



**Border Violence  
Monitoring Network**

## **An appeal to ensure respect of the rule of law in Slovenia/ A public letter:**

**The Supreme Court of Slovenia has found the Slovenian police conduct to be illegal, reminding the state of its obligation to respect the non-refoulement principle - an individual should not be returned to another state without an official assessment if the other state is safe for this individual. Slovenia must enable the plaintiff, an asylum seeker who had been a victim of a chain-push-back, to effectively request asylum in Slovenia.**

**Addressed to:** Minister Aleš Hojs, Commissioner Ylva Johansson, Honourable member Juan Fernando Lopez Aguilar and Ombudsperson Janez Svetina

During its session on 9<sup>th</sup> April 2021, in the case of A. M., **the Slovenian Supreme Court ruled the following: in August 2019 the Slovenian police violated the principle of non-refoulement, the prohibition of collective expulsions and denied the plaintiff access to the right to international protection.**

Two years after the illegal police conduct, the Republic of Slovenia persists in its illegal practices of returning people to Croatian authorities, thereby exposing them to inhuman treatment, even torture by forced undressing, flogging, beatings, and sexual violence. Four months after the decision by the Supreme Court, which rejected the Ministry of the Interior's appeal in its entirety, Slovenia still shows no willingness to fulfill its legal obligations in good faith and eliminate its interference that violates human rights, ensured by the law and the judgment itself.

The judgment states Slovenia should allow the plaintiff to enter the country and provide him with the opportunity to apply for international protection. It states that this is the only way to remedy in part the violations of the plaintiff's fundamental rights.

The case is thus another confirmation of the executive branch's conduct that persistently undermines the foundations of the rule of law, specifically international refugee law and international human rights law.

Such conduct, which is systemic, by the Slovenian police goes hand in hand with the persistent active negligence on behalf of state bodies that despite the Supreme Court's decision choose not to acknowledge their practices of 'solving border issues' are illegal and cause human casualties.



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Therefore, two years after the trial began the plaintiff remains trapped in Bosnia and Herzegovina, where he is subjected to racial discrimination, lack of health and other care, to continuous mental distress and physical violence, without the possibility to access international protection and begin a dignified life in a safe environment.

*"Although the Supreme Court of the Republic of Slovenia ruled in its judgment that the Slovenian state authorities had violated my client's right to non-refoulement and the right to access asylum procedure, as well as the right to individual treatment (violations of my client's rights are part of systemic and mass violations of the rights of refugees), unfortunately, this did not lead the same authorities to seek the earliest and most lawful way to enforce that judgment, but, on the contrary, to seek any, even minimal, even unlawful possibility of not enforcing the judgment in question. My client is therefore, despite the decision of the Slovenian Supreme Court in his favor, still trapped in BiH, where his fundamental human rights continue to be violated. For the executive branch of this country, the decision of the Supreme Court is clearly merely a disturbance in the systemic violations of human rights and freedoms, which must be neutralized as effectively as possible. "*

- Dino Bauk, lawyer

In identically unlawful proceedings, the police persistently violate the rights of asylum seekers to present their requests for asylum. Police do not involve interpreters or offer flawed translations. Slovenian police routinely tell people that "there is no asylum in Slovenia", making it clear at the start of the proceedings that they will "return" them to Croatian authorities, who are known to inflict physical violence, use intimidation, burn belongings and force people across the green border to Bosnia and Herzegovina. Thus, under the guise of the so-called bilateral agreement between Slovenia and Croatia, both EU member states, more than 27.000 people have been "returned" to Croatia - and most probably to BiH - in recent years.

Civil initiative Infokolpa and other members of the international Border Violence Monitoring Network have been warning about the illegality and danger of this systematic practice of restricting access to international protection for more than three years. "Returns" of asylum seekers to Croatia by Slovenian police continue despite consistent reports from international and non-governmental organizations that Croatian police's conduct amounts to torture and inhumane treatment. The UN Special Rapporteur on the Human Rights of Migrants warned about the illegality of push-back practices and called on countries to ensure respect for the human rights of migrants, including those in irregular situations. He urged an end to pushback practices and demanded full respect of the principle of non-refoulement and a ban on collective expulsions. Human Rights Watch, Amnesty International, Doctors Without Borders (MSF), the Danish Refugee Council and, last but not least, many local and regional humanitarian and other organizations, including Infokolpa as part of the Border Violence Monitoring Network, have reported on the violence of the Croatian police consistently over the years. The European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) visited Croatia in 2020. Calls for a permanent cessation of these criminal and shameful



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practices are coming from all sides: from the International Organization for Migration (IOM), the United Nations, and finally in 2021 - from the European Commission.

Slovenian state authorities cannot state ignorance nor can they offer excuses that they are addressing 'abuses of the right to international protection'. The right to asylum can be assessed only in a procedure at the ministerial level - the police do not have the authority to judge or decide who is or is not entitled to it.

Slovenian authorities are fully aware about the situation in Croatia, to which they “return” people and what dangers await them, as both countries praise police bilateral cooperation. In June 2020, the Minister of the Interior Aleš Hojs himself commented for Reporter magazine that “...our authorities are returning (migrants) to Croatia and from there consequently to centers in BiH and Serbia”.

It is now only a matter of time when Slovenia is forced to face the consequences for these mass violations of human rights.

We therefore call on the Ministry of the Interior and the Slovenian Police to respect the rule of law, to act in good faith and to ensure the fulfilment of the Supreme Court judgment, fundamental human rights and international law by:

1. ensuring that the plaintiff is allowed to enter the country and ask for international protection;
2. immediately cease “returns” or other extraditions of persons who might be entitled to asylum to Croatian authorities for there exists a serious and credible danger of torture and inhuman treatment and of their “chain push-back” to inhumane conditions in Bosnia and Herzegovina.

What we ask for is modest. We do not wish to, at this point, open the question of a redress for the injustices suffered by more than 27.000 people who are officially documented victims of illegal conduct by Slovenian police following the political decisions by successive Slovenian governments. These individuals, families, women, men and children, have suffered immeasurable damage and some have died.

Again, we merely call for an end to such state-sanctioned crimes, to uphold the rule of law and respect the Supreme Court's ruling.

Plaintiff's statements:

*"When I found out about the successful course of the verdict in Slovenia, for a moment I began to believe in justice again, especially because the verdict comes from a country that (among migrants) has a bad reputation. Given all the complications following the verdict and the length of the proceedings, I again doubt that justice exists. Due to the length of the proceedings, I lost confidence (in Slovenia)."*



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*"I am forced to try to get to Slovenia on foot again and again, but every time I cross the border (between BiH and Croatia) I am stopped by the Croatian police, who beat me and burn things, last time they returned me (to BiH) only in underwear. That's when I wonder: is there justice in this world at all?"*

- A. M.

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Infokolpa, Border Violence Monitoring Network

**Ljubljana, 30 August 2021**