BEFORE THE FIRST SECTION

OF THE EUROPEAN COURT OF HUMAN RIGHTS

Application No. 18810/19

S.B.

v.

Croatia

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WRITTEN SUBMISSIONS ON BEHALF OF THE INTERVENERS:

ADVICE ON INDIVIDUAL RIGHTS IN EUROPE (AIRE CENTRE)
EUROPEAN COUNCIL ON REFUGEES AND EXILES (ECRE)
DUTCH COUNCIL FOR REFUGEES (DCR)
HUNGARIAN HELSINKI COMMITTEE (HHC)
INTERNATIONAL COMMISSION OF JURISTS (ICJ)

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pursuant to the Registrar's notification dated 17 November 2020 on the Court's permission to intervene under Rule 44 § 3 of the Rules of the European Court of Human Rights

8 December 2020

Summary:
I. The interveners submit that in light of well-established principles of international law and this Court's settled case law, an expulsion that exposes an applicant to the risk of *refoulement* and deprives them of protections under international and EU law is prohibited. This principle also applies when individuals are subject to law enforcement activities that can prevent individuals from making, registering or lodging a claim for asylum.
II. To comply with *non-refoulement* obligations under Articles 3 and 13 ECHR, international law requires, *inter alia,* a rigorous scrutiny of the applicant's claim of potentially prohibited treatment, access to an effective remedy following a negative decision, and access to the rights protected under Articles 2-34 of the Refugee Convention, where the applicant may be entitled to those rights. The authorities of a transferring Contracting Party must conduct an effective investigation into the real-time conditions in the receiving country in light of laws, systems and practices. This must entail (i) analysis and assessment of up-to-date reports of international and civil society organisations operating in that country and (ii) a detailed individualised assessment of whether the country will be safe for those whose removal is contemplated and of any additional vulnerability that applies to them.
III. The decisive criterion in order for an expulsion to be characterised as "collective" - in violation of Article 4 of Protocol No. 4 ECHR- is the absence of **"a reasonable and objective examination of the particular case of each individual alien of the group".**[1] In particular, where the applicants have not arrived in large numbers and using force to the extent that it would create a clearly disruptive situation, which is difficult to control and that endangers public safety, the lack of an individual expulsion decision cannot be attributed to their own conduct.
IV. Specific vulnerabilities of asylum seekers should be taken into account at all stages of expulsion proceedings in order to guarantee enhanced safeguards afforded to them under international and EU law. When children are involved, the determination of their best interests should be a primary consideration and has to be carefully reflected in all decisions concerning them. Furthermore, States must ensure that the country to which expulsion is sought offers sufficient guarantees to ensure adequate protection against the risk of ill-treatment.
V. In light of the obligations of EU Member States under EU law and Article 53 ECHR, the interveners submit that the responsibility of EU States under the EU asylum *acquis* is engaged in relation to any individuals who may wish to seek international protection. Collective expulsion measures thus constitute an aggravated violation of Article 4 of Protocol 4 because of the additional serious breaches by Contracting Parties of their international and EU law obligations.
VI. In operations aimed at imposing restrictions on freedom of movement or deprivation of liberty to carry out an expulsion, the use of force should only be employed exceptionally and subject to strict necessity and proportionality requirements. The lack of resistance to law enforcement officials, per se renders force unlawful.

I. Nature and scope of the State's obligations within its jurisdiction: the *non-refoulement* principle

1. Contracting Parties have an obligation to secure Convention rights to all those who fall within their jurisdiction under Article 1 ECHR. This general obligation not only includes obligations of *non-refoulement* on the State, but also obligations to treat persons with the dignity consonant with Convention standards and in particular to allow individuals to effectively exercise their Convention rights wherever and whenever they are within their jurisdiction, lawfully or otherwise.[2] Distinct State obligations under the Convention in this respect arise when the individuals are seeking asylum, with additional obligations engaged when they are children.[3]

2. The obligation to respect the Convention rights of persons within a State's jurisdiction include the obligation[4] to refrain from transferring people to States where there are substantial grounds to believe that they face a real risk of a violation of their rights under Article 3 ECHR or other serious human rights violations, or are at risk of onward removal to other countries where they would face such risks.[5] This *non-refoulment* principle is of an absolute nature[6] and no derogations are permitted either in law or in practice.[7]

[1] Khlaifia and Others v. Italy (GC), no. 16483/12, (15 December 2016), para. 237 et seq; Georgia v. Russia (I), no.13255/07, (3 July 2014), § 167; Andric v. Sweden (dec.), no. 45917/99, (23 February 1999); Davydov v. Estonia (dec.), no. 16387/03, (31 May 2005); Sultani v. France, no. 45223/05, (20 December 2007) para. 81; and Ghulami v. France (dec.), no. 45302/05, 7 April 2009.
[2] M.S.S. v. Belgium and Greece, no. 30696/09, (21 January 2011), paras 299-320.
[3] Mubilanzila Mayeka and Kaniki Mitunga v. Belgium, no. 13178/03, (12 October 2006), para. 55; Popov v. France, nos. 39472/07 and 39474/07, (19 April 2012), para. 91; Tarakhel v. Switzerland, no. 29217/12, (4 November 2014), para. 99.
[4] Hirsi Jamaa and Others v. Italy, no. 27765/09, (23 February 2012), paras. 157-158.
[5] M.S.S. v. Belgium and Greece, no. 30696/09, (21 January 2011), para. 286; Sharifi and Others v. Italy and Greece, no. 16643/09, (21 October 2014), para. 166.
[6] Chahal v. the United Kingdom, [GC], no. 22414/93, (15 November 1996), paras. 79-80.

3. The positive obligations on the State include, amongst others, the obligation of State authorities to take all the steps that could reasonably be expected of it [to avoid a real or immediate risk to life] in order to protect individuals from harm to their life or physical integrity of which it knew or ought to have known;[8] to ensure independent, prompt and effective investigations of alleged violations of Convention rights; and to secure access to effective remedies and reparation for such violations.[9] The obligation to treat all individuals compatibly with the Convention includes the obligation to identify and pay special attention to the needs of people in a vulnerable situation including asylum seekers, unaccompanied children and families with children,[10] irrespective of whether national authorisation to enter the territory has been granted.[11] States have an obligation to enable those who identify themselves as seeking asylum the opportunity to so identify themselves[12] and to permit them access to determination procedures with all the procedural safeguards required by national and EU law.[13]

4. **The interveners submit that, when those who are subject to the authority or effective control of a Contracting Party, are prevented by acts or omissions of that Contracting Party from being individually identified and afforded the opportunity to meaningfully raise personal objections to their transfer, this amounts to a violation of the principle of *non-refoulement* and the rights protected under the ECHR.**

II. Procedural guarantees under Articles 3 and 13 ECHR concerning removal

5. To comply with Article 3 procedural safeguards, individuals must be told, in simple, non-technical language that they will be capable of understanding, the reasons for their removal, and the process available for challenging the decision.[14] Accessible legal advice and assistance may also be required for the individual to fully understand his or her circumstances.[15] Further, individuals asserting an arguable complaint that they are at risk of prohibited treatment under the Convention have the right to an effective remedy, which is not theoretical or illusory, and allows for the review and, if appropriate, for the reversal of the decision to remove.[16] This remedy must be practical and effective, existing in practice as well as in law, and must not be unjustifiably hindered by the acts or omissions of the authorities.[17] This Court has determined a remedy to be ineffective, *inter alia*, when removal takes place before the practical possibility of accessing the remedy;[18] lack of automatic suspensive effect;[19] where there are excessively short time limits for submitting the claim or an appeal;[20] where there is insufficient information on how to gain effective access to the relevant procedures and remedies;[21] where there are obstacles in physical access to or communication with the responsible authority;[22] where there is a lack of

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[7] UN General Assembly, Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, 10 December 1984; Adel Tebourski v. France, UNCAT, CAT/C/38/D/300/2006, 11 May 2007, paras. 8.2 – 8.3. UN Human Rights Committee, General comment no. 31, *The nature of the general legal obligation imposed on States Parties to the Covenant*, 26 May 2004, CCPR/C/21/Rev.1/Add.13, para. 12.

[8] Osman v. the United Kingdom, no. 23452/94, (28 October 1998), para. 116; Volodina v. Russia, no. 41261/17, (4 November 2019), para 77.

[9] Article 13 ECHR as well as X and Y v the Netherlands, no. 8978/80, (26 March 1985), para 27; Opuz v Turkey, no. 33401/02, (9 June 2009), para 128; Hugh Jordan v United Kingdom, no. 24746/94, (4 May 2001), para. 160.

[10] Muskhadzhiyeva and Others v. Belgium, no 41442/07, (19 January 2010), para. 55; Mubilanzila Mayeka and Kaniki Mitunga v. Belgium, no 13178/03, (12 October 2006), paras 53 and 55, Moustahi v. France, no. 9347/14, 25 June 2020, para. 54-55.

[11] Saadi v. the United Kingdom [GC], App no. 13229/03 (29 January 2008), para. 65.

[12] Hirsi Jamaa and Others v. Italy, App no. 27765/09 (23 February 2012), para. 204.

[13] Hirsi Jamaa and Others v. Italy, op. cit., para.198.

[14] .Khlaifia and Others v. Italy [GC], No. 16483/12, (15 December 2016), para. 115; J.R. and Others v. Greece, No. 22696/16, (25 May 2018), para. 123-124.

[15] Guideline 5. Remedy against the removal order in CoE Committee of Ministers "Twenty Guidelines on forced return" adopted on 4 May 2005 as referenced by the ECtHR in De Souza Ribeiro v. France, No. 22689/07, para. 47.

[16] Shamayev and Others v. Georgia and Russia, No. 36378/02, (12 April 2005), para.460; M.S.S. v. Belgium and Greece, op. cit., para 290; Čonka v. Belgium, op. cit., paras. 77-85.

[17] Menteş and Others v. Turkey 1997-VIII, para. 89; İlhan v. Turkey [GC], no. 22277/93, 2000, para. 97, Aksoy v. Turkey, 1996, para. 95 in fine; Aydın v. Turkey, 25 September 1997, para. 103; Paul and Audrey Edwards v. the United Kingdom, no. 46477/99, 2002, para. 96.

[18] Shamayev and Others v. Georgia and Russia, No. 36378/02, (12 April 2005), para.460; Labsi v. Slovakia, No. 33809/08, (15 May 2012), para. 139.

[19] Gebremedhin v France, No. 25389/05 (26 July 2007) para 66-67; Baysakov and others v. Ukraine, No. 54131/08, (18 February 2010), para.74; M.A. v. Cyprus, no. 41872/10, (23 July 2013), para 133. D and Others v. Romania, no. 75953/16, (14 January 2020), paras. 128-130.

[20] I.M. v. France, No. 9152/09, (14 December 2010), para.144; M.S.S. v. Belgium and Greece, No. 30696/09, [GC] (21 January 2011), para. 306.

[21] Hirsi Jamaa and Others v. Italy, op. cit., para. 204.

[22] Gebremedhin v. France, No. 25389/05, (26 April 2007), para.54; I.M. v. France, No. 9152/09, (14 December 2010), para.130; M.S.S. v. Belgium and Greece, No. 30696/09, [GC] (21 January 2011), paras. 301 - 313.

(free) legal assistance and access to a lawyer;[23] and/or there is a lack of interpretation.[24] These safeguards are ineffective in a situation where no official procedure has taken place, allowing for a meaningful opportunity to raise objections, which in itself entails having had prior access to information about the procedures.

6. Articles 3 and 13 require the Contracting Parties, *inter alia,* to assess all evidence at the core of a *non-refoulement* claim,[25] including, where necessary: to obtain such evidence *proprio motu* and to avoid imposing an unrealistic burden of proof on applicants or require them to bear the entire burden of proof.[26] National authorities must thoroughly assess the risk of ill-treatment and the foreseeable consequences of removal to the receiving country in light of the general situation there as well as the applicant's personal circumstances.[27] It is the duty of those authorities to seek all relevant, up-to-date and generally available information. This Court has also affirmed the importance of international and national NGOs in monitoring, reporting and providing evidence[28] of the actual human rights situation in a particular country, and specifically, in relation to the contemplated removal of people raising a risk of Article 3 violations.[29] According to this Court, in order to evaluate a 'country's safety', due consideration must be given to the range of the publications available and the consistency of the nature of the information reported.[30] "*General deficiencies well documented in authoritative reports, [such as] by UNHCR, Council of Europe and EU bodies, are in principle considered to have been known" to the authorities."*[31]

7. The situation at the border between Croatia and Bosnia and Herzegovina has been reported about by various human rights bodies and NGOs. The UN Special Rapporteur on the human rights of migrants recently highlighted that he had *"received reliable information about violent pushbacks against migrants and asylum seekers by the border police of Croatia, which forcibly returned them to the territory of Bosnia and Herzegovina. According to the testimonies received, many migrants were forcibly escorted back into Bosnia and Herzegovina, without going through any official procedure. The specific tactics vary; however, common patterns include the capture of people on the move*, *the confiscation of their property, especially communications equipment*, *being beaten with batons and chased by dogs with the purpose of physically exhausting them and preventing them from attempting another crossing. A number of male migrants were reportedly stripped, beaten and forced to walk back to Bosnia and Herzegovina barefoot".*[32] In a joint statement, the Special Rapporteurs on the human rights of migrants and on torture and other cruel, inhuman or degrading treatment or punishment expressed their concern that in several cases, Croatian police officers had reportedly ignored requests from migrants to seek asylum or other protection under international human rights and refugee law. The Rapporteurs emphasized that "*Croatia must ensure that all border management measures, including those aimed at addressing irregular migration, are in line with international human rights law and standards, particularly, non-discrimination, the prohibition of torture and ill-treatment, the principle of non-refoulement and the prohibition of arbitrary or collective expulsions".*[33]

8. This Court has affirmed that, where the applicant is also an asylum seeker, the expelling State must not simply assume that the person will be treated in the receiving country in conformity with the Convention standards, but rather must verify whether and how national authorities apply asylum legislation in practice.[34] In this regard, the Court has recently made clear that "*in order for the State's obligation under Article 3 of the Convention to be effectively fulfilled, a person seeking international protection must be provided with*

[23] M.S.S. v. Belgium and Greece, No. 30696/09, [GC] (21 January 2011), para.319; mutatis mutandis, N.D. and N.T. v. Spain, Nos. 8675/15 and 8697/15, (3 October 2017), para. 118.
[24] Hirsi Jamaa and Others v. Italy, No. 27765/09, [GC] (23 February 2012), para. 202.
[25] Jabari v. Turkey, App. No. 40035/98, (11 July 2000), paras.39-40; Singh and Others v. Belgium, App. No. 33210/11, (2 October 2012), para. 104.
[26] M.S.S. v. Belgium and Greece, op. cit., paras. 344-359; Hirsi Jamaa and Others v. Italy, op. cit., paras. 122-158.
[27] Vilvarajah and Others v. United Kingdom, no. 13448/87, (30 October 1991), paara. 108; Tarakhel v. Switzerland, no. 29217/12, (4 November 2014), para. 104.
[28] Chahal, op.cit.,, paras. 99-100; Müslim v. Turkey, no. 53566/99, 26 April 2005, para. 67; Said v. the Netherlands, no. 2345/02, para. 54, ECHR 2005-VI; Al-Moayad v. Germany (dec.), no. 35865/03, paras. 65-66, 20 February 2007; and Saadi, para.131.
[29] Mohammed v. Austria no. 2283/12 (6 June 2013), para.97-102; Sharifi v. Austria no 60104/08 (5 December 2013), para.46; Mohammadi v. Austria no. 71932/12 (3 July 2014) § 69; M.S.S. v. Belgium and Greece cited above § 346-353; F.G. v Sweden [GC] no. 43611/11 (23 March 2016), para 117, cross-referencing Safaii v Austria, no. 44689/09 (7 May 2014) § 44&46.
[30] Safaii v. Austria, op.cit., paras.46-47.
[31] Ilias and Ahmed v Hungary, No. 47287/15 [GC], (21 November 2019), para 141.
[32] Report of the Special Rapporteur on the human rights of migrants, Felipe González Morales, on the visit to Bosnia and Herzegovina, conducted from 24 September to 1 October 2019; A/HRC/44/42/Add.2; Human Rights Council, 44 session, 15 June–3 July 2020, par.64.
[33] Joint statement of Felipe González Morales, the Special Rapporteur on the human rights of migrants, and Nils Melzer, Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Geneva, 19 June 2020.
[34] Ilias and Ahmed v Hungary, No. 47287/15 [GC], (21 November 2019), para 141.

safeguards against having to return to his or her country of origin before such time as his or her allegations are thoroughly examined."[35]

9. **The interveners submit that summary expulsions of migrants without an official procedure, individual assessment or other due process safeguards constitutes a violation of the principle of *non-refoulement*. Furthermore, disregarding publicly available country reports; the lack of access to interpreters allowing applicants to communicate in a language they understand; lack of access to clear information; lack of access to a lawyer; and lack of access to an effective remedy render access to rights under Articles 3 and 13 ineffective, theoretical and illusory**. **In order to comply with the *non-refoulement* obligations, the authorities must conduct an effective investigation into the individual circumstances of the applicant and the real-time conditions in the receiving country, including the accessibility and reliability of the asylum system.**

III. Article 4 of Protocol No. 4 ECHR – collective expulsions and procedural guarantees

10. Collective expulsion of non-nationals is prohibited in absolute terms under international law.[36] This prohibition is a general principle of international law,[37] applicable to all States regardless of their being party to a treaty expressing such prohibition.[38]

11. The Court has interpreted the term "expulsion" in the generic meaning in current use ("to drive away from a place"),[39] as **referring to any forcible removal of an alien from a State's territory, irrespective of the lawfulness of the person's stay, the length of time he or she has spent in the territory, the location in which he or she was apprehended, his or her legal status and his or her conduct when crossing the border.** The Court has also used this term in the context of Articles 3 and 13 of the Convention[40] and especially with regard to the removal of non-nationals at the border.[41]

12. The purpose of Article 4 of Protocol No. 4 is to prevent States from being able to expel a certain number of foreigners without a reasonable and objective examination of their personal circumstances and therefore without enabling them to put forward their arguments against the measure taken by the relevant authority.[42] In order to determine whether there has been a reasonable and objective individualised examination, it is necessary to consider the circumstances of each case and to verify whether an official decision to remove a foreigner was actually taken, and whether the authorities making the decision took into consideration the specific situation of each individual concerned.[43] Regard must be had both to the particular circumstances of the expulsion and to **the "general context at the material time".**[44]

13. This Court has reiterated that the applicants' own conduct may be taken into consideration when assessing the protection to be afforded under Article 4 of Protocol No. 4. The Court found no violation of Article 4 of Protocol No. 4 **if the absence of an individual expulsion decision can be attributed to the applicant's own**

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[35] M.K. and Others v Poland, Nos. 40503/17, 42902/17, 43643/17, (23 July 2020), para 179

[36] UN Human Rights Committee (HRC), *CCPR General Comment No. 29: Article 4: Derogations during a State of Emergency*, 31 August 2001, CCPR/C/21/Rev.1/Add.11, para 13(d).

[37] The ILC Special Rapporteur on the expulsion of aliens held that the prohibition of collective expulsion assumed the status of a general principle of international law "recognised by civilised nations". See UN General Assembly, *Third report on the expulsion of aliens / by Maurice Kamto, Special Rapporteur,* 19 April 2007, A/CN.4/581, para 115.

[38] Treaty prohibitions on collective expulsions are contained in Article 4 of Protocol 4 to the ECHR, Article 12.5 of the African Charter, Article 22.9 ACHR, Article 26.2 of the Arab Charter on Human Rights, and Article 22.1 ICRMW. Although no express ICCPR provision prohibits collective expulsions, the Human Rights Committee has been clear that "laws or decisions providing for collective or mass expulsions" would entail a violation of Article 13 ICCPR: UN Human Rights Committee, *General Comment No. 15: The Position of Aliens Under the Covenant*, 11 April 1986. See also, Council of Europe: Committee of Ministers, *Twenty Guidelines on Forced Return*, 4 May 2005. Guideline 3. Prohibition of collective expulsion. A removal order may only be issued based on a reasonable and objective examination of the case of each person concerned, taking into account its specific circumstances. The collective expulsion of aliens is prohibited.

[39] Khlaifia and Others v. Italy [GC], no. 16483/12, (15 December 2016), para. 243, and Hirsi Jamaa and Others, op.cit.,para.174

[40] J.K. and Others v. Sweden, no. 59166/12, paras. 78 and 79, 4 June 2015, and Saadi v. Italy, cited above, paras. 95, 124 and 125.

[41] Gebremedhin v. France, no. 25389/05, paras. 54-58, ECHR 2007-II; Kebe and Others v. Ukraine, no. 12552/12, (12 January 2017), para. 87; M.A. and Others v. Lithuania, no. 59793/17, (11 December 2018), para. 102 and 103; and Ilias and Ahmed v. Hungary [GC], no. 47287/15, (21 November 2019), para. 123-128.

[42] N.D. and N.T. v. Spain, Applications nos. 8675/15 and 8697/15, [GC], para. 193; Andric v. Sweden, App no. 45917/99, (23 February 1999), para. 1; Čonka v. Belgium, App no. 51564/99, (5 February 2002), para. 59; Sultani v. France, App no. 45223/05, (26 September 2007), para. 81.

[43] Hirsi Jamaa and Others, op.cit., paras. 183

[44] Georgia v. Russia (I), op.cit., para. 171.

culpable conduct.[45] In *N.D. and N.T.* the Court clarified that this principle "must *also apply to situations in which the conduct of persons who cross a land border in an unauthorised manner,* ***deliberately take advantage of their large numbers and use force****, is such as to create a clearly disruptive situation which is difficult to control and endangers public safety"*.[46] This wording suggests that such conduct needs to fulfil a number of criteria, which have to be construed strictly due to the fact that they apply to a situation limiting the scope of protection afforded by Article 4 of Protocol No. 4.[47] **Where applicants have not arrived in large numbers; nor used force to the extent that it would create a clearly disruptive situation which is difficult to control and endangers public safety, the respondent State should generally not be able to rely on this principle.**

14. In this context, this Court will also consider whether the State provided **genuine and effective access to means of legal entry**, in particular border procedures which allow for applications to be submitted and processed in a manner consistent with international norms.[48] When assessing the accessibility of procedures, due regard must also be given to independent reports evidencing a wider state policy of refusing entry to foreigners seeking access to international protection.[49] Where the State has provided genuine and effective access to means of legal entry, but an applicant did not make use of them, it has to be considered, without prejudice to the application of Articles 2 and 3, whether there were cogent reasons not to do so which were based on objective facts for which the State was responsible.[50]

15. In this context, the independent reports concerning the situation in Croatia indicate an extensive state policy and widely known practice of foreigners coming from Bosnia and Herzegovina being forced back over the border in Croatia, regardless of whether they expressed a fear of treatment contrary to the Convention in their countries of origin as highlighted at paragraph 7. The cumulative evidence revealing the prevalence of violence and forced removals are being recognised by domestic courts across Europe.[51] To illustrate, the Federal Administrative Court of Switzerland suspended the Dublin transfer of an asylum applicant to Croatia in July 2019 in light of evidence of summary expulsions at the Croatian border with Bosnia-Herzegovina,[52] and the European Ombudsman's Office opened an inquiry into the possible failure of the European Commission to ensure that Croatian authorities respected fundamental rights while conducting EU-funded border operations against migrants and refugees.[53]

16. Finally, once Article 4 of Protocol No. 4 is engaged it is incumbent on the State, under Article 13 ECHR, to have in place and guarantee access to an effective remedy. To be effective, a remedy must offer independent and rigorous scrutiny before the competent authorities in the domestic procedures before the collective expulsion

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[45] Berisha and Haljiti v. the former Yugoslav Republic of Macedonia, (dec.), no. 18670/03, 2007, para, 247 and Dritsas and Others v. Italy, (dec.), no. 2344/02, (1 February 2011), para. 7.

[46] N.D. and N.T. v. Spain, op.cit.,, § 201. In this case, the choice of the word "storming" is not coincidental as the Court heavily focuses on the applicants' arrival '*en masse'* and emphasises the use of force [para. 201]. The latter phrase is mentioned three times in paragraphs 201, 210, 211 and, most importantly, in para. 231, where the assessment of the Article 4 of Protocol No. 4 claim is concluded and the non-violation is found.

[47] ECtHR: "*only a narrow interpretation of those exceptions is consistent with the aim of that provision, namely to ensure that no one is arbitrarily deprived of his or her liberty (Labita v. Italy [GC], no. 26772/95, § 170; Velinov v. the former Yugoslav Republic of Macedonia, no. 16880/08, § 49).*" (Khlaifia and Others v Italy, *no. 16483/12,* para 88); **CJEU**: "***The strict approach of the CJEU to interpreting exceptions to differential treatment suggests any exceptions will be interpreted narrowly****, since it places emphasis on the importance of any rights created for individuals under EU law"* (CJEU, Case 222/84, Johnston v. Chief Constable of the Royal Ulster Constabulary, 15 May 1986, para. 36); **UNHCR**: *"[The Convention] had to be* ***interpreted in a manner which ensured that rights were given a broad construction and that limitations were narrowly construed****, in a manner which gave practical and effective protection to human rights,…"* (Saadi v UK, *no. 13229/03*, para 55).

[48] N.D. and N.T. v. Spain [GC], op.cit., para 209.

[49] M.K. and Others v Poland,Nos. 40503/17, 42902/17, 43643/17, 23 July 2020, para. 208.

[50] N.D. and N.T. v. Spain, [GC], op.cit., para. 201, 209-211

[51] Multiple reports have documented brutal violence and humiliation tactics used by the Croatian authorities, including: beatings; stealing or destroying belongings and clothes of those being returned and tagging individuals with spray paint. The Guardian, Article, 21 October 2020, "*Between 12 and 16 October, the Danish Refugee Council (DRC) has documented a series of brutal pushbacks at the border between Croatia and BiH involving more than 75 persons. They have all independently reported inhumane treatment, savage beatings and one of the testimonies includes a report of serious sexual abuse"*. See also: Ombudsman of Republic of Croatia, News, *Human rights of migrants: complaints regarding police treatment still not investigated,* 20 October 2018.

[52] Federal Administrative Court of Switzerland, 12 July 2019, No. E-3078/2019. *See also;* EDAL, Switzerland: Suspension of Dublin transfer to Croatia due to summary returns at border with Bosnia Herzegovina, 12 July 2019.

[53] European Ombudsman's Office, 10 November 2020, *"Ombudsman inquiry opened on how European Commission seeks to ensure protection of fundamental rights in border management operations by Croatian authorities*", at: https://europa.eu/!Xw69pd.

took place.[54] In addition, this Court has reiterated that the remedy available must have suspensive effect to meet the requirements of Article 13 of the Convention.[55]

17. **The interveners submit that the prohibition of collective expulsion under Article 4 of Protocol No. 4 would be theoretical and illusory if it did not entail a rigorous assessment, including the examination of the particular circumstances of those forming part of the group of non-nationals concerned by the measure. This obligation also entails their effective identification and registration as well as the right to receive information about access to applicable protection procedures and remedies, even more importantly if there is reason to suspect that someone may be a child.**

18. **Where the individuals have not arrived in large numbers using force to the extent that it would create a clearly disruptive situation which is difficult to control and endangers public safety, the respondent State cannot rely on this principle.[56]**

19. **Where the applicants claim to have been under the exclusive control of the authorities during the removal operation, and when credible sources consistently describe the circumstances of such removal operations[57], this evidence should be accepted to corroborate applicant's claim.**

IV. Additional procedural guarantees required for migrant children

20. This Court has consistently held that children, due to their age and personal circumstances, are among the most vulnerable persons in society.[58] Where children are also seeking asylum their extreme vulnerability is compounded,[59] because asylum seekers themselves form part of a vulnerable group.[60] Respect for the double vulnerability of child asylum seekers, *qua* child and *qua* asylum seeker, not their irregular status, must be the primary consideration.[61]

21. This Court has held that the ECHR does not exist in a vacuum and States remain bound by their obligations under international law when implementing the Convention, and Article 53 ECHR makes this expressly clear.[62] In this respect, particular importance is to be given to the obligations stemming from the Convention on the Rights of the Child, which also binds all Contracting States to the ECHR. . The particular vulnerability of child seeking refugee status is recognised by Article 22 CRC and elaborated on by the Committee on the Rights of the Child in its General Comment (GC) 14.[63] To fully enjoy their CRC rights, children must be appropriately protected and assisted.[64] In the migration field, this means that States have a duty to duly support children and ensure their effective access to the protection procedure.

22. On a procedural level, respect for this principle requires States to ground any decision to remove a child to their country of origin '*on evidentiary considerations on a case-by-case basis and pursuant to a procedure with appropriate due process safeguards, including a robust individual assessment and determination of the best-interests of the child [ensuring], inter alia, that the child, upon return, will be safe and provided with proper care and enjoyment of rights.*'[65]

23. In addition, as recognised by this Court and the CRC, the principle that the best interests of the child shall be a primary consideration in all actions concerning children is a fundamental general and interpretative legal principle, a substantive right and a rule of procedure under international law.[66] In *Rahimi v. Greece,* this Court

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[54] De Souza Ribeiro v. France, no. 22689/07, (13 December 2012), para 82; Hirsi Jamaa and Others v. Italy, op. cit. para 206; Mohammed v. Austria, no 2283/12, (6 June 2013), para 80.
[55] Khlaifia and Others v. Italy [GC], op.cit., para. 17; M.S.S. v. Belgium and Greece [GC], o.cit., para. 388; Hirsi Jamaa and Others, op.cit., para. 206
[56] Moreover, no form of indiscriminate collective expulsion is justified under the Dublin Regulation. States remain under an obligation to act in compliance with the rights under the Convention when carrying out returns.
[57] See paragraphs 7, 15 and 41 of this intervention for more information.
[58] Rahimi v. Greece, no. 8687/080, 5 July 2011, para. 87.
[59] Mubilanzila Mayeka and Kaniki Mitunga v. Belgium, no. 13178/03, (12 October 2006), para. 55; Popov v. France, nos. 39472/07 and 39474/07, (19 April 2012), para. 91; Tarakhel v. Switzerland [GC], No. 29217/12, (4 November 2014), para. 99.
[60] M.S.S. v. Belgium and Greece [GC], No. 30696/09, (21 January 2011), para. 232.
[61] Mubilanzila Mayeka and Kaniki Mitunga v. Belgium, op.cit., para. 55.
[62] Pini and Ors v. Romania, no. 78028/01, (22 June 2004), para 138.
[63] UN CRC General Comment No. 14, paras 75-76; UN CRC Article 22.
[64] UN CRC General Comment No. 7, para 32.
[65] Ibid., para. 33.
[66] Rahimi v. Greece, op. cit., para. 108. It is established in Article 3(1) CRC and applies to public or private social welfare institutions, courts of law, administrative authorities or legislative bodies who must assess and be guided by the principle in all their acts. UN CRC, General comment No. 14 (2013), op. cit. See also, Neulinger and Shuruk v. Switzerland [GC] (No. 41615/07), 6 July 2010, para. 135.

confirmed that, in all actions relating to children, a best interests assessment must be undertaken separately and prior to a decision that will affect the child's life.[67] Any such decisions must clearly reflect the assessment that has followed from this approach.[68] In procedural terms, the Committee clarified that adherence to this principle must be ensured "explicitly through individual procedures as an integral part of decisions [on] the entry, residence […] of a child".[69] The assessment must be carried out "systematically",[70] "by actors independent of the migration authorities" and ensure "meaningful participation" of the child, his/her representative and child protection authorities.[71]

24. The best interests principle is aimed at ensuring the child's full, equal and effective enjoyment of human rights, including non-discrimination, the right to be heard,[72] protection from abuse, access to asylum, the receipt of appropriate protection and a standard of living adequate for the child's development.[73] It imposes an obligation to identify and evaluate in the specific factual context the relevant elements of a best interest assessment and to follow a procedure that ensures legal guarantees and the proper application of the right.[74] For unaccompanied and separated children, it relies, as an initial step, on **children's prioritised identification** and **prompt registration** in a specific child sensitive asylum procedure.[75] This Court has recently demonstrated that the Convention will be violated when the authorities act with a view to speedily remove child applicants as opposed to acting in their best interests.[76]

25. Further, by virtue of the principle of the benefit of the doubt on a child's minor age, an individual should be treated as a child unless and until otherwise proven.[77] When such a doubt arises, it is on the state authorities to dispel it – prior to subjecting an individual to any treatment that may not be in line with the rights of the child and corresponding substantive and procedural obligations on the state authorities.[78]

26. **The interveners submit that the best interest of the child principle requires assessing the risk of irreparable harm should the child be removed, in line with States' *non-refoulement* obligations. Where children are involved, the assessment of a risk of *refoulement* should be conducted in an age and gender-sensitive manner and in compliance with the child-specific guarantees under international and EU law. An individual who may be a child, should be treated as a child unless and until proven otherwise and must be granted access to relevant substantive and procedural safeguards. Accessibility to key protection measures is a crucial prerequisite to the subsequent procedures in order to comply with Article 3.**

V. Application of Convention rights in accordance with Article 53 and, in particular, obligations under EU law

27. The interveners note that under Article 53 ECHR, where Contracting Parties to the ECHR are also bound by EU law, the Court must ensure that the Convention rights are interpreted and applied in a manner which does not diminish the rights guaranteed under the applicable EU law.[79]

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[67] Rahimi v. Greece, op. cit, para. 108.
[68] UN CRC, General comment No. 14*, op. cit.,* paras 6(c) and 14(b).
[69] UN Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families (CMW), *Joint general comment No. 3 (2017) of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families and No. 22 (2017) of the Committee on the Rights of the Child on the general principles regarding the human rights of children in the context of international migration*, 16 November 2017, CMW/C/GC/3-CRC/C/GC/22,
[70] CRC/CMW, Joint General Comment No. 22/3 (2017) op. cit., para. 31
[71] CRC/CMW, Joint General Comment No. 22/3 (2017) op. cit., para. 32(c)
[72] UN CRC, General comment No. 12 (2009): The right of the child to be heard, 20 July 2009, CRC/C/GC/12**.**
[73] Articles 2, 5, 10, 12, 19, 22 and 27 Convention on the Rights of the Child; UN CRC General comment No. 14, paras. 4, 51, 82; UN CRC, General comment no. 5 (2003): General measures of implementation of the Convention on the Rights of the Child, 27 November 2003, CRC/GC/2003/5, para. 12.
[74] UN CRC General comment No. 14, para. 46; N.Ts .v. Georgia, No. 71776/12, (2 February 2016).
[75] UN CRC General comment No. 6, para. 31. See further UNHCR, Guidelines on Policies and Procedures in dealing with Unaccompanied Children Seeking Asylum, February 1997, para 5.
[76] Moustahi v. France, no. 9347/14, (25 June 2020), paras. 68-70.
[77] Committee on the Rights of the Child, General Comment No. 6: Treatment of Unaccompanied and Separated Children Outside their Country of Origin, para 31.
[78] CRC GC 23 (joint GC with CRMW, GC4), paragraph 4: "To make an informed estimate of age, States should undertake a comprehensive assessment of the child's physical and psychological development [...]. Such assessments should be carried out in a prompt, child-friendly, gender- sensitive and culturally appropriate manner, including interviews of children and, as appropriate, accompanying adults, in a language the child understands. Documents that are available should be considered genuine unless there is proof to the contrary, and statements by children and their parents or relatives must be considered. **The benefit of the doubt should be given to the individual being assessed**. [...]."
[79] As regards EU Member States, the ECHR must not be applied in such a way as to diminish human rights protection, "which may be ensured under the laws of any High Contracting Party or under any other agreement to which it is a party." The Court will recall that in

28. The EU Charter of Fundamental Rights (CFR)[80] enshrines guarantees fundamental to the issues under consideration, such as the right to asylum (Article 18), the protection of human dignity (Article 1), the prohibition of torture and inhuman and degrading treatment (Article 4), protection in the event of removal, expulsion or extradition (Article 19), the rights of the child (Article 24) and the right to an effective remedy and to a fair trial (Article 47).

29. EU law, including the EU asylum *acquis,*[81]is relevant to the present case as the principle of the rule of law runs like a golden thread through the Conventi on.[82] The Convention requires that all measures carried out by Contracting Parties that affect an individual's protected rights be "in accordance with the law".[83] In some circumstances the law will be EU law. In this context, in determining whether the Contracting Parties' obligations under the Convention are engaged in a particular case - and, if so, the scope and content of these obligations - this Court has considered the EU asylum *acquis* materially relevant when the Respondent States are legally bound by that *corpus* of law.[84]

30. The EU asylum *acquis* is comprised of a number of legal instruments and their interpretation by the CJEU. Under the recast APD,[85] which provides for effective access to the asylum procedure for all applicants, without any exception,[86] border procedures shall ensure in particular that persons willing to apply for international protection: "(a) have the right to remain at the border or transit zones of the Member State; (b) are immediately informed of their rights and obligations; (c) have access to interpretation; (d) are interviewed […] by persons with appropriate knowledge of the relevant standards applicable in the field of asylum and refugee law; (e) can consult a legal adviser or counsellor".[87]

31. Moreover, Article 6(1) of the recast APD obliges EU Member States' authorities to facilitate the registration of asylum applications, including recording information or statements of the applicant or relating to the substance of their request for international protection, and obliges Member States to ensure that such authorities receive the relevant information and the appropriate training to perform their task properly.[88] The Directive does not further impose any formal requirements on applicants with regard to how an asylum application must be made.

32. In this regard, the Court of Justice of the European Union (CJEU) has recently stated that one of the objectives pursued by the recast APD is to ensure the easiest possible access to the procedure for granting international protection. In order to ensure such access, Member States have an obligation under Article 6 APD to ensure that persons who have applied for international protection have the "concrete possibility to lodge an application as soon as possible". On the other hand, an unauthorized third-country national should have sufficient procedural guarantees to pursue his or her application at all stages of the procedure.[89]

MSS the Grand Chamber took into account Greece's obligations under the Reception Conditions Directive, as part of its national law, to ensure adequate material reception conditions, finding that the situation of extreme poverty brought about by the inaction of the State was treatment contrary to Article 3 ECHR.

[80] European Union, Charter of Fundamental Rights of the European Union, 26 October 2012, 2012/C 326/02

[81] The EU asylum *acquis* is the *corpus* of law comprising all EU law adopted in the field of international protection claims. The EU asylum *acquis* is "a body of intergovernmental agreements, regulations and directives that governs almost all asylum-related matters in the EU."

[82] The Convention's preamble recalls the rule of law.

[83] See Article 1 and 8 (2) ECHR

[84] *M.S.S. v. Belgium and Greece,* op. cit., paras 57-86 and 250. *Sufi and Elmi v. the United Kingdom*, nos 8319/07 and 11449/070 (ECtHR 28 November 2011), paras 30-32 and 219-226, where the Court had regard to Council Directive 2004/83/EC of 29 April 2004 on minimum standards for the qualification and status of third country nationals or stateless persons as refugees or as persons who otherwise need international protection and the content of the protection granted ("the Qualification Directive"), as well as to a preliminary ruling by the European Court of Justice in the case of *M. and N. Elgafaji v. Staatssecretaris van Justitie* asking, *inter alia*, whether Article 15(c) of the Qualification Directive offered supplementary or other protection to Article 3 of the Convention. See also M.A. and Others v. Lithuania, cited above, para. 113, and N.D. and N.T. v. Spain, cited above, para. 180.

[85]Directive 2013/32/EU of the European Parliament and of the Council of 26 June 2013 on common procedures for granting and withdrawing international protection (recast) [2013] OJ L 180/60 ('recast Asylum Procedures Directive'). In force on 20 July 2015 and had to be transposed by 20 July 2015) apart from Articles 31(3), (4) and (5) which must be transposed by 20 July 2018.

[86] Recast Asylum Procedures Directive, Recital 25.

[87] Recast Asylum Procedures Directive, Articles 2(p), 6, 8, 10-12, 15 and 19.

[88] CJEU, Judgment of 25 June 2020, VL v. Ministerio Fiscal, C-36/20 PPU, , ECLI:EU:C:2020:495 paras. 58 - 60

[89] CJEU,Judgment of 25 June 2020, VL v. Ministerio Fiscal, C-36/20 PPU, ECLI:EU:C:2020:495 , paras. 63 and 64. See also Advocate General Szpunar conclusions on the same case, 30 April 2020, para 61: *"I note that the objective of Article 6(1) of Directive 2013/32 is to ensure that persons wishing to obtain the status of applicants for international protection have effective access to the procedure for examination, and that such access is as rapid and as straightforward as possible, by enabling them to formulate their applications, or in other words express their wish to make an application to the national authority with which they first come into contact, whichever national authority that may be, including, in particular, the authorities responsible for border control and immigration."*

33. In light of the CJEU's jurisprudence requiring EU law provisions to be interpreted so as to provide them with *effet utile*,[90] the EU asylum *acquis* requires Member States to provide information detailing the possibility of making an application for international protection available to all non-nationals including those held in detention facilities, apprehended during the surveillance operations or present at border crossings, including transit zones, and at external borders.[91] Construed in light of the obligations under the EU Charter, in particular Articles 18 and 19, such information must be provided pro-actively to all those apprehended at or near the border in order to make non-*refoulment* obligations and access to right to asylum under the Charter available not only in law, but in practice. Moreover, in order to be effective and useful, such information must be provided in a language the non-nationals concerned understand.[92] Similarly, observance of the rights of the defence is a fundamental principle of EU law, in which the right to be heard in all proceedings is inherent.[93]

34. **The interveners submit that any expression of the wish to obtain protection to any Member State authority must be considered an application "being made", whether done orally or in writing and regardless of whether the person uses the words "asylum" or "protection".**

35. **The interveners submit that the EU asylum *acquis* interpreted in light of EU fundamental rights and principles[94] envisages effective access for all who may wish to apply for international protection to the appropriate procedures contained in the Asylum Procedures Directive. Moreover, the Directive envisages the right to an effective remedy against any decision regarding an asylum application, including at the border and in the transit zone.[95] This is only possible after an individualised identification and a meaningful opportunity to raise objections, which itself requires having had prior access to information about the procedures and legal assistance.**

VI. Use of force in operations aimed at imposing restrictions on freedom of movement or deprivation of liberty with a view to carrying out an expulsion

36. The main rules governing the use of force were first articulated in two instruments: the 1979 Code of Conduct for Law Enforcement Officials[96] and the 1990 Basic Principles on the Use of Force and Firearms by Law Enforcement Officials.[97] These also clarified standards contained in international human rights law, including in relation to the right to life, freedom from torture or cruel, inhuman or degrading treatment and the right to humane treatment. Many of the key norms set out in these texts are widely regarded as binding international law. For instance, the European Court of Human Rights and the Inter-American Court of Human Rights as well as the Human Rights Committee, have cited the 1990 Basic Principles as authoritative statements of international rules governing use of force in law enforcement.[98]

37. In so far as it governs use of force, the law of law enforcement has three main components: necessity, proportionality, and precaution.[99] The principle of necessity holds that force used for the purpose of law enforcement must be **necessary in the circumstances**. Article 3 of the 1979 Code of Conduct stipulates that law enforcement officials may use **force 'only when strictly necessary'**. The accompanying official commentary emphasises that any use of force by law enforcement officials should be **'exceptional'**. It follows that in many instances force will not be legally permissible and non-violent means should therefore be used to ensure compliance.[100]

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[90] CJEU,C-213/89 Factortame and Others [1990] ECR I-2433, para 20; Case C-118/00 *Gervais Larsy v. Institut national d'assurances sociales pour travailleur indépendants (Inasti)* [2001] ECR I-5063, paras 50-53; Recast Asylum Procedures Directive Article 8 (1).
[91] See Recital 26 Recast Asylum Procedures Directive, as well as Article 6.1 para 3 and Article 8 of the same Directive.
[92] Recast Asylum Procedures Directive, Article 8(1) interpreted in light of the principle of effectiveness. Case C-13/01 *Safalero Srl v. Prefetto di Genova* [2003] ECR I-8679, para 49.
[93] CJEU, Judgment of 11 December 2014, Khaled Boudjlida v. Préfet des Pyrénées-Atlantiques, C-249/13, ECLI:EU:C:2014:2431, para. 30.
[94] See paras. 27 – 33 of this intervention for more information.
[95] Asylum Procedures Directive, Recital 27 and Article 39; Recast Asylum Procedures Directive, Recitals 25, 30 and Article 46.
[96] The 1979 Code of Conduct for Law Enforcement Officials, adopted by UN General Assembly Resolution 34/169 of 17 December 1979.
[97] The Basic Principles, adopted by the Eighth UN Congress on the Prevention of Crime and the Treatment of Offenders, Havana, 27 August to 7 September 1990, Resolution 45/166.
[98] ECtHR, Benzer v Turkey, no. 23502/06, (12 November 2013), para.90; Inter-American Court of Human Rights, *Cruz Sánchez et al v Peru*, 17 April 2015, para. 264; and Human Rights Committee, General Comment 36, para 13.
[99] Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, Christof Heyns, A/HRC/26/36, 1 April 2014, paras. 59–73.
[100] 1990 Basic Principles, Principle 4.

38. Proportionality only comes into play if the principle of necessity is respected. Thus, the use of force must already be necessary in the circumstances and the force actually used must be no more than the minimum necessary to achieve a legitimate law enforcement objective. The principle of proportionality may act to render such "necessary" force unlawful.[101]

39. This Court has stated that Contracting Parties must abstain from any action that would prevent people from accessing procedures for determining their protection needs and must refrain from using unnecessary or excessive force in operations aimed at imposing restrictions on freedom of movement or deprivation of liberty with a view to carrying out an expulsion.[102] The Court has also reiterated the absolute nature of the prohibition of torture and inhuman and degrading treatment and punishment.[103]

40. According to the Court's case law, Article 3 does not prohibit the use of force for effecting an arrest. Nevertheless, **such force may be used only if it is indispensable and it must never be excessive**.[104] Furthermore, **any recourse by agents of the State to physical force against a person which has not been made strictly necessary by his or her own conduct diminishes human dignity and in principle infringes the right set forth in Article 3**.[105] The Court has also applied this strict proportionality test in situations where the individuals were already in the hands of law enforcement agencies.[106]

41. The allegations of excessive use of force and violent expulsions on Croatian borders have been well documented by numerous sources. Croatia's Ombudsperson[107] as well as the Council of Europe High Commissioner for Human Rights,[108] United Nations High Commissioner for Refugees (UNHCR) and a group of Members of European Parliament (MEPs)[109] have all voiced concern over growing reports of systemic summary expulsions and violence and called on Croatia to investigate the allegations. Violence by the Croatian authorities has also been documented against children.[110] Recently, the UN Special Rapporteurs noted: "*physical violence and degrading treatment against migrants have been reported in more than 60 percent of all recorded pushback cases from Croatia between January and May 2020, and recent reports indicate the number of forced returns is rising"*, furthermore, *"abusive treatment of migrants has included physical beatings, the use of electric shocks, forced river crossings and stripping of clothes despite adverse weather conditions, forced stress positions, gender insensitive body searches and spray-painting the heads of migrants with crosses*" and highlighted that *"such treatment appears specifically designed to subject migrants to torture and other cruel, inhuman or degrading treatment as prohibited under international law".*[111]

42. **The interveners submit that force should not be used by default in the context of border management. Force should only be employed exceptionally – subject to strict necessity and proportionality requirements. Lack of resistance to border management processes will render the use of any force unnecessary. Any use of unnecessary or disproportionate force in effecting a deprivation of liberty or restricting freedom of movement to carry out an expulsion infringes Article 3. In particular, no additional force is lawful when the need has passed, including when an individual is safely and lawfully detained. Moreover, force must never be used vindictively or as a form of extrajudicial punishment.**

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[101] Nachova v. Bulgaria, No. 43577/98, 2005, para. 95.
[102] *Mutatis mutandis* Sharifi and Others v. Italy and Greece, op. cit., paras. 217, 219, 223.
[103] See eg. Soering v. United Kingdom, no. 14038/88, (7 July 1989), para. 89; Tyrer v. United Kingdom, no. 5856/72, (25 April 1978), para. 30; Chahal v. United Kingdom, no. 22414/93, (15 November 1996), para. 79; and D v. United Kingdom, no. 30240/96, (2 May 1997). paras 46-54.
[104] Ivan Vasilev v. Bulgaria, no. 48130/99, (12 April 2007), para. 63.
[105] Rachwalski and Ferenc v. Poland, no. 47709/99, (28 July 2009), para. 59; Nalbandyan v. Armenia, nos. 9935/06 and 23339/06, (31 March 2015), para 96.
[106] Klaas v. Germany, 22 September 1993, para. 30, Series A no. 269; and Milan v. France, no. 7549/03, (24 January 2008), paras. 52-65.
[107] Novi list, "*Pravobraniteljica: Policija i dalje krši ljudska prava migranata. Krije kako ih tretiraju*" 18 October 2018.
[108] Council of Europe, Commissioner calls on Croatia to investigate allegations of collective expulsions of migrants and of violence by law enforcement officers, 5 October 2018,
[109] InfoMigrants, "*EU Parliament members demand interrogation of Croatia's treatment of migrants,"* 11 September 2018.
[110] Border Violence Monitoring Network, '*Report from the Centre for Peace Studies on the Pushback of Children'*, May 2020; Are You Syrious?, '*Illegal Push-backs and Border Violence from the EU External Borders to Bosnia'*, September 2018.
[111] Joint statement of Felipe González Morales, the Special Rapporteur on the human rights of migrants, and Nils Melzer, Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Geneva, 19 June 2020.