



What we do in the shadows

While Europe sleeps, rights violations and abuses at the borders to the Union flourish. Latest data sheds new light on the systematic and continued pushbacks practices.



Protecting Rights
at Borders

MAY 2023

Summary

The sixth PRAB (Protecting Rights at Borders) report contributes to documenting the use of pushbacks as a systematically used tool for border management at many European borders. This report should therefore not be seen in isolation, but as part of a wider collective effort by non-governmental organisations (NGOs) and grassroots initiatives to create a solid evidence base of rights violations at the European Union's borders. Criticism towards the violations at Europe's borders are not only being voiced by NGOs. In February 2023, the Council of Europe's Commissioner for Human Rights released a [statement](#) towards the leaders of European Union (EU) Member States calling for ending human rights violations against refugees, asylum seekers, and migrants. The same call was made by the Council of Europe's Committee for the Prevention of Torture (CPT) in March 2023, with a [report voicing the need](#) to end illegal pushback practices and increase safeguards against ill-treatment.

In this PRAB VI report, data on pushbacks has been collected from January until end of April 2023. A total of 10,691 individual cases of people experiencing pushbacks at European borders have been documented by the PRAB initiative and Governments' procedures. Of these, 1,611 have been part of a thorough interview process by one of the PRAB partners to record their demographics, migratory routes, and the rights violations they were exposed to. Despite the significant amount of data, this remains only the tip of the iceberg, as most pushbacks go undocumented, as outlined in this report.

While Frontex claims that the number of irregular arrivals is again at pre-pandemic (Covid) high levels, this report clarifies the other side of the coin: that rights violations are part of Europe's "welcome treatment" for those being pushed back and – unfortunately - also at pre-pandemic levels.

Denial of access to asylum procedures was reported to PRAB partners in **44% of all pushback cases recorded at the border between Croatia and Bosnia & Herzegovina**, as well as in **88% of the cases recorded at the border between Hungary and Serbia**, and in **85% at the border between Italy and France**.

The percentage of persons reporting physical abuse and/or assault, is equally shocking and amounting to **62% at the border between Hungary and Serbia**, and **54% at the Greek–Turkish border**. Of all pushbacks recorded, **16% involved children**, of which 9% travelled with their families while 7% are unaccompanied or separated children. From PRAB partners joint data collection it further appears that no nationality is spared from the rights violations occurring at European Union borders.

'What we do in the shadows' further addresses in more detail:

- The continuous humanitarian crisis at the EU-Belarus border
- The use of new legal frameworks for border guards
- The increasingly restrictive entry conditions in Poland
- The limited effective monitoring by existing monitoring mechanisms
- The criminalisation of actors and civilians in solidarity with migrants

The PRAB initiative gathers partner organisations operating across eight countries in Europe: Belarus ([Human Constanta](#)); Bosnia and Herzegovina ([Danish Refugee Council \(DRC\) BiH](#)); Greece ([Greek Council for Refugees \(GCR\)](#) and [DRC Greece](#)); Italy ([Associazione per gli Studi Giuridici sull'Immigrazione \(ASGI\)](#), [Diaconia Valdese \(DV\)](#) and [DRC Italy](#)); Lithuania ([Diversity Development Group](#) and [Sienos Grupė](#)); North Macedonia ([Macedonian Young Lawyers Association \(MYLA\)](#)); Poland ([Stowarzyszenie Interwencji Prawnej \(SIP\)](#)); Serbia ([Humanitarian Center for Integration and Tolerance \(HCIT\)](#)); and Belgium ([DRC Brussels](#)).



*All references to Kosovo shall be understood in full compliance with United Nation's Security Council Resolution 1244 and without prejudice to the status of Kosovo



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1. Pushbacks continue to be used as a *de facto* border management tool at European borders

Overview of pushback numbers recorded by PRAB partners

Between 1 January and 30 April 2023:

10,691 individual cases of people experiencing pushbacks at European Union borders have been documented by the PRAB initiative and/or Governments' procedures.

1,611 of these have undergone a thorough interview process by a PRAB partner using the joint PRAB data collection tool to record their demographics, migratory routes, and the rights violations they were exposed to. The infographics in this report refer to this cohort.

To maintain the integrity of the data collection process, these numbers do not include pushbacks recorded by other NGOs and United Nations (UN) Agencies working at borders. As such, they are utmost likely an underrepresentation of the affected number of individuals.

The number of pushbacks reported by the PRAB initiative is only a fraction of the people who are pushed back at EU borders. The nature of the European border areas and their crossings (remote, patrolled, hidden) makes it difficult to reach all people who experience pushbacks. Additionally, pushback recording depends on the time of the event, the presence of the staff in the area, and the willingness of the victims to report. Many pushback victims are afraid to report the incident, fearing that this would negatively impact their entry or stay in an EU Member State.

The numbers here reported refer to first-hand pushback cases witnessed by PRAB partners, at times thoroughly detailed with the help of the victims, or numbers reported by Governments' agencies in the first three months of 2023. Their aim is to provide concrete testimonies of illegal border practices across the EU internal and external borders.

In the first quarter of 2023, at the **Polish-Belarusian** border, 5.462 people have been reported being victims of pushbacks, but the real number remains unknown. Official data states that 880 third-country nationals, mostly from Syria and Afghanistan, received a decision ordering a pushback from the border with Belarus, while 4.582 preventions of irregular entries were registered. This number includes inter alia removals based on the Regulation adopted in August 2021, that allowed for immediate pushbacks without any decision being issued.

At the **Italian-French** border, 3,216 individuals have reported to the PRAB network being pushed back, including many unaccompanied minors, who are fingerprinted as adults upon disembarkation and placed in adult reception centres, despite showing birth certificates proving they are underage. Italy has witnessed a 400% increase of arrivals via sea in 2023, resulting in the Government's declaration of a nation-wide State of Emergency and new restrictive measures towards asylum seekers.

In **Greece**, 174 people have been reported to PRAB partners as victims of pushbacks but complete information on pushbacks via land and sea are missing, as border areas and border operations continue to be off limits for civil society organisations. In April 2023, the Greek Prime Minister stated

"We don't do pushbacks. But we do intercept people at sea".¹ During the same period, the Minister of Migration and Asylum stated that the Greek police prevented 260,000 people from entering Evros.²

In the very days of the publication of this report, a video is circulating depicting the forcible expulsion of asylum seekers who had sought sanctuary in Greece. The footage, verified and published by [The New York Times](#), shows a group of refugees from Somalia, Eritrea, and Ethiopia, including children and a six-month-old baby, being driven in an unmarked white van to a remote spot on Lesbos Island, before being forced into an inflatable boat by men wearing balaclavas. The dinghy then transfers them to a Hellenic coast guard vessel which proceeds to abandon them on a raft in the middle of the Aegean Sea. They are left adrift before being picked up by the Turkish coast guard. The expulsion depicted in the video does not take place at sea, or even in disputed waters, but on land inside EU territory, which the asylum seekers had safely reached.

The video confirms what NGOs, media, and people on the move have reported about the situation in Greece for years: violations of international law is recurrent and people - in search of safety - are systematically being pushed back. The European Commissioner for Migration and Home Affairs, Ylva Johansson, reacted on twitter³ to the incident demanding an effective investigation. She clarified in [EU Politico](#) Playbook that she has no reason to doubt the footage, which appears not merely a pushback but an effective deportation, calling once again on the Greek authorities to set up an effective independent border monitoring mechanism – recognising that this continues lacking in Greece today.

The border crossing between [Greece and North Macedonia](#) continues being used mainly by people from Syria, Pakistan, and Afghanistan. Many of them reported moving onwards due to poor conditions and the lack of legal status in Türkiye and Greece.

At [Lithuania's border](#) with [Belarus](#), 785 persons were "refused illegal entry into Lithuania" according to Government officials.⁴ Victims of pushbacks have reported having their photo taken, their phones destroyed, and their money stolen.

In its 2022 Risk Analysis Report⁵, Frontex states that over 330,000 irregular border crossings have happened and almost a million asylum claims have been filed in Europe. Border crossings have, according to Frontex, returned to pre-pandemic levels and are at a "high risk of further increasing" in 2023. Based on these data, Frontex's Deputy Executive Director for Returns and Operations has recently claimed that: "*The persisting challenges to EU external borders put lots of lives at risk, including the lives of border guards and police officers.*"⁶ In all the years reporting on European borders, the partners of the PRAB initiative have fortunately never seen the lives of border guards being at risk. Conversely, PRAB partners have evidence of severe torture, physical and sexual abuses, robbery, destruction of property as well as death for migrants and asylum seekers on the move in Europe.

¹ <https://www.primeminister.gr/en/2023/04/13/31684>

² <https://migration.gov.gr/en/mitarakis-o-frachtis-tha-oloklirothei-syztame-idi-gia-tin-epomeni-epektasi-toy-ston-evros/>;
<https://ecre.org/greece-lack-of-protection-for-survivors-of-modern-slavery-among-asylum-seekers-migration-minister-denies-allegations-of-pushbacks-but-admits-interception-amid-ongoing-crack-down-on/>

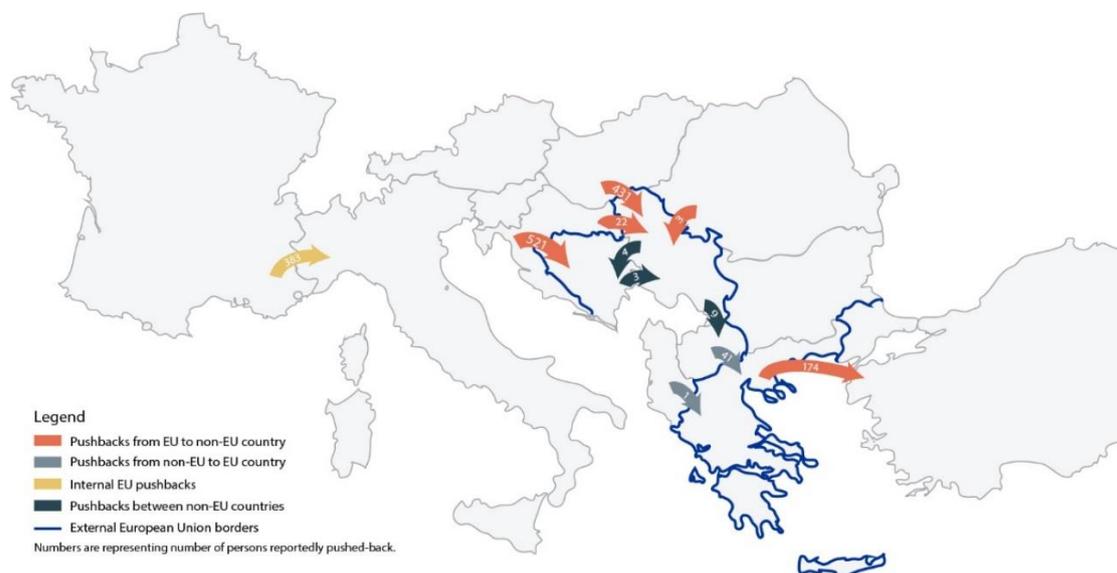
³ (21) Ylva Johansson on Twitter: "1/3 One year ago I met with the Greek Government @govgr to discuss border management and I made clear that there is no place for illegal deportations. Last Friday, 19 May, The New York Times @nytimes presented a report on an alleged illegal deportation, in April..." / Twitter

⁴ <https://vsat.lrv.lt/lt/naujienos/neileistu-neteisetu-migrantu-statistika>

⁵ <https://prd.frontex.europa.eu/document/risk-analysis-for-2022-2023/>

⁶ <https://frontex.europa.eu/media-centre/news/news-release/frontex-at-ministerial-conference-to-discuss-situation-at-eu-s-land-borders-Bz6Djh>

In the current reporting period, multiple sources report that at least 17 people were left to die at the border between Belarus and EU neighbouring countries⁷, and Fatmata, a 23-year-old woman from Sierra Leone, was shot and killed in front of her husband after crossing the Greek-North Macedonian border in April.⁸



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No nationalities spared from Europe's systematic pushbacks

Mixed migration movements to Europe continue to be characterised by a variety of nationalities and countries of origins, as well as a mix of reasons behind the decision to leave. Main nationalities met by PRAB partners along the internal and external borders are once again Afghans, Syrians, and Pakistanis for what concerns on the **Western Balkan route**. These nationalities also move along the **Central Mediterranean route** together with people travelling from North and Sub-Saharan Africa (Côte d'Ivoire, Guinea, Tunisia among others). In **Greece**, arrival numbers are currently high due to people arriving from Palestine, Afghanistan, and Sierra Leone, among others.¹⁰ Interestingly, nationalities recorded among new arrivals and those crossing further are not always the same for the individual countries, indicating that some nationalities tend to stay longer or even permanently in certain countries of arrival in Europe, while others are more interested in continuing the journey. Similarly, secondary movements in the EU are also high among nationalities that are not currently among the majority of new arrivals, indicating that people who might have arrived several years ago are deciding to restart their journey, probably due to lack of opportunities or legal status in the first country of destination.

New developments are seen in **Serbia**, where people increasingly report of paying smugglers directly from Türkiye, for a cost between 3,000 and 5,000 EUR. Most of the new arrivals reached Serbia via Bulgaria, followed by North Macedonia and Kosovo. In **Belarus**, an increase of arrivals from Iran is expected, given the opening of direct flights between the two countries, with flights scheduled twice

⁷ Supra page 11.

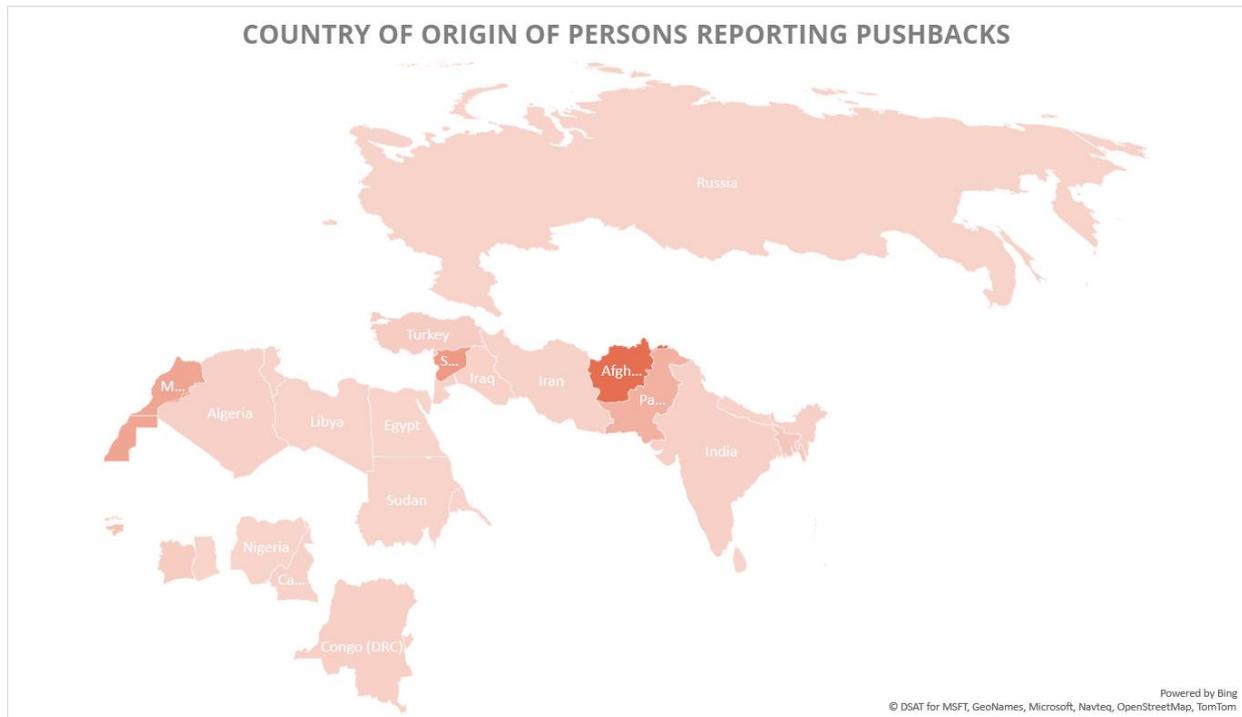
⁸ <https://www.infomigrants.net/en/post/48348/migrant-accidentally-shot-dead-by-north-macedonian-police>;
[https://apnews.com/article/macedonia-greece-migrants-immigration-police-shooting-cde950ce1ae780fe85e8ef546b6b6fb6#:~:text=SKOPJE%2C%20North%20Macedonia%20\(AP\),a%20suspected%20smuggler%2C%20authorities%20said.](https://apnews.com/article/macedonia-greece-migrants-immigration-police-shooting-cde950ce1ae780fe85e8ef546b6b6fb6#:~:text=SKOPJE%2C%20North%20Macedonia%20(AP),a%20suspected%20smuggler%2C%20authorities%20said.)

⁹ Please note that all infographics in the report are based on data into the PRAB joint data collection tool. The data is – as is elaborated in the report – only represents a small sample of the people that were pushed back.

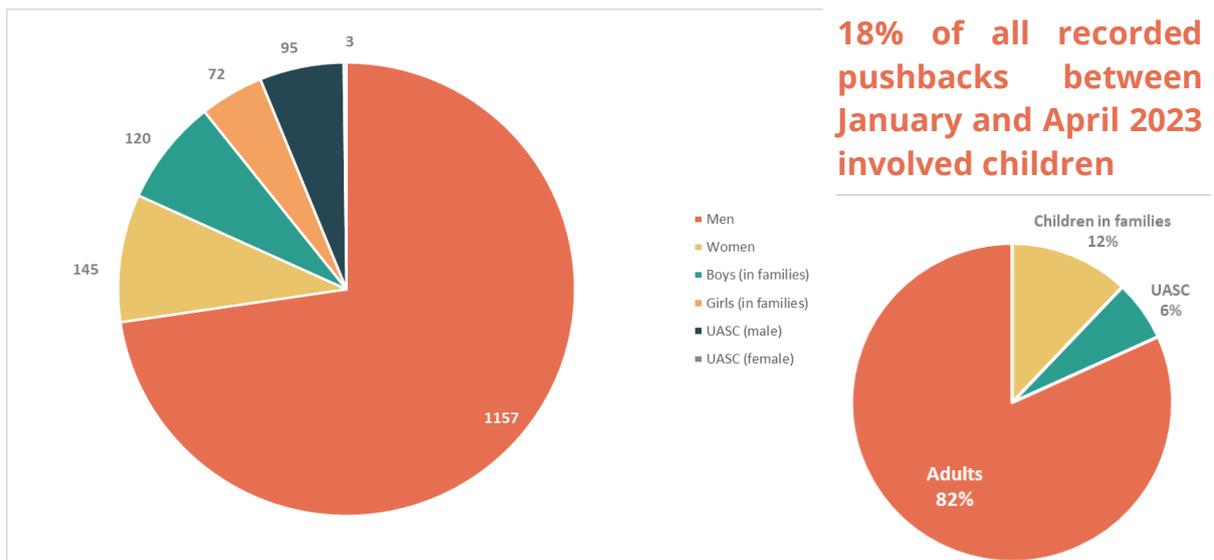
¹⁰ <https://data.unhcr.org/en/situations/mediterranean/location/5179>

a week since end of March. An increase of people from Iran has been noted also in **Lithuania**. In **Italy**, an increase of arrivals from Lebanon (both Lebanese and Syrian nationals) is additionally expected following the deepening economic crisis and rising xenophobic sentiments which have fuelled a widespread feeling of insecurity and the consolidation of human trafficking networks, according to ASGI's last exploratory mission.

COUNTRY OF ORIGIN OF PERSONS REPORTING PUSHBACKS¹¹



AGE AND GENDER BREAKDOWN OF PERSONS REPORTING PUSHBACKS¹²



¹¹ Please note that all infographics in the report are based on data into the PRAB joint data collection tool. The data is – as is elaborated in the report – only represents a small sample of the people that were pushed back.

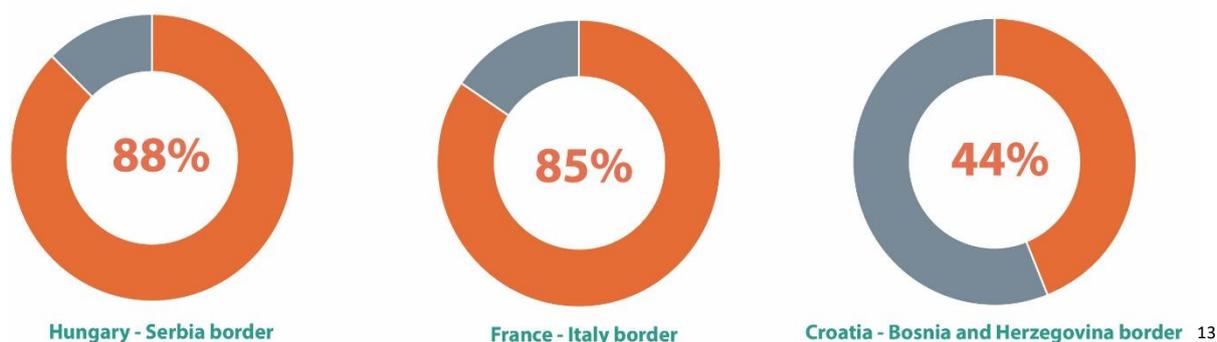
¹² Please note that all infographics in the report are based on data into the PRAB joint data collection tool. The data is – as is elaborated in the report – only represents a small sample of the people that were pushed back.

	Children travelling with family members			Unaccompanied and separated children	
	0-4	5-12	13-17	5-12	13-17
	22	39	11	0	3
	27	60	33	1	94

Rights violations remain part of “welcome treatment”

In addition to being prevented from effectively accessing a certain state’s territory in the European Union, most victims of pushback practices face additional rights violations.

Graphic: People who have reported being denied access to asylum



Pushbacks from **Greece** to Türkiye continue to happen on a regular basis.¹⁴ Victims often complain that returns are informal (no paper trail is released) and violent. Between January 2022 and mid-April 2023, PRAB partners reported on more than 900 refugees, including many children, from Syria,

¹³ Please note that all infographics in the report are based on data into the PRAB joint data collection tool. The data is – as is elaborated in the report – only represents a small sample of the people that were pushed back. During the reporting period PRAB partners collected 431 testimonies of people reporting pushbacks at the border between Hungary and Serbia, of which 378 people has reported that they have been denied of access to asylum. Similarly, at the border of France and Italy, 386 pushbacks were recorded, of which 327 people reportedly has been denied of access to asylum. Following the trend, at the border between Croatia and Bosnia and Herzegovina PRAB partners have reported 543 pushbacks, 239 claimed they were denied of access to asylum procedures.

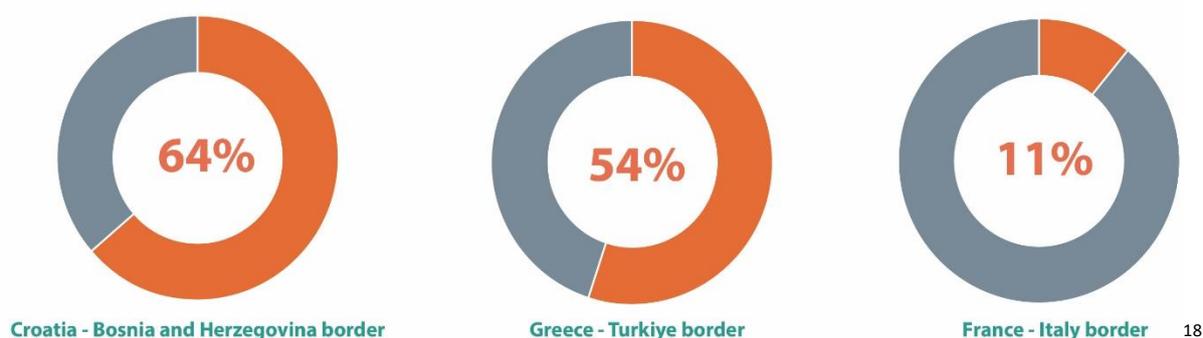
¹⁴ In January 2023, the Recording Mechanism of Informal Returns operating under the Greek National Commission for Human Rights, issued its first Interim Report. The Recording Mechanism has recorded a number of 50 incidences of informal returns occurred between April 2020 and October 2022. Based on the 50 incidents recorded for the years 2020 - 2022, the number of victims in these incidents amounts to a minimum of 2,157 persons. The interim report notes that according to testimonies, it appears that informal forced returns are distinguished by a recurring organized operational framework. The mode of implementation of informal forced returns (modus operandi) presents an image of a staged approach: detection stage, detention or restriction of freedom of movement stage, physical removal stage. Further testimonies mention both persons in uniform and persons in civilian clothes as having been involved in these operations. For more information see: https://nchr.gr/images/pdf/nea_epikairothta/deltia_tupou/2023/Interim_Report_Mechanism_en.pdf

Türkiye, Afghanistan, and Iraq, who entered Greece from the Evros region seeking international protection. In approximately half of these cases, the Greek authorities were able to provide locations and access to the procedures provided by law. For the rest of the cases, the Greek authorities either did not reply or responded that they had not been able to locate them. In some of these cases, refugees from Syria and Türkiye reported that they were informally and forcibly returned to Türkiye, without being given the opportunity to submit an asylum application.¹⁵ Greece’s disregard of dignified and legal border procedures continues to be flagrant, reportedly also in Frontex eyes.¹⁶

PRAB partners at the **Italian French border** report that accessing the asylum procedure has become increasingly challenging. The waiting time to lodge an application has increased from 3 to 5 months in small towns and become almost impossible in bigger cities. In the meanwhile, asylum seekers do not have access to assistance or protection and resort to living in the streets or under bridges, exposed to the elements in unsafe environments, and without hygienic services. This practice goes against the national law on access to dignified shelter for asylum seekers but has become the norm.

Concerning **Poland**, the UN Human Rights Committee spoke in favour of the pushback victims, stating that the lack of interview records does not justify or substantiate the allegation that the authors (asylum seekers) had not made any claim for international protection.¹⁷ The refusal of Poland to recognise the requests for asylum and the Polish authorities’ consequent denial to have the merits of the cases assessed in good faith amounts to the failure of that state. The burden of proof on the state has in this case shifted in favour of the pushback victim.

Graphic: People who have reported experiencing inhuman and degrading treatment



¹⁵ <https://www.gcr.gr/el/news/press-releases-announcements/item/1984-information-note>. Note that between January 2023 – April 2023, the European Court of Human Rights has granted Interim Measures in at least 3 cases of newly arrived persons at the Greek-Turkish border of Evros, who requested to be granted with humanitarian assistance and access to asylum. In March 2023, the European Court of Human Rights communicated two new cases on alleged pushbacks at the Greek-Turkish borders (Application No 35090/22 and 38444/22 and Application no 10063/22 and 11762/22). These should be added to the 8 cases/32 applications which has been communicated in December 2021 and they are pending before the Court.

¹⁶ <https://www.nytimes.com/2023/02/14/world/europe/eu-greece-border-abuses.html>

¹⁷ UNHRC, Communication no 3017/2017.

¹⁸ Please note that all infographics in the report are based on data into the PRAB joint data collection tool. The data is – as is elaborated in the report – only represents a small sample of the people that were pushed back. During the reporting period PRAB partners collected 543 testimonies of people reporting pushbacks at the border between Croatia and Bosnia and Herzegovina, of which 346 people has reported that they have experienced inhuman and degrading treatment. Similarly, at the border of Greece and Türkiye, 174 pushbacks were recorded, of which 94 people reportedly has been treated inhumanely. Following the trend, at the border between France and Italy PRAB partners have reported 383 pushbacks, of which 42 claimed they have been given inhuman or degrading treatment.

In **Poland**, violence, abuses, and inhuman treatments continue to be systematically observed at the Belarusian border.¹⁹ Third-country nationals are pushed back without any, or proper, identification and vulnerability assessment, but physical violence is routinely used. This is also the case for individuals with vulnerable conditions, including a case of a Syrian asylum seeker with symptoms of hypoglycemia who was beaten and suffered fractures after he fainted for his insulin dependent. Beatings with batons and fists, kicks, and violent pushes are reported as systematic. NGOs active at the borders are reporting cases of degrading treatment, such as people forced to undress in the cold and made to lie on the ground while naked, prolonged handcuffing for no reason and denial to use the toilet. People's phones are regularly destroyed, their food, clothes, and documents taken, severely decreasing their chances of surviving in the woods after the pushback. Tear gassing is a frequent practice by the Polish border guards, as is the separation of groups travelling together, including families, during the pushback, to make it impossible to reunite afterwards. On the other side of the same border, **Belarusian** forces "welcome" returned migrants with insults, threats, additional beating, and by releasing police dogs on them.

The same pattern of rights violations continues to be reported from the **Bosnia & Herzegovina and Croatian border**, as the following testimony outlines.

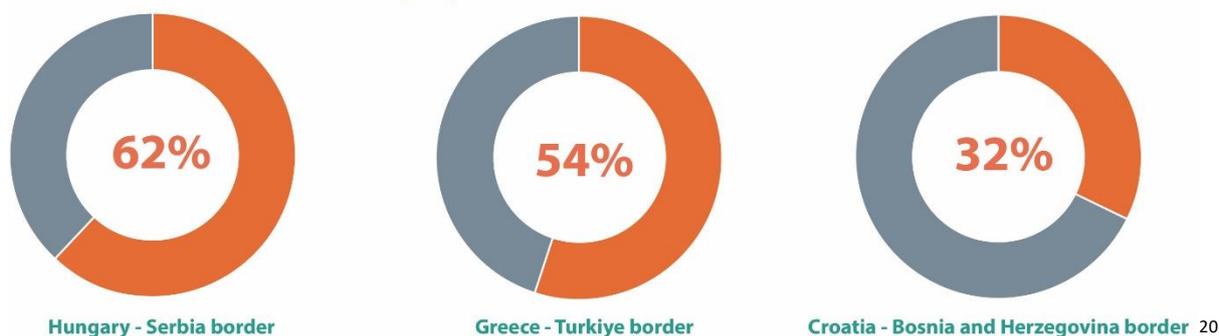
Testimony of pushback victims' experiences at the border between Croatia and Bosnia & Herzegovina on 29 March 2023

"We crossed the border last night, somewhere near Sturlic. We were walking through a forest. We walked 15 km away from the border. Police saw us by a drone that was above us. Soon, police with two police cars were there in front of us. Police told us to stop and to sit down. The police were in dark blue and light blue uniforms. There were a few policemen and one policewoman. They started searching through our personal things and bags. They took our money. Each one of us had 50-100 Euros that they took. They also broke our mobile phones. They were beating us hard with police sticks and with their legs. They also forced us to take our shoes off and to put them in the water, then to put them back on our feet. So, we were in wet shoes. Then, a police van came there. They told us to sit in the van, and then drove us back to Sturlic early this morning.

In April 2023, PRAB's partner in **Serbia** documented a group of 10 Bangladeshi men, who entered Hungary irregularly from Romania and who were pushed back, but to Serbia – without ever having been present there. According to their testimony, they were apprehended by the Hungarian police in Budapest, transported to the nearest police station, where they were detained for some hours. An Urdu speaking interpreter was present, and they explained that they previously resided for a while in Romania. Nevertheless, they were told by the police officers that they were to be expelled to Serbia, which then occurred a few hours later. They kept explaining that they had never been in Serbia before. However, the Hungarian police officers considered it irrelevant for their cause of action.

¹⁹ Note that in April 2023, the European Court of Human Rights communicated 6 new cases concerning pushbacks at the Polish-Belarusian border (16 applications submitted by 34 applicants mostly from Iraq and Syria). In total, 9 cases concerning the humanitarian crisis at the Polish-Belarusian border are pending before the ECtHR: 73 third-country nationals (mostly from Afghanistan, Iraq, and Syria), including 12 minors, submitted 20 applications invoking numerous ECHR violations.

Graphic: People who have reported experiencing physical abuse / assault



2. Tolerated humanitarian crisis and attempts to legally circumvent human rights safeguards

1. An accepted humanitarian crisis at the EU-Belarus border?

The EU's borders with Belarus are virtually closed, due to a structured net of soldiers, barbed wire, surveillance cameras, and check points which easily detect people approaching Lithuania and Poland. The walls built at the border between **Belarus and Poland, Lithuania, and Latvia** have nevertheless not ended neither attempts by people to reach safety in the EU, nor police brutality recorded at both sides of these borders. The pushbacks and human rights violations remain widespread practice and the humanitarian crisis in the border area a saddening status quo reality.

Testimony from a Yemeni man on his experiences at the border between Poland and Belarus

"I suffered after having walked in the forests, as well as the moment when I was at the Polish border. There, I lost my balance when I went down and started having pain in my lower back. I continued walking for about 10 kilometers, when I reached a loading point. I was in a state of joy. Then, one of the soldiers came to us with a dog and we surrendered. We had to throw our bags containing food, and after the Polish Army left us behind the border fence, they took the mobile phones and broke them there. We stayed in the forest for about a week without a phone, food, or anything to drink. I drank from the swamps, and all I could think of was a place to stay warm since I could not even sleep because of the cold and hunger. We gave ourselves in to the Belarusian Army, and even though they saw us very exhausted, we were returned to Minsk. I stayed for about two months in hermitage from fatigue, and I also had a phobia of the forest because of what I suffered there. But I would try again because I am forced to try to reach the goal for which I have come. My worst experience was on the Belarusian border from the side of the Belarusian Army. I sat for three days in the forbidden lands. I also experienced being pepper sprayed by the Polish Army, who were cutting bags, and taking phones. I tried but was caught twice."

The construction of the wall on the borders to Belarus resulted in people having left no other option than to take even more dangerous routes and pathways to enter the EU. In the first quarter of 2023,

²⁰ Please note that all infographics in the report are based on data into the PRAB joint data collection tool. The data is – as is elaborated in the report – only represents a small sample of the people that were pushed back. At the border between Serbia and Hungary, PRAB partners have reported 431 pushbacks, of which 268 claimed they were physically abused or assaulted. During the reporting period PRAB partners collected 174 testimonies of people reporting pushbacks at the Greece - Türkiye border, of which 94 people has reported that they have been assaulted or physically abused during the pushback. Following the trend, at the border of Croatia - Bosnia and Herzegovina, 543 pushbacks were recorded, of which 176 people reported assault or physical abuse.

the number of deaths and missing persons reported at the **Polish-Belarusian border** significantly increased.²¹ In most of the cases, the cause of death was hypothermia.²² While the number of deaths reported vary, multiple sources have reported that at least 17 people passed away in the first quarter of 2023. Noting that no source has effective access to all casualties, the real number of deaths at the border remains unknown.²³ Those attempting to cross the border have reported to PRAB partners that they have encountered unidentified bodies on their way from Belarus.²⁴

The Polish authorities continues not merely to disincentivise but to effectively criminalise humanitarian assistance granted at the border between Poland and Belarus. While the near-border area with reduced mobility shrank from 200 metres to 15 metres²⁵, in principle allowing access of medics, NGOs and humanitarian organisations to people in need, criminalisation prevails. Recent case law further convicted those helping third-country nationals crossing the border for insulting police officers.²⁶

While humanitarian actors at the **Lithuanian border with Belarus**, such as Sienos Grupė, have been working on providing humanitarian aid packages, medical and legal aid to those at the border, their work is hindered by the fast pushback actions taken by border guards. The Lithuanian government has spoken about humanitarian packages being given to every person before a pushback, but pushback victims do not have any recording of any type of safety net provided. Aiming to end the practice of facilitating the crossings of the EU border by Belarusian authorities, which has been confirmed in the **statement** by the UN Special Rapporteur on the Human Rights of Migrants released in summer 2022, the **Lithuanian** Minister of Justice proposed to initiate proceedings against Belarus at the International Court of Justice.²⁷

²¹ See e.g. Human Rights Commissioner, Śmierć w lesie przy granicy z Białorusią. Interwencje RPO (brpo.gov.pl), concerning death of three persons, Śmierć młodej kobiety z Etiopii lesie na granicy. RPO prosi o wyjaśnienia Policję i Straż Graniczną (brpo.gov.pl) and Śmierć obywatelki Etiopii przy granicy. RPO pyta policję, co zrobiła w celu jej odnalezienia i pomocy. Kolejne pismo (brpo.gov.pl); HFHR, Stanowisko i rekomendacje HFPC w sprawie przypadków śmierci i zaginięć na polsko-białoruskiej granicy, 19 April 2023, Stanowisko i rekomendacje HFPC w sprawie przypadków śmierci i zaginięć na polsko-białoruskiej granicy | Helsińska Fundacja Praw Człowieka (hfhr.pl).

²² Grupa Granica, Periodic report of Grupa Granica on the situation at the Polish-Belarusian border. December 2022-January 2023, 10.

²³ ECRE, Seeking Refuge in Poland: A Fact-Finding Report on Access to Asylum and Reception Conditions for Asylum Seekers, April 2023, 14-15.

²⁴ Grupa Granica, Periodic report of Grupa Granica on the situation at the Polish-Belarusian border. December 2022-January 2023, 3.

²⁵ ECRE, Seeking Refuge in Poland: A Fact-Finding Report on Access to Asylum and Reception Conditions for Asylum Seekers, April 2023, 14.

²⁶ Regional Court in Lublin (Sąd Okręgowy w Lublinie), judgment of February 2023; and District Court in Sokółka (Sąd Rejonowy w Sokółce), judgment of 3 April 2023

²⁷ <https://tm.lrv.lt/lt/naujienos/lietuva-sieks-baltarusijos-rezimo-atsakomybes-uz-migrantu-neteiseta-ivezima>

Are the doors to Europe effectively closing?

The physical barrier at the EU-Belarus border is not the only one. The increased number of arrivals of migrants, refugees, and asylum seekers to the Global North has equaled a stronger call for – and effective installment of - fences and walls, aimed to disincentive people from accessing safety. This has been combined with the use of artificial intelligence (AI) and high technologies, such as surveillance systems, biometrics or drones, at borders to strengthen the purpose of preventing arrivals.

An overview of all borders, hard and smart ones, where PRAB partners are currently working can be found in a dedicated policy note [“Walls & high tech at Europe’s borders: the new normal and a tool used to prevent people from crossing the borders and even injuring those trying to reach safety”](#)

The strengthening of EU borders, with hard and smart borders, has taken place simultaneously with limiting the number of official border crossings/entry points. The absence of safe and legal pathways leaves people with no other option than to take the more dangerous routes, which at many EU borders equals a “welcome” with rights violations often amounting to inhuman treatment.

2. Putting practice into law? New legal frameworks for border guards

EU Member States are seen to continue attempts to legalise pushback practices. While some prefer obscure legal manoeuvres, others cannot be singled out due to lack of transparency around the practices used on the ground by border guards. Changes to legal frameworks include changes to rights granted to people at borders, to the border areas as such, as well as to the powers of law enforcement personnel at the different borders.

On 3 May 2023, the Government of the Republic of **Lithuania** adopted a new law amending the Law on the State Border and its Protection.²⁸ The new law was drafted by the Ministry of Interior and presented as a law aimed to legalise the policy of turning away migrants at the border. **“Turning away”** in this case refers to the official position of the government on its actions on the border with Belarus, as the government denies carrying out any pushbacks. Despite numerous reports and evidence, the government insists that the State Border Guard Service only “directs” and “turns away” groups of migrants when intercepted at the border and does not push them back to the territory of Belarus or use violence. The new legal framework includes two main points: 1) it provides for the possibility to refuse entry to the territory of the Republic of Lithuania to foreigners who violate the procedure for crossing the state border in times of a state of emergency; 2) it provides for the individual assessment of the need for humanitarian or medical assistance and provision of such assistance to foreigners crossing the state border. Further, and highly contested, the legal framework provides the opportunity for the **border to be patrolled by so-called civilian border guards**.

In **Poland**, a new law passed on the 9 March 2023 and entered into force shortly after, on 7 April, has further **increased the powers of the Border Guard**. Appeals against returns and humanitarian stay decisions have moved from the Head of Office for Foreigners to the Border Guard’s Chief Commander and the time for appeals has been decreased from 14 to 7 days, with no guarantee that a deportation will not happen before the court considers the applicant’s motion to suspend the return. Entry bans for rejected persons have been increased from 5 to 10 years and refusal of entry can now be issued

²⁸ The amendment proposal document in Lithuanian language can be accessed here: <https://e-seimas.lrs.lt/portal/legalAct/lt/TAP/31695270930c11edb55e9d42c1579bdf?positionInSearchResults=16&searchModelUID=e7e23b54-b60a-442a-9b47-d00034b4a7d2>

also to people who have circumvented immigration rules. Detention is increased to a maximum of 18 months and detention at the airports in the designated rooms is made possible up to 7 days without a court decision.

Italy's repeated attempt to dismantle arrivals.

In April 2023, the **Italian** Government declared a nation-wide State of Emergency over the sharp increase of sea arrivals to the country, which have increased four times in the first months of 2023, compared to 2022. Parallely to this move, the Government worked to pass a new Decree (so called "Cutro Decree", following the shipwreck on 26 February 2023 near the Calabrian coast which caused the death of around 100 people). The Cutro Decree was converted into law no. 50, despite it being heavily disputed by civil society. Both the State of Emergency and the Cutro Decree are aimed at strengthening the network of Repatriation Centres (CPR), de facto detention centres where migrants and asylum seekers are detained, while repatriations often fail to happen due to lack of bilateral agreements between Italy and countries of origin. Evidence on the deprivation of rights in such centres have been widely reported by lawyers' organisations and other civil society organisations. Additionally, the new Decree aims at dismantling the special protection, a complementary protection status which is provided to those who do not qualify for refugee status but are victims of exploitation, violence, in need or urgent medical care or at risk of torture and inhumane treatment if returned to their countries of origin. The attack to the special protection has been largely contested by mayors and local civil society organisations, which have pointed towards the immediate effect of such provision, the impossibility to renew / convert the special protection for persons already present in the territory. This will reportedly lead to increased numbers of irregular migrants on the grounds, making regular residence and positive integration extremely difficult and further criminalising foreign citizens.

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3. Dual standards remain the norm, while independent monitoring turns into a cross-border hoax?

1. Ukrainians are more "welcome", but monitoring is required to ensure that right and standards on paper are effectively enforced.

The EU's undivided response to the influx of people fleeing Ukraine in 2022 remains remarkable, and so is the extension of the Temporary Protection Directive (TPD) until spring 2024. Some EU Member states, such as Poland have nevertheless taken the extension of the TPD as an opportunity to start watering down rights granted.³⁰ These measures should be seen in a broader context, where support and solidarity towards Ukrainian refugees is decreasing, and so is effectively crossing borders for people fleeing the war in Ukraine.

²⁹ For an overview of rights deprivation in CPR, please see: <https://buchineri.cild.eu/>

³⁰ Examples of the legal changes in Poland include a limited period of 30-days to obtain the status, excluding people who have received the status in another EU MS, or ending the provision of cost-free accommodation after 120 days.

While **Lithuania** has not setup any measures limiting access to the territory of people fleeing Ukraine, that same trend cannot be observed in other EU Member States. In **Poland**, in the first quarter of 2023, refusal of entry of Ukrainian nationals at the Ukraine-Poland border continued. In the period of January-April 2023, 3,750 Ukrainian nationals were denied entry to Poland, including 3,462 at the Polish-Ukrainian border.³¹ At this border and in this period, in total 4,241 third-country nationals were refused entry. The reasons to deny entry were the fact that the person concerned exceeded the period of 90-days during 180-days allowed for a visa-free travel, or he/she lacked a residence permit or visa. Further, in January 2023 the Human Rights Commissioner³² described one case of a refusal of entry at the Polish airport of a Ukrainian national, living for some years in Poland and working here legally, who left Poland for holidays abroad. Coming back, she was not allowed to enter Poland. She asked for asylum, but her pleas were not heard. Her attorneys-at-law tried to contact her while she was detained at the airport, but access to their client was repeatedly denied. Eventually, after the Human Rights Commissioner’s intervention, she was allowed to seek asylum in Poland and enter its territory.

Refusals of entry at the Polish-Ukrainian border – 1.01.-31.03.2023 - main nationalities	
Ukraine	2 743
Azerbaijan	103
Moldova	68
Armenia	64
Tajikistan	37
Uzbekistan	35
Türkiye	34
Belarus	32
Turkmenistan	31
Georgia	26
Stateless	15
Nigeria	15

Ukrainians are not the only ones having difficulties accessing Poland. From January to April 2023, a total of 736 Belarusian nationals were denied entry to Poland, including 682 persons at the Polish-Belarusian border. During the same period, 103 Russian nationals were refused entry to Poland, mostly at the airports (79).³³ Some persons are denied entry to Poland without any formal decision being issued.³⁴ While **Lithuania** has been keeping its border open for Russians and Belarusians (countries from which the highest numbers arrive to Lithuania, after Ukraine), changes in the legal framework in April 2023 aim to suspend visas issuance abroad for Russians and Belarusian nationals as well as stricter border checks for them.

Regarding **pendular movement**, the Polish legal framework stipulates that persons who leave Poland for more than 30 days have their temporary protection status withdrawn and afterwards, in practice, re-entry may be denied.³⁵ More recently, persons who did not leave Poland for over 30 days have reportedly lost their temporary protection status in Poland and, in consequence, faced many difficulties, including with re-entering Poland. It resulted from another unfavorable practice of the Border Guard which registers - in a dedicated registry - all departures from Poland of those beneficiaries, but only some returns to Poland of those persons. Border Guards claim that the person concerned must declare at the border crossing point that he/she is entering Poland due to the war in Ukraine or to enjoy temporary protection in Poland, even if he/she has already been granted temporary protection in Poland for this reason.³⁶ If such a declaration is lacking, his/her return to Poland is not inscribed into the special registry. It may eventually lead to the loss of temporary protection status.³⁷ The increasingly restrictive pendular movement policies in Ukraine’s neighboring EU Member States leaves some Ukrainians no other option than to reside in **Belarus**, where they are

³¹ <https://strazgraniczna.pl/pl/granica/statystyki-sg/2206,Statystyki-SG.html>

³² Human Rights Commissioner, Obywatelka Ukrainy niewpuszczona do Polski. Skuteczna interwencja RPO, 18 January 2023.

³³ <https://strazgraniczna.pl/pl/granica/statystyki-sg/2206,Statystyki-SG.html>

³⁴ SIP and RLI, Communication of the Association for Legal Intervention and the Rule of Law Institute on the execution of the M.K and Others v. Poland judgment, 27 February 2023, 3.

³⁵ See also ECRE, Movement to and From Ukraine Under the Temporary Protection Directive, January 2023, 2

³⁶ Polish Border Guard, Komunikat dla osób posiadających status PESEL UKR, 27 January 2023.

³⁷ SIP, Input to the EUAA’s Asylum Report, February 2023, 6. See also Human Rights Commissioner, Uchodźcy z Ukrainy są błędnie pozbawiani statusu uprawniającego do opieki medycznej i pomocy. Interwencja RPO, 16 March 2023.

in "safety" while also being able to continue visiting their family members and/or relatives in Ukraine and/or the Russian Federation.

2. Current monitoring mechanisms fail to work, but the European Parliament pushes for change in the right direction

Croatia's renewed "independent" monitoring mechanism was agreed³⁸ upon over half a year ago, but to date not one monitoring activity has effectively taken place. Arguments against the use of the term 'independence' for the initial mechanism, remain entirely applicable to the extended mechanism. Also, the previously raised concerns around the mechanism's scope have been largely unaddressed. The mechanism still does not allow for effective unannounced visits – as prior notification remains required, and so is a police escort. The focus remains on a desk-type of research, while effective interviews with victims of pushbacks are not included in the mechanism's mandate. Uncertainty remains on the process which the mechanism will take if pushback cases are shared with them by civil society organisations, or whether victims can directly reach out. The serious deficiencies in the investigations of ill-treatment by Croatian authorities have also been recorded in the Council of Europe (CoE) Committee for Prevention of Torture (CPT), in their latest [report](#). The CPT found that the Ministry of Interior considered unfounded and dismissed nearly 90 percent of all complaints of police misconduct. The Committee also noted that the few investigations that did take place "*were not worthy of the name*" and were not timely, thorough, or independent. Promises for increased transparency (with a website and email address) might end – if being effectively implemented – in a rare positive improvement. Currently, there is no reason to celebrate the mechanism's extension and it can be concluded that the existence of the mechanism is misleading, as no effective monitoring is conducted.

In **Greece**, the highly disputed mechanism under the Ministry of Migration and Asylum (Fundamental Rights Officer (FRO) and Special Commission on Fundamental Rights Compliance within the Ministry of Migration and Asylum), established in July 2022 is not yet operational as the required ministerial decision describing the tasks of the FRO and the Special Commission have not been issued. Upon receipt of the drafts of the ministerial decision for consultation, the Greek National Commission for Human Rights has re-stated that the mechanism does not comply with the independence and effectiveness requirements. The draft ministerial decisions provide the possibility for the FRO to freely select the personnel of his office from the staff of the Hellenic Police and Greek Coast Guard, i.e., the same administrative authorities that may be under scrutiny. An additional admissibility examination of complaints submitted by the FRO is added, without setting any criteria, before these complaints are transmitted to the National Transparency Authority or other competent Authorities for further investigation.³⁹

The European Parliament has attempted to get the record of how a functioning independent border monitoring mechanism should exist straight as part of EP's consolidated text on the pre-entry-screening proposal. The proposed text includes safeguards to ensure the mechanism's independence, effective unfettered access to places where pushbacks are likely to take place, disciplinary procedures, and pathways to justice for victims of pushback practices. It remains to be seen whether these positive changes by the European Parliament survive the trilogue negotiations with the European Council, or whether a compromise text will be accepted, watering (again) down the essential safeguards included.

³⁸ English translation of the agreed upon extended mechanism, signed on 4 November 2022. 22_146 Sporazum NMN-final_EN.pdf (hck.hr)

³⁹ <https://www.nchr.gr/ta-nea-mas/1597-epistoli-tis-eeda-pros-ton-g-g-metanasteftikis-politikis-ypodoxis-kai-asylou.html>

Increasing use of readmissions agreements by Croatia

The number of pushbacks from Croatia to Bosnia-and-Herzegovina has gone down, but the usage of the formal readmission agreement between both countries has gone up. Croatia is currently organizing readmissions through the Izacic Border crossing in Una Sana Canton, with single males transported to the Temporary Reception Centre (TRC) in Lipa while families as well as unaccompanied and separated children are being transported to TRC Borici. Most of the readmitted persons state that they have not been able to seek asylum, nor that the police would listen when they asked – indicating they did not understand their request. During the process no access to a translator was provided and people were forced to sign documents in Croatian. While no acts of violence have been reported, detention lasted standardly from 3 to 6 days, with inadequate accommodation conditions, including lack of food (1 meal/24 hours). Phones were confiscated and only returned during the handover to the Bosnian border police, while random amounts of money were confiscated or charged for irregularly crossing the border or as the cost for staying in detention.

PRAB partners will continue monitoring the (ab)use of readmission agreements at the borders they cover – as this practice is also ongoing at other borders. Further information on existing readmission agreements, at borders covered under the PRAB initiative can be found in an earlier [policy note](#).

4. The rights of people seeking safety continue to be violated, while those helping suffer criminalisation

This PRAB report, jointly with many other reports, outlines once again the rights violations daily occurring at Europe's borders. Pushbacks and police brutality remain a *de facto* border management tool, with impunity being the norm while little to no pathways to justice for the victims exist. Many citizens nevertheless feel that the treatment of people searching for safety at EU's borders is unjust, unfair, illegal and should be countered. Based on a humanitarian imperative – aiming to save lives – many people, as well as humanitarian organisations, have over the past years, even decades, supported people on the move. Support has been provided to help human beings in a vulnerable position, often even with acute life-threatening needs. While some have helped with providing access to basic services, including food, shelter and medical support, others have taken legal steps challenging the rights violations at EU borders.

Next to defamation campaigns and accusing humanitarian actors of human smuggling, legal and judicial steps have – unfortunately – also been taken by authorities in some European states⁴⁰, aiming to stop those who help by criminalising solidarity with migrants at all costs. This has escalated in some EU Member States to an environment where human rights defenders are effectively targeted “*to a shocking degree*”,⁴¹ while impunity remains the standard norm for border police who violate the rights of people on the move. The work done by organisations such as the partners of the PRAB initiative and others is in some countries, including in EU Member States, at risk. Saving lives is not merely a moral duty, it is a legal obligation in international human rights law, as well as in the EU acquis. It is required that all states, within the EU, at the EU's borders and elsewhere, uphold the rights of people on the move as well as the rights of those providing lifesaving assistance.

⁴⁰ PICUM, more than 100 people criminalized for acting in solidarity with migrants in the EU in 2022, 2023, https://picum.org/wp-content/uploads/2023/03/More-than-100-people-criminalised-for-acting-in-solidarity-with-migrants-in-the-EU-in-2022_EN.pdf

⁴¹ UN Special Rapporteur on human rights defenders, Country Visit Report – Greece, 2.3.2023, <https://srdefenders.org/country-visit-report-greece/>, para. 114; see also GCR, AT EUROPE'S BORDERS: BETWEEN IMPUNITY AND CRIMINALIZATION, March 2023, https://www.gcr.gr/media/k2/attachments/GCR_Pushback_Criminalization_Report.pdf; Rule of Law Backsliding Continues in Greece, Joint Civil Society Submission to the European Commission on the 2023 Rule of Law Report, January 2023, https://rsaegean.org/wp-content/uploads/2023/01/RoL2023_JointSubmission_CSOGreece.pdf, para. 77



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