\\_upload/word/NOVINARSKE\\_KONFERENCE/2019\\_2\\_15\\_-\\_NOVKONF/Koncno\\_porocilo\\_o\\_delu\\_policije\\_na\\_meji\\_s\\_Hrvasko\\_-\\_VCP\\_RS\\_-\\_februar\\_2019.doc](https://www.varuh-rs.si/fileadmin/user_upload/word/NOVINARSKE_KONFERENCE/2019_2_15_-_NOVKONF/Koncno_porocilo_o_delu_policije_na_meji_s_Hrvasko_-_VCP_RS_-_februar_2019.doc)



Following the change in the management of procedures at the Črnomelj police station, other police stations across Slovenia have introduced the same practice of denial of right to asylum. In a report published in 2021, the Ombudsman published data collected from the whole of Slovenia. In 2018 798 out of 1,303 persons arrested for irregular border crossing between January and April applied for international protection (representing 61%). However, between May and December of the same year, there is a clear decrease in the share of recorded applications for international protection. During this period, 7,846 persons were apprehended for irregular border crossing and 2,077 intentions to apply for asylum were recorded, representing a 26% share.<sup>11</sup> Those whose applications were not registered were returned to Croatia and then deported to BiH. This practice of chain pushbacks and denial of the right to asylum continues to this day, and during this time it has also moved inland and to institutions such as the Centre for Foreigners and the Vič Asylum Centre.<sup>12</sup>

Official police data on the number of irregular border crossings and the number of recorded intentions to apply for asylum attest to the scale of collective expulsions from Slovenia to Croatia. In 2018, 9,149 irregular border crossings were recorded and 4,653 persons were readmitted to Croatia. In 2019, 16,099 persons were processed for irregular border crossings, of whom 11,039 were subsequently readmitted to Croatia following a procedure at a police station. In 2020, 14,592 persons were processed at police stations, after which 9,950 persons were deported to Croatia. Thus, from 2018 to August 2021, 28,235 readmissions were carried out from Slovenia to Croatia, despite the overwhelming and irrefutable evidence of a serious risk of torture in Croatia and further expulsion to BiH. Slovenia carries out mass pushbacks to Croatia under the pretext of applying the inter-state agreement on the readmission of persons whose border crossing or stay in Slovenia is illegal.<sup>13</sup> The agreement allows for persons who have entered Slovenia irregularly from Croatia to be readmitted to the Croatian authorities under an accelerated and informal procedure within 72 hours since crossing the border. Fast-track extradition is carried out without formalities, i.e. without a decision by an administrative authority. The person concerned thus has no possibility of appeal and no access to legal aid, which is in direct violation of the constitutional right to appeal. On the initiative of the Human Rights Ombudsman in Slovenia, the Constitutional Court of Slovenia is currently deciding on the constitutionality of the readmission agreement.

Those who manage to cross the Croatian forests into Slovenia after a week or more are often exhausted and without food or water. Some are discovered by the police with high-tech equipment such as thermovisual cameras and drones during or after crossing the border, others are caught

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<sup>11</sup> Ombudsman of the Republic of Slovenia, *National Report on the Situation of Human Rights of Migrants at the Border*, 2021, available at: [https://www.varuh-rs.si/fileadmin/user\\_upload/CENTER\\_-\\_ENHRI/Slovenian-National-Report\\_SLO.pdf](https://www.varuh-rs.si/fileadmin/user_upload/CENTER_-_ENHRI/Slovenian-National-Report_SLO.pdf)

<sup>12</sup> "The group of respondents had reached the Ljubljana camp the day before, on the 2nd of August 2020, after a 13-day-long trip in the woods from Bosnia Herzegovina. As the respondent recalled, once in the camp, the group on the move spent the night in a cell and, in the morning, it was informed that their asylum request had been rejected and that the whole group would have been deported back to Croatia..." On 3rd of August 2020, a group of 4 persons from Algeria was handed over to Croatia where, after an identification procedure, they were taken to the border. As they got out of the van, they were beaten with batons and electric shockers by a group of masked police officers, after which they fled across the green border into BiH. Border Violence Monitoring Network, *Black Book of Pushbacks* (Vol.1), 2020, pp. 82-84. Available at: <https://documentcloud.adobe.com/link/track?uri=urn:aaid:scds:US:3f809f15-bada-4d3f-adab-f14d9489275a>

<sup>13</sup> *Agreement Between the Government of the Republic of Slovenia and the Government of the Republic of Croatia on the Readmission of Persons Whose Entry or Residence Is Illegal*, 2006: <https://www.uradni-list.si/glasilo-uradni-list-rs/vsebina/2006-02-0040?sop=2006-02-0040>

by the police after a call from the local population. After detention, there is an interrogation and identification process at the police station, where the police are mainly interested in how and where the border was crossed, and in finding smugglers and guides. Those who wish to seek asylum are faced with threats, sometimes even beatings. The next day, the captured group is taken to the official border crossing, where they are handed over to the Croatian police, together with personal property seized by Slovenian police officers during the procedure. Such returns are described in many of the testimonies of illegal returns collected on the Border Violence Monitoring Network website.

The person who was deported to BiH with a group of five on 30th of March 2019 was in Slovenia, where they were arrested by police officers in Višnja Gora after trying to buy a bus ticket. Despite the fact that they had applied for asylum, this was ignored by the police:

*"I asked for asylum. Usually, when someone asks for asylum they bring him to a camp and start a regular procedure. But here it was not the case. The police told us instead 'no asylum in Slovenia' and then they told us to shut up".<sup>14</sup>*

During the process, they were not provided with a translator, and the police confiscated €300, allegedly as a fine for an offence, and personal property. Despite the fact that the person had written on a piece of paper the intention to apply for asylum as the reason for entering the country, this was crossed out by a police officer during the procedure. The group spent the night in a cell before being taken to the border crossing with Croatia. Then they were taken to the border with BiH and pushed across the border.

Deliberate deception by police officers at Slovene police stations is also common: they lie to the detainees during the process, promising them they will be able to initiate asylum proceedings on their behalf, but then they suddenly find themselves in a van heading for the Croatian border. During the procedure at the police station, they are handed a few documents in Slovenian or sometimes English, which they are forced to sign, even though they do not know what they say, otherwise the police become violent.

The documents issued usually include a fine payment order for €480 – the fine for crossing the border illegally – and a detention order. These documents state, among other things, that the recipient signs to confirm that he or she has understood their contents, which is usually not the case. The signature at the bottom of the document is in many cases obtained under the threat of violence, the translator is often not present and, if present, acts as an interrogator. The Slovenian police deny the right to asylum to both minors and families and extradite them to Croatia after the procedure. On 7th of October 2019, 4 kilometres from the border with Italy, police caught a group of 6 people, including a family from Syria with a 20- and 9-month-old baby. Despite their clear intention to apply for asylum, they were prevented from proceeding, and the father described his conversation with the translator:

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<sup>14</sup> Border Violence Monitoring Network, *Black Book of Pushbacks (Vol.1)*, 2020, 202–204. Available at: <https://documentcloud.adobe.com/link/track?uri=urn:aaid:scds:US:3f809f15-bada-4d3f-adab-f14d9489275a>

*"I told him 'I am from Syria', he called me a liar. He kept yelling at me that I am liar. Police was humiliating me, telling me 'ha, you want to apply for asylum, we will take you to a camp yes, to a camp in Bosnia.'"*<sup>15</sup>

The family was then separated and the father was asked to testify against the smuggler who had taken them. His reunification with his family and the start of the asylum process were conditioned by his testimony in court, which he agreed to do. After the court visit, he and his family were handed over to Croatia on 9th of October, which deported them to BiH in the evening of the same day.

Police officers often interfere in the procedure itself and falsify the data of the person under investigation in the personal data questionnaire. For example, if a person writes "Slovenia" as the country of destination, they cross it out and write "Italy". There are also many cases where minors are listed as adults, despite the evidence provided, because in this case the police officer does not need to contact the social work centre for that person. On the 24th of October 2019, a group of 4 persons from Western Sahara and Yemen were caught in the vicinity of the village of Veliki Cerovec. In the proceedings, the minor was listed as an adult, even though he had all the evidence that this was not the case:

*"The minor had his camp ID and a photo of his documents which stated his birth year as 2002. On the document the officer wrote the individual's birth year as '2000.' He was forced to sign the same documents as the adults and was not offered a social worker or translator to speak with."*<sup>16</sup>

The increase in the number of reports of physical violence by Slovenian police officers is also worrying. For example, a report from 8th of April 2019 describes how police detained a group of five people in a street in Novo mesto and ordered them to kneel on the ground in a line before kicking and beating them with batons, while other citizens walked by and watched. Police officers are increasingly resorting to violence during interrogations. This is the case of a group of three people from Iran and Afghanistan who were caught by the police on the outskirts of Novo mesto on 28th of September 2020 after they had arrived in Slovenia hidden in a truck. According to the testimony, the police asked a lot of questions, *"how did you arrive, from which way did you arrive, which road did you arrive on and so on. There was a minor in the group of people-on-the-move and he spoke some English. The police officers told him to come to them and after which point the officers were described as being physically violent with the group. The respondent described that he almost fell unconscious and he was crying. The officers reportedly asked the respondent again about how he arrived to Slovenia and he answered that they had arrived by vehicle. Allegedly, the officers told him he was lying and were physically violent with him again."*<sup>17</sup> The group spent the night at the Obrežje police station, where they were forced to strip naked. The police also took away their phones and handed them over to the Croatian police the next day. They were then deported across the Croatian-Serbian border.

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<sup>15</sup> Border Violence Monitoring Network, *Black Book of Pushbacks (Vol.1)*, 2020, 114–116. Available at: <https://documentcloud.adobe.com/link/track?uri=urn:aaid:scds:US:3f809f15-bada-4d3f-adab-f14d9489275a>

<sup>16</sup> Border Violence Monitoring Network, *Black Book of Pushbacks (Vol.1)*, 2020, 110–111. Available at: <https://documentcloud.adobe.com/link/track?uri=urn:aaid:scds:US:3f809f15-bada-4d3f-adab-f14d9489275a>

<sup>17</sup> Border Violence Monitoring Network, *Black Book of Pushbacks (Vol.1)*, 2020, 73–75. Available at: <https://documentcloud.adobe.com/link/track?uri=urn:aaid:scds:US:3f809f15-bada-4d3f-adab-f14d9489275a>

Even when people are not the victims of explicit violence or abuse, in most cases they do not receive individual treatment, which is one of the fundamental principles of law. It is common for a police officer to interview only one of those arrested at a police station and then treat the information as if it applied to all the others arrested. There have been cases where the police have failed to follow readmission procedures, especially in the cases of arrests of large groups. The case of the deportation of 100 persons to Croatia on 19th of July 2019 in the area of PP Ilirska Bistrica was investigated in more detail by the Ombudsman. On that day, 108 persons were arrested in a police operation in various locations in the forests around the village of Šemblje between 3 pm and 9 pm. In his report dated 22nd of July 2020, the Ombudsman noted that, according to the timeline provided by the police, the average time taken to deal with each person at the station was approximately 7 minutes. According to the police report of PP Ilirska Bistrica, the police officer simply transcribed the statements of the five persons arrested on that day, adding that all of them had provided this information in the interview.<sup>18</sup> Given the unrealistic timing of the hearing and the deportation report, it is clear that the arrested persons were treated collectively and then collectively deported to Croatia. According to the police report, only 8 persons applied for international protection during the proceeding. Further worrying information is contained in the testimony of persons who were deported to BiH after being handed over to Croatia.



Collective deportation to Croatia from the vicinity of Ilirska Bistrica, 19.7.2019. Photo: Siol.net

According to witnesses, some 30 soldiers and 40 to 50 police officers took part in the operation. They also allegedly used unmuzzled dogs, and the interviewees deported to BiH had clear bite marks and scratches. The police tied the hands of the persons with rope and placed them on the ground, and individuals walked on the hands of the detainees as they lay down. The latter was witnessed by persons who had been deported from the area of Ilirska Bistrica to Croatia and then to BiH:

<sup>18</sup> Ombudsman of the Republic of Slovenia, *Final report on the handling of police proceedings with of proceedings against foreigners in the area of the Ilirska Bistrica Police Station*, 19th of July 2019, 2020: [https://www.varuh-rs.si/fileadmin/user\\_upload/pdf/Staliska\\_in\\_ugotovitve/2020\\_7\\_22\\_-\\_Koncno\\_porocilo\\_o\\_prijetju\\_in\\_vracanju\\_migrantov\\_na\\_Hrvasko.pdf](https://www.varuh-rs.si/fileadmin/user_upload/pdf/Staliska_in_ugotovitve/2020_7_22_-_Koncno_porocilo_o_prijetju_in_vracanju_migrantov_na_Hrvasko.pdf)

*"A number of violence acts occurred throughout this process: the interviewees state that the police pushed the men, whose hands were tied behind their back, onto the ground until they were lying face down and then the police stamped on their hands repeatedly. The police pushed and kicked the men in the group and beat them with batons while they were tied up and, whilst they were being tied up, pepper sprayed some of them. One interviewee stated that whether or not they listened to the police when the police told them to stop and stand still, they were pepper sprayed and beaten."*<sup>19</sup>

The group of deportees that was interviewed included several minors, and according to the official police report, only 8 of the 108 arrested had applied for international protection in Slovenia. The mass deportation operation was led by the assistant commander of Police Station Ilirska Bistrica and an inspector of the Uniformed Police Division of Police Directorate Koper, whose names are unknown. During the transfer to the Croatian side, the Slovenian Police loaded the persons into a van, which is said to have contained up to 20 persons each. The Croatian police then took them to the border with BiH, where they were beaten, robbed or had their property destroyed, and fled towards Velika Kladuša.

The above mentioned examples clearly show that the Slovenian police violate fundamental rights such as the right to protection from torture and collective expulsion. Many people who cross the border in search of protection are reduced to objects of "procedures" without the right to a remedy in their dealings with the police. Police stations systematically falsify official procedures in order to facilitate fast and informal deportations to Croatia under the pretext of the legality of the readmission procedure. In this way, the fundamental rights of a multitude of persons are violated on a daily basis, as there is no effective independent monitoring mechanism over the police actions when dealing with persons in distress in the border areas or inland.

## Chain pushbacks from **Italy and Austria**

The systematic chain pushbacks to BiH are evident through the coordinated actions of several countries along the Balkan route, including Italy and Austria. In fact, in 2020, there was an increase in the number of persons returned from Italy or Austria via Slovenia and Croatia to BiH. Italy increased its military presence on the Slovenian-Italian border in May 2020 and significantly increased the number of readmission to Slovenia under the Inter-State Agreement. In May 2020 alone, Italy returned more persons than in the previous four months – while by April it had handed over 27 persons to the Slovenian security authorities, in May alone it handed over 100. It is not known how many of these were returned to Croatia, as the police do not keep such records, but the testimonies of deportees show that Slovenia actively participates in chain returns from neighbouring countries. This is confirmed by reports collected by the Border Violence Monitoring

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<sup>19</sup> Border Violence Monitoring Network, *Black Book of Pushbacks (Vol.1)*, 2020, 149–151. Available at: <https://documentcloud.adobe.com/link/track?uri=urn:aaid:scds:US:3f809f15-bada-4d3f-adab-f14d9489275a>



Network, which recorded 12 persons returned from Italy to BiH in 2019, and 145 persons in 2020.<sup>20</sup> It is important to note that only cases of chain pushbacks are recorded, when it was possible to interview the deported persons.

Such is the case of the 42 persons from Afghanistan and Pakistan who were pushed back from Italy on 15th of September 2020. On that day, a group of 56 persons arrived in Trieste to apply for asylum. The Italian police carried out an identification procedure and fingerprinting, and all of them individually expressed their intention to apply for international protection, but only minors were taken to the asylum procedure. Forty-two others were taken to the border and handed over to Slovenian police without any formal procedure, who then fingerprinted them again and took them to the Croatian border, where they were handed over to Croatian police officers. They were then taken to the border with BiH, where they had to remove their clothes and shoes in the presence of masked police officers, and the officers confiscated their valuables. The group was then beaten with batons until they fled across the border to BiH.<sup>21</sup>

For the purposes of chain pushbacks from Italy, the Slovenian police also use the Centre for Foreigners in Postojna. On 20th of July 2020, 26 people from Pakistan were apprehended in a park in Trieste. They were taken to the border complex in Fernetici, where they underwent an identification procedure and fingerprinting. They were offered entry into the asylum procedure by the there present translator in exchange for a bribe. After a few hours, they were handed over to Slovenian police, who took them to the Centre for Foreigners in Veliki Otok near Postojna, where the identification procedure was repeated, they were given food and a place to sleep. The next day they were taken to the Croatian border. There, they were transferred by police officers into three vans, where they spent the night and were then taken to the border. They were beaten and police officers shot in the air with their guns as they fled across the border into BiH without shoes.<sup>22</sup>

Similar is the case of 10 persons from Pakistan who were returned from Italy to Slovenia on 21st of July 2020. They were taken from the border by the Slovenian police to the Centre for Foreigners in Postojna, where they were held in a room for a week, and then moved to a part of the centre where 25 other people were held. There they were held for five days. After five days, they were transported to the Obrežje border crossing together with 10 other persons and handed over to the Croatian police. They were taken to the border with BiH where they were met by masked police officers who beat them, took their phones and money and forced them to flee across the border without their shirts and shoes.<sup>23</sup>

In 2020, in addition to the increase in readmission from Italy, an increase in readmission was recorded from Austria. In 2019, Slovenia received 81 persons from Austria for irregular border crossings, compared to 176 in 2020. As at the borders with Italy and Croatia, readmission from

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<sup>20</sup> Border Violence Monitoring Network, *Black Book of Pushbacks (Vol.1)*, 2020. Available at: <https://documentcloud.adobe.com/link/track?uri=urn:aaid:scds:US:3f809f15-bada-4d3f-adab-f14d9489275a>

<sup>21</sup> Border Violence Monitoring Network, *Black Book of Pushbacks (Vol.1)*, 34–35, 2020. Available at: <https://documentcloud.adobe.com/link/track?uri=urn:aaid:scds:US:3f809f15-bada-4d3f-adab-f14d9489275a>

<sup>22</sup> Border Violence Monitoring Network, *Black Book of Pushbacks (Vol.1)*, 40–41, 2020. Available at: <https://documentcloud.adobe.com/link/track?uri=urn:aaid:scds:US:3f809f15-bada-4d3f-adab-f14d9489275a>

<sup>23</sup> Border Violence Monitoring Network, *Black Book of Pushbacks (Vol.1)*, 40–39, 2020. Available at: <https://documentcloud.adobe.com/link/track?uri=urn:aaid:scds:US:3f809f15-bada-4d3f-adab-f14d9489275a>

Austria to Slovenia are carried out under the inter-state agreement. On 5th of September 2020, Austrian police arrested 5 people from Syria, Morocco and Tunisia near Laafeld, after they had been travelling for 10 days from BiH. The police arrested the group after a call from a local resident, they took them to a police station where they were stripped for screening and underwent an identification procedure. Although they applied for international protection there, the Austrian police handed them over to the Slovenian police. According to their testimony, the Slovenian police took them to Ptuj, where they were again subjected to an identification procedure and fingerprinting. From Slovenia, they were handed over to Croatia, where they were taken to a police station in Zagreb and then deported to BiH. In neither country were they able to successfully start the asylum procedure, despite their expressed intention to do so.<sup>24</sup>

Chain pushbacks from neighbouring countries represent a further escalation of state violence on the Balkan route against people trying to find protection within the European Union. The country-to-country deportations represent state organized systemic violence against persons on the move and shift the burden of responsibility for dealing with the situation beyond the EU borders to BiH. In January 2021, an Italian court in Rome recognised the illegality of readmissions to Slovenia and ruled in favor of a Pakistani national who was pushed back from Italy via Slovenia and Croatia to BiH in July 2020. The favourable judgment was handed down by the court of first instance and is not yet final.

## Detention of asylum seekers in Slovenia and protests against the unbearable conditions in **the Centre for Foreigners in Postojna**

In addition to the already existing systematic violations at police stations, in 2020 the Slovenian police introduced the dangerous practice of detaining asylum seekers at the Centre for Foreigners in Veliki Otok near Postojna. This is a total institution, which functions like a prison and whose purpose is to restrict the freedom of movement of persons who are in the process of being removed from the country. A person who has no legal status in Slovenia may be detained in the centre for a period of six months, which can extend for a further six months, or until deportation is carried out. The current legislation also allows for the detention of asylum seekers for a period of 3 months under certain conditions, but the practice of detention from June to October 2020 showed that the detention measure was often issued arbitrarily to asylum seekers.

The increased number of detentions followed after a directive was sent to the Police Directorate Koper. The directive was issued on the 3rd June 2020 and signed by former Director General of Police Anton Travner. It instructed a trial period of detention of applicants for international

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<sup>24</sup> Border Violence Monitoring Network, *Black Book of Pushbacks (Vol.1)*, 414–413, 2020. Available at: <https://documentcloud.adobe.com/link/track?uri=urn:aaid:scds:US:3f809f15-bada-4d3f-adab-f14d9489275a>

protection in the Centre for Foreigners.<sup>25</sup> Due to allegations of abuse of asylum procedures, the directive instructed police officers to order a person applying for international protection in the area of the Directorate to be directly confined to the Centre for Foreigners until a negative decision on their request for international protection is given. This would, as the directive states, facilitate the return to the country of origin or to the neighbouring country from which the person crossed the border, and therefore enable an effective mechanism of deportations to Croatia. In April 2020, 55 persons were detained in the Centre for Foreigners, in June already 309 persons were detained there, and in July 391 persons were detained there. Immediately after the publication of the instruction, there was also an increase in the number of restrictions issued to asylum seekers. From January to May, one or two such decisions were issued per month, while in June, 69 such decisions were issued, in July, 43, in August, 46, in September, 29 and in October, 3. Thus, by October 2020, 196 restraint measures had been imposed, of which a total of 148 were imposed in June, July and August. At the same time, the increasing number of complaints is indicative of the illegality and arbitrariness of these practices. Of the 116 detentions orders issued by 28th of July 2020, there were 99 complaints issued against them. By that time, out of all the complaints, the Administrative Court ruled that the detention was unlawful in 58 cases.<sup>26</sup>

With the directive on the restriction of movement of asylum seekers, a fast-track decision-making on asylum applications was also introduced on a larger scale, this fast-track decision ended with a quick rejection decision and deportation to Croatia. During the three months of detention in which an asylum seeker is subject to a movement restriction by the detention order, the applicant may have already received a negative decision from the Ministry of the Interior. If the Administrative Court also upheld the negative decision within these three months, rejected asylum seekers were readmitted to Croatia and then pushed back to BiH. Such fast-track procedures are foreseen by law with priority treatment for detainees in the Centre for Foreigners under the International Protection Act. On top of that the conditions for a restriction of movement of asylum seekers have been expanded by the amendments to this Act in 2021.

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<sup>25</sup> Police directives concerning the detention of asylum seekers in the Centre for Foreigners in Postojna are available here: <https://push-forward.org/novica/police-directives-detention-asylum-seekers-postojna-june-2020>

<sup>26</sup> Newspaper Dnevnik, *MNZ in policija: Postopki s prosilci za azil skladni z nacionalno in evropsko zakonodajo ter mednarodnimi konvencijami*, 31.7.2020: <https://www.dnevnik.si/1042935426>



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Številka: 225-2/2020/34 (213-01)

Datum:

Zadeva: POSKUSNO UVAJANJE POSTOPKOV S TUJCI, KI IZRAZIO NAMERO  
ZAPROSITI ZA MEDNARODNO ZAŠČITO NA POLICIJSKIH POSTAJAH  
– NAROČILO  
Zveza: naš dokument št. 225-2/2018/13 (2131-3) z 25.5.2018

Delež tujcev, ki po prijemu zaradi nezakonitega prestopa meje v postopkih na policijskih postajah izrazijo namero zaprositi za mednarodno zaščito, se je v letošnjem letu izrazilo povečal. Če je bil predhodno, nekajeno povprečje okoli 30%, letos ta delež presega 50%. Tujci po izraženi nameri ali vloženih prošnji za mednarodno zaščito nezakonito potovanje nadaljujejo, ne da bi počakali na odločitev glede mednarodne zaščite.

S ciljem omejitve uporabe postopkov mednarodne zaščite za nezakonito potovanje preko Slovenije bomo v času od 3.6. do 3.7.2020 skupaj z DUNZMN MNZ UM sektorjem za postopke mednarodne zaščite, na območju PU Koper pristopili k usklajenemu vodenju postopkov neposredno na policijskih postajah, ki tuje obravnavajo zaradi nezakonitega prestopa meje.

Namen je da tujcu, ki po prijemu zaradi nezakonitega prestopa meje izrazi namero zaprositi za mednarodno zaščito, po opravljenih postopkih policije in hitri izvedbi postopkov po mednarodni zaščiti (sprejemu prošnje, opravljenem razgovoru, odločbi) do pravomočnosti in izsiljivosti negativne odločbe o mednarodni zaščiti omejitveno gibanje v Centru za tuje in tako omogočimo bodisi vračanje v državo iz katere je predhodno prišel, bodisi vračanje v izvirno državo. S tem tujcu onemogočimo nadaljnjo potovanje v cilno državo oziroma zlorabo postopka mednarodne zaščite, posredno pa zmanjšujemo privlačnost smeri nezakonitega potovanja preko naše države.

PU Koper naročamo, da v času trajanja poskusnega izvajanja postopkov, vse tujce, ki izrazijo namero zaprositi za mednarodno zaščito na območju PU Koper po zaključenih policijskih postopkih priprejajo na PP Ilirska Bistrica, kjer bodo postopke nadaljevali uslužbenci MNZ DUNZMN UM Sektorja za postopke mednarodne zaščite. V primeru ponovnega sprejema tujcev od italijanskih varnostnih organov, ki predhodno niso bili obravnavani/zaznani v Sloveniji, velja enako (depeša GPU št. 225-2/2020/32 (213-01)).

Izjema so ranljive skupine npr. mladoletniki ter družine z malimi otroci, te se po zaključenem policijskem postopku na podlagi namere podati prošnjo za mednarodno zaščito napotijo v Azilni dom.

PP Ilirska Bistrica uslužbencem MNZ DUNZMN UM Sektorja za mednarodno zaščito zagotovi prostore za izvajanje postopkov, skrbi za varovanje postopkov in prevoze tujcev iz policijskih postaj ter do Centra za tuje. V primeru, če uslužbenec MNZ DUNZMN UM Sektorja za postopke mednarodne zaščite postopka ne bo mogel izvesti na policijski postaji, tujca policija odpelje v Azilni dom.

Center za tuje zagotovi ločeno nastanitev zavrnjenih proslincev za mednarodno zaščito v prostornih centrah.

V primeru, da bi se tujec v katerikoli fazi postopka odločil za prostovoljni odstop od nameravljene za mednarodno zaščito se postopek vrne v predhodno fazo.

Po končanem poskusnem obdobju in opravljeni analizi bo sprejeta odločitev o nadaljnjih spremembah.

S spoštovanjem,



Anton Travnar  
v.d. generalnega direktorja policije

Poslati:  
- Policijska uprava Koper - (elektronsko)  
- Center za tuje UUP GPU – (elektronsko)  
- DUNZMN MNZ – (v vednost)

Due to the increase in the number of persons detained in the Centre, an area with more than 20 containers was set up.<sup>27</sup> According to the Ombudsman's report, 6 persons were accommodated in each container. The official explanation given by the management of the Centre for Foreigners was that the containers were used for health reasons, as the open spaces prevented the spread of the Covid-19 disease. This explanation constitutes a denial of the reality of the situation, as a state of mass lawlessness was established in the Centre. Some were confined in the container section for more than a month. The detainees were often unaware of the proceedings against them, they did not know whether they will be granted asylum or they might be extradited to Croatia. Police regularly used dogs to patrol the area, detainees claimed that the dogs barked at them over the fence, and the dogs were also led into the canteen by police officers.<sup>28</sup>

Several protests and hunger strikes have been organised by the detainees against the actions of the police and the situation in the Centre for Foreigners. In 2020, a large protest took place on 28th of July in the container part of the Centre. Footage of a detainee cutting his body in protest was leaked, while others demanded their freedom of movement and called out that they were demanding the right to asylum. A month later, on 25th of August 2020, an organised protest followed, both outside the detention centre by supporters of the detainees and inside the centre by detainees, to draw attention to police violence and mass deportations to Croatia. There were also several hunger strikes inside the centre. An organised strike by 11 detainees began on 13th of September 2020. A statement signed by the strikers reads:

*"The detention centre in Postojna is a lawless place. What happens to us is arbitrary. In the time this statement is being written, one of us was already deported to Croatia and is now in Bosnia and Herzegovina, one has had his appeal approved and was transferred to Ljubljana, and one has hurt himself in protest of the unjust detention in Postojna.*

*We are electricians, taxi drivers, clothes designers, workers, sellers, marathon runners - we are people. We are open-minded and peaceful but we demand fair treatment for everybody who is detained in Postojna. The regime of detention and the situation of uncertainty is killing our spirit and the people responsible for this situation want to take away our dignity. We will not allow this. We demand our rights to be respected! We demand freedom of movement!"*<sup>29</sup>

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<sup>27</sup> Newspaper Mladina, Peter Petrovčič, *Z azilanti po novem brez milosti*, 31.7.2020: <https://www.mladina.si/200338/z-azilanti-po-novem-brez-milosti/>

<sup>28</sup> Ombudsman of the Republic of Slovenia, FINDINGS AND OPINIONS OF THE OMBUDSMAN ON THE IMPLEMENTATION OF PRIVACY IN THE CENTRE FOR FOREIGNERS, 2020, available at: [https://www.varuh-rs.si/fileadmin/user\\_upload/pdf/Stalisca\\_in\\_ugotovitve/2020\\_11\\_10\\_-\\_POROCILO\\_Center\\_za\\_tujce\\_Postojna\\_ugotovitve\\_VCP.pdf](https://www.varuh-rs.si/fileadmin/user_upload/pdf/Stalisca_in_ugotovitve/2020_11_10_-_POROCILO_Center_za_tujce_Postojna_ugotovitve_VCP.pdf).

<sup>29</sup> The whole statement is available here: <https://radiostudent.si/dru%C5%BEba/ni-%C5%A1e-gotovo/stop-zapiranj-u-prosilcev-za-azil>





Protest at the Centre for Foreigners in Postojna, 28.7.2020. Photo: BVMN

Despite the protests, the Centre for Foreigners remains a place where people without a residence permit are isolated and detained solely on the grounds that they do not have documents that would allow them to move freely. The protests, hunger strikes and fires set in the buildings of the Centre remain invisible, as access to the premises is difficult and the detainees have limited access to communication with the outside world, while this institution constitutes one of the key links in the network of the state apparatus through which chain deportations are carried out from Slovenia and neighbouring Italy to Croatia and Bosnia and Herzegovina.

Similarly, in cases of violence by police officers against detainees, there are no investigations and such acts are usually denied. For example, on 2nd of January 2021, an 18-year-old Algerian national detained at the Centre for Foreigners reported that he had been beaten by a group of police officers in a toilet area where there are no cameras. After a series of questions from the press, the police confirmed the incident, but claimed that the person had injured himself and the inventory of the room, and that the toilet was the only place large enough to contain him. After the incident, the person was referred to a health centre due to a damaged eye and double vision. The beaten boy was one of two persons investigated by the police for setting fire to a mattress, a common form of protest against the detention and the serious violations of fundamental rights by the state apparatus in the Centre. The two persons were subsequently ordered to spend three and five months in solitary confinement (in prisons, solitary confinement is limited to a maximum of 14 days), where 24-hour video surveillance and stricter police surveillance takes place. On 11th of January 2021, following an appeal, the Administrative Court subsequently declared these sanctions as unlawful.<sup>30</sup> Psychiatric care is a particular problem at the Centre, as protests in the form of self-harm and damage to property are often seen as a sign of mental instability. The person

<sup>30</sup> Uroš Škerl Kramberger, Dnevnik, *Migranti v centru za tujce med zdravili, osamitvijo, požari in poškodbami*, 18.1.2021: [https://www.dnevnik.si/1042947419?fbclid=IwAR34gjEOPIn7a\\_UK\\_oS9dwqpNSgQvzthLrav15jmq7e4n7ZPXH\\_xojw2J7g](https://www.dnevnik.si/1042947419?fbclid=IwAR34gjEOPIn7a_UK_oS9dwqpNSgQvzthLrav15jmq7e4n7ZPXH_xojw2J7g)

protesting is then sedated and transferred to a psychiatric hospital in Idrija. Prisoners testify of massive prescriptions for harsh sedatives and benzodiazepine tranquillisers.

While the practice of mass detentions in the Centre for Foreigners in Postojna and the use of the container area is limited to the period of summer 2020, the use of certain practices has been maintained to this day. One of the more problematic ones are the accelerated asylum procedures. In 2021, we are seeing an increased number of cases of asylum seekers who have already received a negative decision on their asylum application within two weeks. In such cases, the person is faced with the decision to accept the threat of deportation to Croatia or to seek protection elsewhere.

## Restriction of the right to asylum of Eritrean asylum seekers

In addition to violations of fundamental rights by the police against persons seeking international protection, the practice of unfair decision-making procedures within the offices of the Ministry of Interior has also become evident in the past years. On the last day of 2019 and then in early 2020, decision-makers have issued several negative decisions to Eritrean asylum-seekers within a period of several months. While some of them waited for more than a year and a half for a decision, 18 out of 22 Eritrean nationals received negative decisions, and in some cases the negative decision was upheld by the Administrative Court. One person was taken to the Centre for Foreigners. If the detention appeal had not been upheld, the detained Eritrean national would have faced deportation to Croatia and then to BiH. This practice of rejecting Eritrean applicants is surprising in view of the Ministry's previous handling of asylum applications, which in almost all cases issued positive decisions to 70 Eritrean nationals who had arrived in Slovenia through the relocation programme. It is unclear why Slovenia changed its policy when deciding on the applications of Eritreans who arrived via the Balkan route. It is also surprising, however, in view of the practices of other European Union states, which grant 81% of Eritrean applicants status of international protection,<sup>31</sup> given that Eritrea is a military dictatorship that is at the bottom of the scale in many international indicators of the level of freedom and the guarantee of a decent life.

In Eritrea, private media are banned and citizens are subjected to regular forced mass recruitments, known as gifa. The country has compulsory military service with no fixed duration, which can start before the age of 18. Conscripted citizens are then placed in camps and forced into slave labour in fields, mines or construction sites, causing many to flee the country to neighbouring Ethiopia or Sudan, and escape from the army is punishable by imprisonment or execution. Prolonged imprisonment in camps, forced labour and extrajudicial executions have long been highlighted by various international organisations.<sup>32</sup> In examining the database of reports on Eritrea, the Ministry of Interior took only isolated parts of a report by the Norwegian organisation

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<sup>31</sup> EASO, *Latest Asylum Trends*, 2021: <https://www.easo.europa.eu/latest-asylum-trends>

<sup>32</sup> More on situation in Eritrea: Več informacij glede razmer v Eritreji: <https://www.hrw.org/world-report/2021/country-chapters/eritrea>

Landinfo and dismissed other reports as biased because they were supposedly based on subjective testimonies of escaped citizens. In this way, the Ministry of Interior has drawn up a picture of the situation that does not correspond to the real situation in the country in order to reject the requests of Eritrean applicants as unfounded. The Ministry thus perversely interpolated the military obligation, in such a way that "lifetime military service is only a way of reducing unemployment" and that "returned fugitives may face extrajudicial trials, but they can avoid years of imprisonment or death if they repent".

It should be recalled that this practice of categorical refusal of asylum application is not new, as already in 2016 the Ministry systematically issued negative decisions to Afghan applicants in a similar manner, when no adult applicant obtained a positive decision within a period of one year. This type of procedure puts applicants in a precarious situation, burdening them with lengthy court proceedings that can last for three or more years, leaving the outcome uncertain. On 15th of January 2020, Eritrean asylum seekers staged a protest against the negative decisions, pointing out that Eritrea is not a safe country, that refusal has serious consequences for applicants and that the decision-making of the Ministry is unfair. As they said in a press statement before the protest:

*"We are forced to live on the outskirts of society and forced to find ways into other countries, we have been stripped of our right of movement while we are waiting for the decision. We have been waiting in vain for this decision for more than a year. We will not allow this politics of rejection to be used for us and other groups! Such unreasonable decision, unprofessional and politically motivated decision made by the Ministry of the interior will cost us years of our lives, while also degrading the professional nature of state institutions. This is why we demand that the government of Slovenia and responsible institutions reexamine the problematic decisions and form a politics towards Eritrea, which will comply with international human rights standards. We want a faster and most of all fair decision according to the law!"<sup>33</sup>*

The Ministry officially denies unfair procedures and collective refusals, claiming that individual treatment is guaranteed, but in fact the applicants were put in front of a paper wall. The person is thus faced with the choice of staying and waiting for the decision of the Ministry and risking imprisonment in the Centre for Foreigners and deportation to Croatia or to the country of origin, or fleeing Slovenia. Creating an impossible situation that forces flight seems to be an informal asylum policy of the Slovene Ministry of Interior, which has been successfully applied in the case of Eritrean applicants. Most of them have left Slovenia before their asylum decision was ruled in court and decided to seek protection and decent livelihood in other countries.

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<sup>33</sup> An open letter from the Eritrean community in Slovenia on asylum procedures is available here (published 2020): <https://radiostudent.si/dru%C5%BEba/ni-%C5%A1e-gotovo/iz-zapora-v-zapor-from-jail-to-jail>



Photo by Borut Kranjc (Mladina).

## Amendments to the **Foreigners Act (ZTuj-2)** and the **International Protection Act (ZMZ-1)**

In March 2021, the Slovenian Parliament approved amendments to the International Protection Act and the Foreigners Act, which further worsened the protection of rights of migrants and refugees in Slovenia. The amendments to the Foreigners Act bring critical changes that could allow the Slovenian Parliament to suspend the right to asylum in Slovenia when emergency measures are declared. The suspension of the right to asylum was already foreseen in the amendments adopted in 2017 in articles 10a and 10b, but the Constitutional Court found the articles to be unconstitutional. This time, the government has introduced a new vague legal term called "complex migration crisis" into the infamous articles. The new amendments would put the Ministry of the Interior in charge of monitoring the migration situation in Slovenia and would allow the government to propose a vote in the National Assembly to declare a "complex migration crisis". There are no clear conditions in the law defining when such a situation would arise. The reasons given are vague and describe a general state of crisis, for example that 'the effective functioning of the rule of law and the social state is threatened', that 'the maintenance of law and order is threatened' or that 'the effective functioning of the economy is threatened'. The decision that a state of crisis has arisen is in the exclusive jurisdiction of the Ministry of Interior. If a state of crisis is recognized by the Ministry, it then has to be approved by a vote of an absolute majority of Members of the Parliament for new



measures to be introduced. In the event of a state of emergency, the National Assembly would give the police extraordinary powers to close the border to people wishing to apply for international protection. The police would then simply take the person who has crossed the border to seek protection back to the border area and send him or her back to the country from which he or she entered Slovenia without any procedures. With the amendments to the Foreigners Act, the National Assembly has voted a legal basis for massive violations of fundamental rights, the denial of the right to asylum and the implementation of deportations when a state of emergency is declared.

The law provides that deportation is possible if there are no systemic deficiencies in the asylum system in the neighbouring country and the person is not at risk of torture or ill-treatment. These are rights guaranteed by the Constitution, which Slovenia is already violating on a massive scale through mass readmission to Croatia. Despite numerous reports, testimonies, journalistic investigations and even court rulings, the brutal violence carried out by the Croatian police is not recognised as torture or ill-treatment in Slovenia, with 28,235 readmission carried out between 2018 and the end of August 2021. Due to the massive violations of fundamental rights, the Italian courts in Genoa and Rome have identified Slovenia as a country with systemic deficiencies in its asylum system. In the first case, in Genoa, the deportation of a Pakistani asylum seeker who had previously started the asylum procedure in Slovenia and then fled was stopped. The Court stopped the deportation due to the insufficiency of the Slovene asylum system and the risk of torture after deportation to Slovenia. In another case, a court in Rome found Italian readmissions illegal in a lawsuit brought by a Pakistani national deported from Italy to BiH via Slovenia and Croatia, due to Slovenia's role in chain returns. Slovenia's violations of the right of access to asylum, protection against collective expulsion and protection against torture were also recognised by the Slovenian Administrative Court in December 2020 and the Supreme Court in April 2021. The recent amendments to the Foreigners Act are thus the latest attempt at a legal manoeuvre to legalise systematic human rights violations.

The amendments to the Foreigners Act further narrow the field of rights and expand the power of the police by removing the possibility of a request for permission to remain by a person with no legal residence in Slovenia. This is a document issued by the police to a person whose residence is not regularised and whose removal is not possible for various reasons. This document means that for a period of up to six months, that person can enjoy freedom of movement, albeit without the right to work and a range of other rights. The amendments to the law limit the issue of this permit simply as 'official duty' of the police and not at the request of the person who wishes to live in Slovenia. In this way, conditions are set for arbitrary decision-making by the police when dealing with persons with no residence permit, which further increases chances of the detention of a person in the Centre for Foreigners or deportation to Croatia or country of origin.

Migrant workers and their right to family life have also been severely affected by the changes to the Foreigners Act. The law extends the time a worker has to work in Slovenia to two years before he or she can apply for a procedure that would entitle members of his or her immediate family to a temporary residence permit in Slovenia. Family reunification is further limited by the removal of salary supplements from the amount of income that the worker can show to prove his/her ability to support a family member. This hits the hardest the workers with low basic wages in cleaning,



security, construction, industrial production, tourism and transport. The amendments to the Foreigners Act also make it more difficult for non-European nationals to study in Slovenia. According to the amendments to the law, a non-European student must prove a set amount of money to sustain him already at the beginning of the academic year (€4,836 in 2021), as a declaration of support by parents is no longer sufficient. Students from less well-off households are particularly affected by this measure.

The National Assembly also voted on amendments to the International Protection Act at the beginning of 2021. Following the 2016 amendments, the new amendments reintroduced the possibility for rejected asylum seekers to appeal to the Supreme Court after their appeal was rejected by the Administrative Court. The newly voted amendments also reduce the rights of beneficiaries of international or subsidiary protection, for example by shortening the period of rent subsidies for private accommodation from 18 months to one year, or if a person regularly attends a Slovenian language course and passes an exam, from a total of three years to two years. The amendments also introduce severe restrictions on the freedom of movement of asylum seekers. One such change is the restriction of the movement of asylum seekers to the municipality where the person has a temporary residence. According to the practice of the police and the Ministry of Interior in the summer of 2020, the amendments to the law mainly risk legalising the arbitrary detention of asylum seekers by extending the list of grounds for which the competent authority could order an asylum seeker to be detained in the Centre for Foreigners in Postojna for up to three months, with the possibility of extension. The amendments to the law are clearly aimed at making the living conditions of refugees and asylum seekers more difficult, for example by not changing the nine-month time limit before an applicant obtains a work permit or the extremely low cost-of-living allowance of €18 per month. The time limit for appealing against the order of detention in the Centre for Foreigners, which is only 3 days, also remains in place.<sup>34</sup> Such changes risk introducing arbitrary detention, systematic implementation of fast-track procedures for detained applicants and facilitating deportations to Croatia directly from the Centre for Foreigners.

## Court proceedings in Slovenia (R.Z. v. Republic of Slovenia and A.M. v. Republic of Slovenia)

The systematic deportations and the serious violations of fundamental rights both at the border and inland have led to a number of legal proceedings against the actions of state authorities. Here we will summarise the two key proceedings, which relate to police brutality at the border and mass deportations to Croatia.

In the case of R.Z., a Moroccan national, on 7th of August 2019, the police entered his room in an asylum centre in Ljubljana without legal grounds and took him to a police station and then to the Centre for Foreigners in Postojna. After a few hours in the Centre for Foreigners, he was taken to the border crossing in Metlika and handed over to the Croatian police without being given any written decision. He was taken to the police station and then deported across the green border to

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<sup>34</sup> The normal time limit for citizens to appeal against decisions of administrative authorities in Slovenia is at least 8 days.

BiH, where he arrived on foot in Velika Kladuša on 8th of August 2019. R.Z., then, with the help of volunteers, initiated legal proceedings before the Administrative Court of the Republic of Slovenia. After a few months, the Administrative Court partially upheld the claim and found violations of constitutional rights, namely violations of Article 19 (right to protection of personal liberty), Article 22 (right to equal protection of the law), Article 23 (right to justice) and Article 25 (right to a remedy) of the Constitution of the Republic of Slovenia. However, the Court dismissed the lawsuit on the point of the alleged violation of the right to protection against torture, which occurred through the deportation to Croatia. In his case, the Court found that the applicant had been unlawfully extradited to Croatia, as the police had no legal basis for his extradition. In fact, at no point had the applicant been served with a decision to remove him from the country. An appeal by the defendant, the Republic of Slovenia, followed. The Supreme Court, sitting on the 8th of July 2020, upheld the appeal and dismissed Mr Z.'s claim, relying on its interpretation of Article 6 of the European Directive on common standards and procedures in Member States for returning illegally staying third-country nationals (2008/115/EC). The Supreme Court accepted as justified the restrictive interpretation of European law put forward by the defendant. The defendant pointed out, in relation to Article 6 of that directive, that the state which carries out the readmission procedure does not have a mandatory obligation to issue a written order to the person subject to the readmission procedure if the state to which he is readmitted does so. However, how the procedure is done by the state, which received the person who is being readmitted, is not in the jurisdiction of the state which initiated the readmission procedure. Both the Administrative Court's judgment and the Supreme Court's judgment legally relieved the Republic of Slovenia of its responsibility with regard to the state of the person after readmission, by declaring that Slovenia (or policeman involved in the readmission procedure) has no option determine how the person will be treated by Croatian police officers after they are handed over. It is worrying that neither the Administrative Court nor the Supreme Court recognised Slovenia's responsibility for the violation of the right to protection against torture and collective expulsion in the legal claim brought by R.Z., as there is a wealth of irrefutable evidence of inhuman treatment by the Croatian police. Following the Supreme Court's decision, the Ombudsman of the Republic of Slovenia lodged an appeal with the Constitutional Court with the consent of the plaintiff.

In the second case of an legal action regarding unlawful expulsion, in the case of A.M. v. Republic of Slovenia, the Supreme Court, sitting on 9th of April 2021, dismissed the appeal of the Slovenia and upheld the ruling of the Administrative Court regarding the unlawful conduct of the Slovenian Police that the applicant's treatment violated the principle of non-refoulement and the prohibition of collective expulsions, and that he had been unlawfully denied access to the right of asylum procedure.<sup>35</sup> The applicant is a member of the Anglophone minority in Cameroon and, following an attack on his community, sought protection in Europe. According to his testimony, on 7th of August 2019 he travelled to BiH with a Kurdish friend from Velika Kladuša, crossed into Croatia and on 16th

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<sup>35</sup> The full Supreme Court judgment (Supreme Court Judgment I Up 23/2021) is available here: [http://www.sodnapraksa.si/?q=VSR%20Sodba%20I%20Up%2023/2021&database\[SOVS\]=SOVS&database\[UPRS\]=UPRS&submit=i%C5%A1%C4%8Di&rowsPerPage=50&page=0&id=2015081111448095](http://www.sodnapraksa.si/?q=VSR%20Sodba%20I%20Up%2023/2021&database[SOVS]=SOVS&database[UPRS]=UPRS&submit=i%C5%A1%C4%8Di&rowsPerPage=50&page=0&id=2015081111448095)

of August 2019 crossed the border into Slovenia. In Slovenia, they were intercepted by a police patrol near Podlog in the municipality of Črnomelj and taken to a police station. During the proceedings, the plaintiff repeatedly expressed his intention to apply for asylum in Slovenia, but his request was ignored. During the procedure, when he wanted to write Slovenia as his country of destination on the form, a police officer allegedly prevented him from doing so. When he clearly stated his intention to apply for asylum, he says that he was told that there was no asylum in Slovenia. The plaintiff was then transferred to another police station, where he was placed in a cell. After a few hours, he was transferred again, and then he and other persons were taken to a bus without police markings. They were taken to a border crossing where they were handed over to Croatian police officers. They drove him in a

collective expulsion across the Green Line into BiH, and the applicant was then forced to walk 20 km to Velika Kladuša. In its first judgment, the Administrative Court upheld his claim, finding a violation of the right to non-refoulement and collective expulsion (Article 19) and the right to international protection (Article 18) under the Charter of Fundamental Rights of the EU. The Court also ordered the defendant (the Republic of Slovenia) to allow the applicant to enter Slovenia and to start the international protection procedure as a measure to remedy the injustice found. In its judgment, the Court also held Slovenia responsible for the situation of the persons after their readmission to Croatia.

The defendant appealed the decision to the Supreme Court, which initially referred the case back to the Administrative Court, which again upheld the plaintiff claim. At its sitting of 9th of April 2021, the Supreme Court finally dismissed the defendant's appeal and upheld the Administrative Court's decision on all points except damages. Despite the final judgment, at the time of writing, the Republic of Slovenia has not yet complied with the obligations arising from the Court's decision, nor have state authorities such as the Ministry of the Interior or the Slovenian Police shown any serious willingness to comply with the Court's ruling, despite appeals by the plaintiff's lawyer. Thus Slovenia has not allowed the applicant to enter the country, even if ordered to do so by the Court, as this remedies the violation of his fundamental rights. He has made several attempts to enter Slovenia on his own:

*"I am forced to try again and again to get to Slovenia on foot, but every time I cross the border (ed. between BiH and Croatia), I am stopped by the Croatian police, who beat me and burn my things,*

## CHARTER OF FUNDAMENTAL RIGHTS OF THE EUROPEAN UNION

### Article 18

#### Right to asylum

The right to asylum shall be guaranteed with due respect for the rules of the Geneva Convention of 28 July 1951 and the Protocol of 31 January 1967 relating to the status of refugees and in accordance with the Treaty on European Union and the Treaty on the Functioning of the European Union (hereinafter referred to as 'the Treaties').

### Article 19

#### Protection in the event of removal, expulsion or extradition

1. Collective expulsions are prohibited.
2. No one may be removed, expelled or extradited to a State where there is a serious risk that he or she would be subjected to the death penalty, torture or other inhuman or degrading treatment or punishment.

and the last time I was returned (ed. to BiH) in my underpants. Then I wonder: 'Is there justice in this world?'"

The plaintiff only managed to enter the country through the green border, as Slovenia was unwilling to comply with the ruling. After a police hearing, he then started the procedure for international protection in Slovenia on the twenty-seventh of September 2021.

I U 1686/2020-126

FLB o.p., d.o.o.  
29-17-2020  
P R A V I L O

UPRAVNO SODIŠČE  
REPUBLIKE SLOVENIJE

SODBA

V IMENU LJUDSTVA  
IN  
SKLEP

Upravno sodišče Republike Slovenije je v senatu, ki so ga sestavljali višji sodniki svetniki Lilijana Poljanec kot predsednica ter dr. Boštjan Zalar in dr. Damijan Gantar kot člana

ob sodelovanju višje pravosodne svetovalke Maje Perpar kot zapisničarice,

v upravnem sporu tožече stranke: [REDACTED], državljanka Kameruna, ki ga zastopa odvetniška družba Ferfolja, Ljubljica, Bank iz Ljubljane, zoper toženo stranko: REPUBLIKA SLOVENIJA, ki jo zastopa Ministrstvo za notranje zadeve, ki ga po pooblastilu v sklepu Vlade RS št. 02003-1/72020/3 z dne 23. 7. 2020 zastopa Državno odvetnišvo po višji državni odvetnici mag. Lučki Seibert,

zaradi varstva človekovih pravic,

o tožbi zaradi dejanja odstranitve tujca iz Republike Slovenije in njegove predaje Republiki Hrvaški na mejnem prehodu Vinica dne 16. 8. 2019 ob 10.00 uri po predhodni sodbi Vrhovnega sodišča v zadevi I Up 128/2020 z dne 28. 10. 2020, po opravljeni glavni obravnavi dne 7. decembra 2020, istega dne

RAZSODILO:

I. Tožba se v delu primarnega tožbenega zahtevka in prvega podrednega tožbenega zahtevka zavrne.

II. Tožbi se v delu drugega podrednega tožbenega zahtevka delno ugotovi, in sicer tako, da se ugotovi, da je tožena stranka s tem, ko je po skrajšanem postopku na podlagi Sporazuma med Vlado Republike Slovenije in Vlado Republike Hrvaške o izročitvi in sprejemu oseb, katerih vstop ali prebivanje je nezakonito, tožnika po imenu [REDACTED] dne 16. 8. 2019 na mejnem prehodu Vinica ob 10.00 uri izročila Republiki Hrvaški, kršila tožnikovi pravici do prepovedi vračanja iz drugega odstavka in kolektivnega izгона iz prvega odstavka 19. člena ter pravico do dostopa do azilnega postopka iz 18. člena Listine EU o temeljnih pravicah. Tožena stranka mora brez odlašanja po pravomočnosti te sodbe tožniku dovoliti vstop v Republiko Slovenijo in vložitev prošnje za mednarodno zaščito. V preostalem delu drugega podrednega tožbenega zahtevka se tožba zavrne.

III. Tožnika se z zahtevkom za povrnitev škode napoti na pravdo.

IV. Tožena stranka je dolžna tožeci stranki v celoti povrniti njene stroške postopka, ki bodo odmerjeni s posebnim sklepom.

#### OBRAZLOŽITEV

I. V tožbi tožnik, ki se v času upravnega spora nahaja v Veliki Kladuši (BiH), po odvetniški družbi pravi, da vlaga tožbo zoper dejanski oblastni akt tožene stranke, s katerim je bil dne 16. 8. 2019 izročen Republiki Hrvaški. S tem mu je bila preprečena vložitev prošnje za mednarodno zaščito v Republiki Sloveniji.

2. V prvem tožbenem zahtevku predlaga, da sodišče tožbi v celoti ugotovi in izpodbijani akt spremeni na način, da se tožniku dovoli vstop na ozemlje Republike Slovenije in vložitev prošnje za pridobitev mednarodne zaščite skladno z določbami Zakona o mednarodni zaščiti (ZMZ-1), toženi stranki pa naloži plačilo odškodnine v znesku 5000 EUR z zakonskimi zamudnimi obrestmi (primarni zahtevki).

3. V prvem podrednem zahtevku predlaga, da sodišče tožbi in ugotovi nezakonitost izpodbjanega akta, toženi stranki pa naloži plačilo odškodnine v znesku 5000,00 EUR z zakonskimi zamudnimi obrestmi od dneva vložitve tožbe do plačila, vse v roku 15 dni, v primeru zamude z zakonskimi zamudnimi obrestmi, da ne bo izvršbe (prvi podredni zahtevki).

4. Podredno temu predlaga, da če sodišče odloči, da izpodbijani akt ni upravni akt, potem naj sodišče tožbi v celoti ugotovi in ugotovi nezakonitost izpodbjanega dejanja, da je tožena stranka kršila tožnikovo pravico iz 3. člena Konvencije o varstvu človekovih pravic in temeljnih svoboščin (EKCP) in 4. člena Protokola 4 k EKCP ter toženi stranki naloži, da navedeno kršitev odpravi, tako da zagotovi, da

## RAZSODILO:

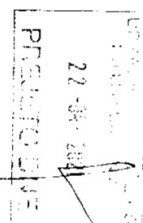
I. Pritožba se zavrne in se izpodbijana sodba potrdi.

II. Zahteva tožee stranke za povrnitev stroškov priložbenega postopka se zavrne.

## OBRAZLOŽITEV:

### V IMENU LJUDSTVA

#### SODBA



1 U p 23/2021

1 U 1686/2020-132

Vrhovno sodišče Republike Slovenije je v senatu, ki so ga sestavljali vrhovni sodnica in sodnika Peter Golob kot predsednik ter Nataša Smrekar in Marko Prijatelj kot člana, ob sodelovanju višje pravosodne svetlovalke Neje Sterle kot zapisničarice,

v upravnem sporu tožee stranke: [redacted] državljani Kametuna, ki jo zastopa Odvetniška družba Ferfolja, Ljublj, Bank iz Ljubljane, zoper toženo stranko: **REPUBLIKA SLOVENIJA**, ki jo zastopa Ministrstvo za notranje zadeve, Ljubljana,

zaradi varstva človekovih pravic,

o **priložni tožene stranke** zoper sodbo (II. in IV. točka izreka sodbe in sklepa) Upravnega sodišča Republike Slovenije I U 1686/2020-126 z dne 7. 12. 2020, na seji **9. aprila 2021**

- Sodišče prve stopnje je s sodbo in sklepom odločilo: da se tožba v delu primarnega tožbenega zahtevka in prvega podrednega tožbenega zahtevka zavrne (I. točka izreka); da se tožbi v delu drugega podrednega tožbenega zahtevka delno ugoti tako, da se ugotovi, da je tožena stranka (Republika Slovenija), s tem ko je po skrajšanem postopku na podlagi Sporazuma med Vlado Republike Slovenije in Vlado Republike Hrvaške o izročitvi in sprejemu oseb, katerih vstop ali prebivanje je nezakonito, tožnika po imenu [redacted] (rojen 1. 1. 1996, državljani Kametuna) 16. 8. 2019 na mejnem prehodu Vinica ob 10.00 uri izročila Republiki Hrvaški, kršila tožnikovi pravici do prepovedi vračanja iz drugega odstavka in kolektivnega izгона iz prvega odstavka 19. člena ter pravico do dostopa do azilnega postopka iz 18. člena Listine EU o temeljnih pravicah (v nadaljevanju Listina), ter toženi stranki naložilo, da brez odlašanja po pravomočnosti sodbe tožniku dovoli vstop v Republiko Slovenijo in vložitev prošnje za mednarodno zaščito (II. točka izreka). Tožnika je z zahtevkom za povrnitev škode napotilo na pravdo (III. točka izreka) in odločilo, da je tožena stranka dolžna tožeči stranki v celoti povrniti njene stroške postopka, ki bodo odmerjeni s posebnim sklepom (IV. točka izreka).
- Iz obrazložitve navedene odločbe izhaja, da je bila tožniku kršena prepoved kolektivnega izгона iz prvega odstavka 19. člena Listine, ker toženka ni odvrnila vsakršnega dvoma o tem, da pristojni organ policije v postopku s tožnikom ni tehtno in objektivno preveril in ocenil osebnih (individualnih) okoliščin tožnika oziroma ker tožniku ni bilo omogočeno, da bi se pred izročitvijo lahko branil z argumenti proti ukrepu vrnitve oziroma odstranitve iz Republike Slovenije.
- Kršitev prepovedi vračanja iz drugega odstavka 19. člena Listine temelji na presoji, da je bila toženka glede na v tistem času poznana in javno dostopna poročila o stanju na Hrvaškem in v Bosni in Hercegovini (glede ravnanja hrvaških organov z vrnutimi migranti in glede bivanjskih razmer migrantov v Bosni in Hercegovini) seznanjena z razmerami v obeh državah, zaradi česar bi morala preveriti, ali bi dejanje vrnitve tožnika na Hrvaško in (na podlagi verzičnega vračanja) v Bosno in Hercegovino lahko tožnika spravilo v resno nevarnost z vidika pravice do prepovedi nečloveškega ravnanja. Ko bi takšno nevarnost ugotovila, bi morala (skladno z načelom vzajemnega zaupanja med državami članicami EU) s potrebnimi ukrepi zanesljivo izključiti možnost, da bi v primeru



# Conclusion

According to official data, between 2018 and August 2021, the Slovenian police carried out 28,235 readmission to Croatia. From the point of view of the official procedures conducted by police officers at the stations, these persons have not applied for asylum in Slovenia, but the multitude of testimonies collected from persons, only a few of which are in this report, testify otherwise. Mass deportations, denial of the right to asylum and falsification of official procedures have become a systemic practice of the Slovenian police over the last three years. Despite ample evidence of systematic torture by the Croatian police in the form of beatings, theft and deportations, Slovenia continues to carry out mass readmission to Croatia this way deliberately violates the fundamental principles of non-refoulement and protection against collective expulsion and protection against torture. The illegality of the conduct of the Slovenian police has also been recognised by the Supreme Court in its final ruling, which found a violation of the fundamental rights of the plaintiff, A.M. The judgment found a violation of the right to international protection, the right to protection against collective expulsion and a violation of the principle of non-refoulement, which prohibits the deportation of a person to a country that poses a danger to him or her. The Court also found Slovenia responsible for the circumstances of the persons after their readmission to Croatia, which the authorities in Slovenia denied ever since the police violence in Croatia came to light.

Systematic violations of fundamental rights are not limited to the areas of national borders, but also take place on the streets of cities in the form of persecution and imprisonment of persons without proper documents to stay in Slovenia, in the offices of the Ministry of the Interior and in the decision-making processes regarding asylum procedures, in asylum centres, police stations and in closed institutions such as the Centre for Foreigners in Postojna. Current policy solutions on migration issues are moving in the direction of restriction, increasing the powers of the police and limiting the rights of vulnerable populations. The amendments to the International Protection Act and the Foreigners Act are clear examples of such measures. The amendments to the Foreigners Act legalised the possibility of suspending the right to international protection and severely restricted the right to study and of family life of foreign nationals living in Slovenia on the basis of the requirement to prove sufficient wealth or higher income. Although the illegal conduct of the police and the introduction of restrictive legislation concern the sovereignty of individual states, the fact that Slovenia is a country on the border of the Schengen area makes it necessary to place developments at the border in the European context of the externalisation of the border and the surveillance and securitarian role of peripheral and semi-peripheral states.

The Balkan migration route has been crossing this area for many years and is one of the entry points to Europe for illegalised people who are prevented from crossing borders legally simply because of their nationality or poverty. The Balkan route starts at the Turkish-Greek border, where Greece is building a wall equipped with movement sensory technology, and in the spring of 2020, Greek border police fired on people trying to cross the border, resulting in fatalities. The Aegean islands are another route across the Greek-Turkish border. Five of these islands have camps financed by European funds, people are prevented from leaving the islands, and demonstrations

about the intolerable situation are silenced with batons, deportations and legal proceedings. The externalisation of Europe's borders is taking place in a similar way in the Balkans, in North Africa, in Turkey or in Greece, in the form of large financial donations, agreements on accelerated deportations, biometric screenings, the building of fences and the construction of deportation camps. Denying the right to freedom of movement and declaring large numbers of people illegal means creating the conditions of systematic violation of fundamental rights, such as the right to life, to protection from torture or protection from collective expulsion. In such a situation of separation between legal and illegal life, the rights of all are at stake.

The report was prepared by Ivan Kobe, Tit Starc, Jošt Žagar for the Infokolpa civic initiative (September, 2021) in cooperation with KD Gmajna.



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