
BALKANS DOSSIER

The Balkan route

Migrants without
rights in the heart
of Europe

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heart of Europe**

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Cover: Seyed, 25, left
Pakistan with a group
of friends. While they
waited to cross the
border, they found
refuge in an abandoned
house in Bosnia, near
the Croatian border.
December 2019

INDEX

The route, the routes	pag. 6
Introduction	9
1__ People in transit. The first crossroads along the route	11
2__ Bosnia and Herzegovina crossroads	18
3__ Push-backs and the collapse of the European legal system	20
4__ Italy's responsibilities for readmissions to Slovenia	29
5__ The criminalisation of solidarity along the Balkan route	34
6__ The outsourcing of borders. Agreements between the EU and third countries and the role of Frontex	36
7__ How the management of the Covid-19 emergency affected the route	41

**“Why are we
treated in such
an inhuman
way?”**

M'zia Jafari, 30,
born in Afghanistan

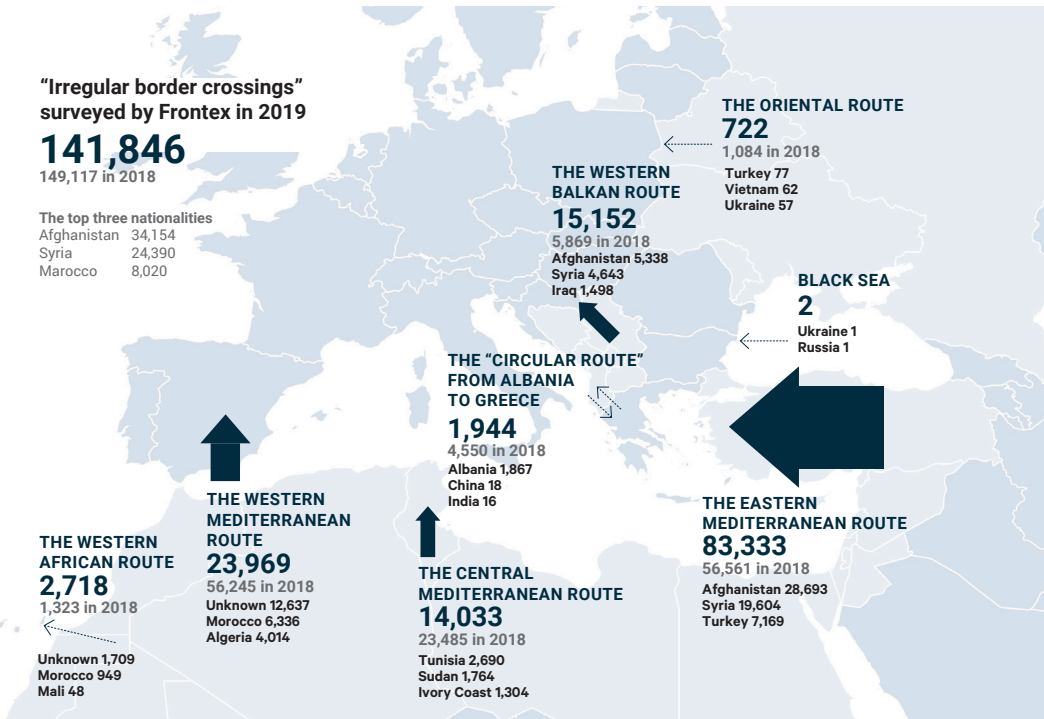




The route, the routes

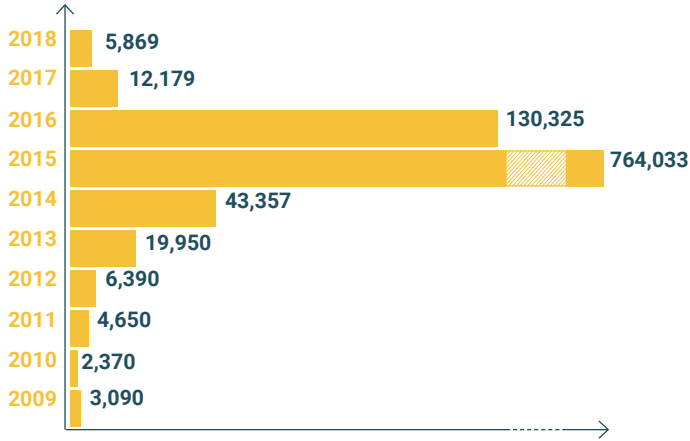
The Balkan route is not the only route making its way to Europe. By sea or land, thousands of people in recent years have crossed (or attempted to do so) the European Union's borders

THE ROUTES TO EUROPE

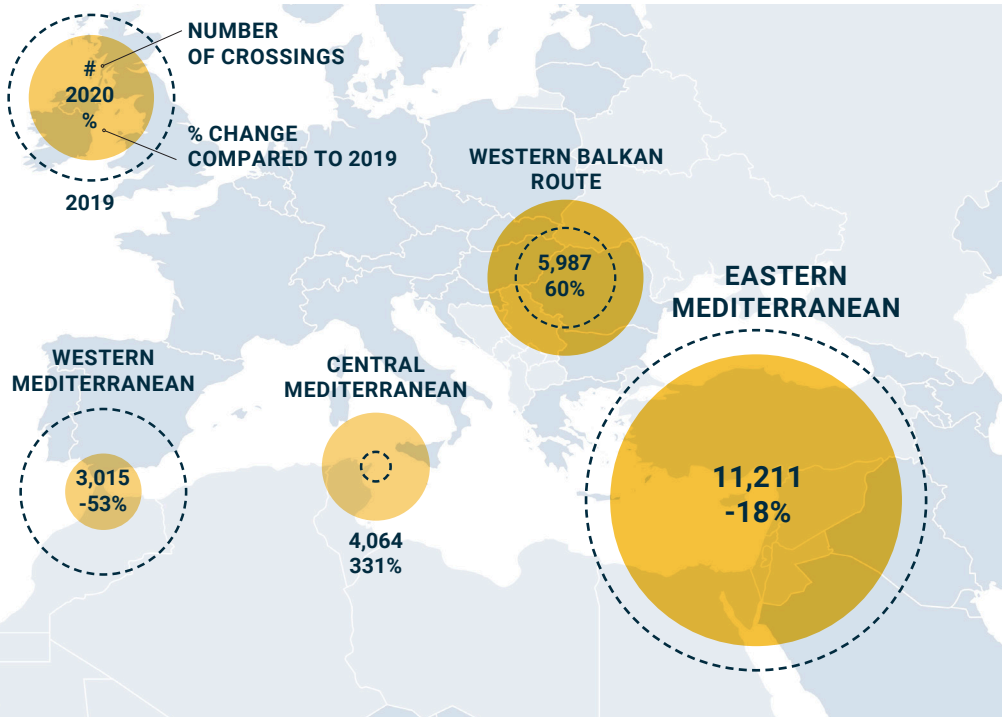


Source: Frontex, 2020

— FLOWS ALONG THE BALKAN ROUTE



— “CROSSINGS”: JANUARY-APRIL 2020





INTRODUCTION

2015, the key year for the “Balkan route”

2015 was the year that saw “irregular border crossings” into Europe explode to 1.8 million people and the definitive closure of the “Fortress”. More than 1 million people arrived from sea crossings

On 5 September 2015, the lifeless body of Alan Kurdi, a three-year-old Kurdish-Syrian child, was found on a Turkish beach. He had fallen into the sea while attempting to reach the Greek islands. It was not the first drowning of that year: on April 18, at least 700 people died in a shipwreck off the coast of Lampedusa.

Since 8 September 2015, hundreds of thousands of people - mainly from Syria, Iraq and Afghanistan - have arrived in Europe through Balkan countries, impacting the morphology and boundaries of these areas.

In October 2015 - under the leadership of then President of the European Commission Jean Claude Juncker - representatives of UNHCR and Frontex met in Brussels alongside the leaders of Albania, Austria, Bulgaria, Croatia, Macedonia, Germany, Greece, Hungary, Romania, Serbia and Slovenia, to discuss joint management of the Western Balkans migrant route, strengthening of border controls and the creation of a coordinated “hot spot” system between the various countries involved.

Refugee transit camps, ad hoc railway stations, food and clothing distribution centres and medical clinics have sprung up along this effectively legalised corridor monitored by the military. In addition to support provided by non-government organisations, the mobilisation of local and international civilian society in solidarity with migrant people was fundamental.

Since November 2015, border crossings have become increasingly difficult. Starting from Macedonia as far as the heart of

Page 4: Hussain, 28, originally from Pakistan, taking a rest in temporary lodgings near Velika Kladuša while waiting to be able to cross the Croatian border. December 2019

Side: a young Egyptian on the mountain path from Bosnia to the border with Croatia. December 2019

**211,000
PEOPLE
ARRIVED
IN GREECE
BY SEA IN
OCTOBER
2015 ALONE**

Europe, the road is blocked for people who cannot prove they are Syrian, Iraqi or Afghan. Close to the Macedonian border of Gevgelija, the first embryo of what later became the “camp of camps”, the symbol of European Union shame, was created in Greece: Idomeni, that was cleared starting in mid-2016.

Statistics published by the United Nations High Commissioner for Refugees (UNHCR) at the end of 2015 indicated that 911,000 people arrived in Greece - the beginning of the route - comprising 500,000 Syrians, 210,000 Afghans and 90,000 Iraqis.

What had only been declared yet never made effective emerged at last in March 2016 in the following events: the borders were closed again. The legalised, economic and protective channel was interrupted. As a result of the improperly named “agreement” between the European Union and Turkey, the borders of States along the Balkan route were definitively made impassable and the journey to Europe more dangerous and expensive, even in terms of human lives. About 60,000 people remain trapped in Balkan countries (50,000 in Greece alone). The foundations were laid for what would happen later on: further outsourcing of the management of migration flows and control of the European Union’s external borders, new internal measures implemented by various EU Member States and agreements with Balkan countries. Against people’s rights.

1.

People in transit. The first crossroads along the route

The EU delegated Turkey in 2016 to control its external borders. While the situation in the Middle East worsened, EU governments had only one answer in mind: the “hot spot” approach

IN GREECE

With the agreement in March 2016, the European Union delegated de facto control of part of its external borders to Turkey, causing an initial and progressive decrease of entries in Greece, only to then see another increase to 36,310 people during 2017 and 50,508 in 2018. UNHCR data for 2019 indicates that the sub-

stantial closure of the central Mediterranean route meant that Greece once again became the country with the largest registered numbers: 74,613.

In the first two months of 2020, Greece saw a further increase in arrivals because of the worsening geopolitical situation in the Middle East, with Syria in first place, and the change in Turkish migration policy which, as in 2016, used asylum seekers in Turkey itself to exert pressure on the European Union. As of June 2020, 121,000 people were registered in Greece, of whom 82,700 in 28 government camps throughout the mainland and 38,300 on the islands.

Of these, approximately 50% were Afghans, 20% Syrians, 6% Somalis and Palestinians and 5% Congolese. About a third of total were minors, of whom more than half are under 12 years of age.

This situation is the outcome of a series of measures implemented at national and European policy level; the above-mentioned “agreement” between the EU and Turkey in March



2016 and the “hot spot approach”, based on an emergency response, saw the creation of reception and identification centres in the five Greek Aegean islands. Asylum seekers arriving by sea in Greece were only allowed to transfer to the mainland after their requests for international protection were processed. This so-called “geographical restriction” process caused a huge delay in responding to asylum applications, thereby blocking thousands of people in refugee camps that more closely resemble prisons for months or even years.

Most asylum seekers and refugees are accommodated in overcrowded facilities where sanitary standards are below minimum humanitarian levels; various NGOs denounced that many people suffer from psychological problems and attempt suicide because of the disastrous conditions they are forced to live in. Such measures exacerbated social conflict, especially in the islands, where extreme right-wing groups were involved in serious episodes of violence against asylum seekers, NGOs and volunteers, as well as journalists who attempted to document the situation.

Although Greece is a member of the European Union, it is largely a transit country where people only remain while waiting to continue their journeys. Many people attempt to leave the country on air flights using false documents or by hiding under trucks travelling from Patras and Igoumenitsa to the ports of Bari, Brindisi, Ancona or Venice in Italy. Just as many seek to continue their journey overland, along the Balkans route.

IN SERBIA

A cavallo tra il 2016 e il 2017, in tutta la Serbia sono migliaia le Between 2016 and 2017, thousands of people lived in the open all over Serbia. This Balkan country at the time was a fundamental crossroads on the way to Europe, having borders - among others - with Hungary, Croatia and Romania. The abandoned sheds near the bus station in Belgrade - the so-called barracks - become the nerve centre for this route. The situation further north, on the border with Hungary, is far from simple. The second fence of the notorious “Orban Wall” was completed in March 2017: 175 kilometres of barbed wire four metres high. A barrier and a warning even for the rest of Europe.

**IN GREECE,
THE MAJORITY
OF ASYLUM
SEEKERS AND
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ED FACILITIES
WITH VERY
POOR HY-
GIENE-SANI-
TARY STAND-
ARDS**

A drone photograph of the Glina river dividing Bosnia and Croatia, with wire netting and barbed wire. December 2019

Since May 2017, Serbia has set up camps funded by the European Union and developed an asylum system for the more than 12,000 people who - in just ten months - had expressed their intention to apply for international protection there. At the same time, the barracks are demolished. As previously happened in Idomeni, after allowing a kind of social bomb to develop for months, the intervention of law enforcement agencies and bulldozers was proposed and then adopted as a way to resolve the situation; at the same time, most of the groups, NGOs and associations involved with migrants on a daily basis were excluded from the centres. Relationships, communications and discussion not mediated by supervisory authorities came to an end. The route is becoming increasingly narrow.

The only legalised route into the European Union involves coordination between Serbian and Hungarian authorities managed through a system of waiting lists compiled by community leaders inside the camps that - as early as mid-2016 - allowed transition to 500 people per week; this figure then fell dramatically to 50 and dropped further in 2017 - varying between 20 and 10 passes per week - until it ran out. People whose applications were accepted, thereby enabling them to apply for asylum, were locked up in no man's land on the border between Serbia and Hungary, in full-scale open-air prisons that were only closed in view of their inhuman living conditions in May 2020 following a sentence issued by the Court of Justice of the European Union. There were only 280 people in them.

In October 2017, Médecins Sans Frontières (Doctors Without Borders) published the "Games of violence" report ([msf.org/sites/msf.org/files/serbia-games-of-violence-3.10.17.pdf](https://www.msf.org/sites/msf.org/files/serbia-games-of-violence-3.10.17.pdf)), a document that denounced and described, through medical reports and testimonies gathered in Serbia, the abuse suffered by minors perpetrated by Hungarian, Bulgarian and Croatian police. Police from European countries.

While between January 2018 and October 2019, according to UNHCR data, the number of people registered in the 18 migrant and asylum seeker centres managed by the Serbian Commissariat for Refugees and Migration (KIRS) fluctuated between 2,400 in summer and 4,200 in winter, with an estimated 300-500 in the jungles of Belgrade and close to the

IN OCTOBER 2017, MÉDECINS SANS FRONTIÈRES (DOCTORS WITHOUT FRONTIERS) PUBLISHED THE "GAMES OF VIOLENCE" REPORT DETAILING VIOLENCE AND ABUSE OF MIGRANTS BY EUROPEAN POLICE

borders, the latest report published in January 2020 prior to the Covid-19 emergency suggests that the number of people in the camps had grown again to almost 5,900 at the end of December. On average, 40% originated from Afghanistan and about 19% from Syria, with significant percentages also from Pakistan, Bangladesh, Iraq and Iran..

**JUST AS IN
IDOMENI,
INTERVENTION
BY POLICE
FORCES AND
BULLDOZERS
WAS ADOPTED
IN SERBIA AS
A MEANS TO
RESOLVE THE
SITUATION**

Page 16: view from a drone of the Vučjak camp the morning after it was cleared on 10 December 2019





Bosnia and Herzegovina crossroads

The shortest route to Slovenia, i.e. to the “Schengen area”, passes through here. The Tuzla, Sarajevo, Bihać and Velika Kladuša quadrilateral became a central point for migration routes

The increased arrivals in Greece also saw a relative increase in entries into Balkan countries. From the end of 2017, with the escalation of violence and blockades by Croatian and Hungarian police and the failure of the list system used by the Serbian government, the route through Bosnia and Herzegovina began to emerge and then become the main

route of access to Europe.

According to UNHCR, there were 24,067 registered entries into the country in 2018 and 29,196 in 2019. People arrived from Syria, Afghanistan, Pakistan, Iran and Iraq, as well as Algeria, Morocco, Bangladesh and Eritrea. This is an all but obligatory passage, since the shortest route to the Schengen area in Slovenia passes through this region. From here, the route continues towards Trieste and Gorizia or else to Austria. The most desirable destinations are still France, Germany and Northern European countries, where many have families waiting for them, there is more demand for workers and in any case better opportunities. Yet before that comes Croatia. Crossing Croatian territory has become one of the most tragic chapters in the history of the Balkans route: deaths, violence, illegal push-backs and violations of human rights are the order of the day and testimonies backed up by increasingly clear evidence can be found in numerous reports drafted since 2016 such as, among others, by the Are You Syrious NGO, the Centar za Mirovne Studije (CMS) in Zagreb and the Border Violence Monitoring network.

TUZLA, BIHAĆ, VELIKA KLADUŠA AND SARAJEVO. AN OVERVIEW OF THE CAMPS

In the Bosnian-Herzegovinian context of the Balkans route, it must be stressed that political and administrative decisions have influenced migrant routes and the opening of camps. In early 2018, the Serbian Republic of Bosnia, as announced by President Mirolad Dodik, clarified that it did not want to be involved in any form of reception; consequently, it was only within the Federation of Bosnia and Herzegovina that random camp sites and other camps for migrants and asylum seekers were set up and managed by the International Organisation for Migration (IOM), and financed by the European Union. In particular, the Tuzla, Sarajevo, Bihać and Velika Kladuša quadrilateral became the crossroads for all events associated with migration in the country. While Tuzla and Sarajevo are effectively two transit points for people arriving from Serbia and Montenegro - even if the Ušivak, Delijaš and Blažuj camps were set up in the capital - most of the migrants in transit hope to reach the neighbouring Una-Sana Canton on the border with Croatia as the most favourable place for reaching Slovenia quickly. Bihać and Velika Kladuša soon became two hot spots where thousands of people arrive in attempts to enter European territory. Unlike previous years and countries, there are no legal and permitted routes; everything is in the hands of trafficking, the police impose push-backs and social conflicts explode. Between the second half of 2018 and early 2020, the Borići, Sedra, Miral, Bira and Lipa camps were set up, as well as the tent city in the village of Vučjak, never officially recognised by the European Union but closed after seven months of shameful round-ups and deportations by Bosnian police with the approval of local authorities.

**MOST
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Push-backs and the collapse of the European legal system

The Croatian Government has not denied having prevented thousands of migrants from entering the country in recent years. Illegal push-backs contrary to international law prevail among the methods used

CROATIAN POLICE

On 2 December 2019, six people of Syrian origin from the city of Idlib, including two minors, found themselves in the woods near Pogledalo, Croatia. Unable to continue the journey because of adverse weather conditions, they contacted the Croatian police to ask for help. Three police officers arrived with a dog similar

to a Belgian Malinois, followed by another seven or eight officers. Ignoring the request for asylum by these Syrian citizens, the agents shouted and swore at them, forced them to lie on the ground and ordered the dog to attack them. On seeing the desperation of one of the youngsters bitten in the calf by the dog, the agents laughed and incited it to continue before satisfied exclamations of “dobro, dobro” (well done, well done). After hitting the men and children lying on the ground again, they seized their phones, money and valuables, pushed them into a van and returned them to the Bosnian border from where they had arrived.¹

UNHCR data indicates that between January and September 2019 about 4,868 people were sent back from Croatia to Bosnia or Serbia - yet these figures may well be much higher considering that the Croatian Interior Minister did not deny having prevented access to the country over the same time period to at least 9,487 people². Between January and October 2019, Border Monitoring Violence volunteers collected 770

testimonies of people pushed back by Croatian police officers using weapons to intimidate them as well as for offensive purposes, not to mention very frequent testimonies concerning the use of dogs.

This information is obviously incomplete given the circumstances and ways in which push-backs take place, yet nevertheless reflects the dimensions of a phenomenon that is not occasional but well structured.

Push-backs of this kind are also implemented at other EU borders. They are not only illegal but may also constitute inhuman and degrading treatment and, in the most serious cases, even a form of torture.

WHAT ARE PUSH-BACKS?

Push-backs are coercive practices implemented by public order authorities against foreigners who attempt to enter the territory of a State without having first obtained permission; in other cases, these practices involve sending people who have already entered the country back to another state (usually a neighbouring country).

Push-backs often involve a group of people. The deportation of a group of people, in the absence of legal procedures and without examination of each individual case, is defined as “collective expulsion” and is forbidden by international law⁴.

The right of States to deny entry to people who do not have an entry permit and to expel those who are not entitled to remain on national territory, albeit lawful as an expression of the principle of state sovereignty, is subject to specific limits⁵. Indeed, states have an obligation to acknowledge, guarantee and protect the human rights of people under their jurisdiction⁶, as well as the duty to respect human rights treaties and not to convert into regulations lacking all effectiveness⁷.

The obligation to uphold human rights may preclude a state from pushing back individuals. This is the so-called “non-refoulement ban” - one of the main pillars of international law and binding legislation (*jus cogens*) accepted and recognised in its entirety by the international community of States which, as such, does not allow for derogation or modification unless in relation to regulations that have the same binding character⁸. Member States of the European Union are also obliged to ensure compliance with the right of asylum, as enshrined in the 1951 Geneva Convention and the EU Charter of Fundamental

**BETWEEN
JANUARY
AND SEP-
TEMBER
2019, AT
LEAST 4,868
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WERE
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CROATIA TO
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SERBIA**

Page 22: Bosnian border
police patrol a crossing
point into Croatia.
December 2019



GRANICNA POLICIJA BIH



GRANICNA POLICIJA BiH

Rights (Article 18)⁹ and the set of regulations rules establishing the shared European asylum system¹⁰. Despite the clarity of these principles, the push-back practice is common in many European Union countries, especially those affected by arrivals from the sea such as Italy, Spain and Greece or by land such as those on the “Balkan route”.

According to testimonies collected, many people pushed back by Croatia to Bosnia or Serbia were subject to a chain of “push-backs” originating from Slovenia as well as Italy¹¹, or were stopped by Slovenian police just before the Italian border and were then sent back to Croatia.

On the basis of the readmission agreement signed between Italy and Slovenia in Rome on 3 September 1996 - followed by an agreement on cross-border police cooperation signed in Ljubljana on 27 August 2007¹²-, from 31 July 2018 to 31 July 2019 361 people, most of them from Pakistan and Afghanistan, were readmitted to Slovenia from Gorizia and Trieste across the land border with Friuli-Venezia Giulia¹³.

In the first six months of 2019, the Slovenian Minister of the Interior reported having transferred 3,459 foreigners to Croatia in accordance with existing agreements between the countries¹⁴.

Once again, therefore, data (for which there is no assurance of completeness) and political declarations outline a scenario that is openly incompatible with the principles and fundamental rights of the persons involved and, in particular, the right to asylum, and European Union law.

As already highlighted, in no case should people be returned to a State where they will not be protected against persecution or serious violations of human rights, or from where they risk being sent back to another State where such risks exist. In addition, readmissions at internal European borders often concern people who have already formalised requests for asylum in another Member State or who, on entering the territory of the State in question, demonstrate a desire to seek international protection.

These practices are in conflict with European Union law since, in the presence of asylum seekers, the rules defined by EU Regulation 604/2013 (“Dublin III Regulation”) or the dispositions relating to border asylum procedures should apply.

PUSH-BACKS AT SEA

In Patras, Greece, starting in 2018¹⁵, and in clear violation of the Reception Directive, there are no longer any structured reception services¹⁶. For this reason, the majority of people trapped in the coastal city¹⁷ are obliged to hide in old abandoned factories which they almost never leave for fear of retaliation by local police. The next part of the journey to one of Italy's Adriatic ports (Venice, Ancona, Bari and Brindisi) takes place in containers or under the bodywork of trucks; however, people do not always manage to reach their destination and continue their journey because there are far from few cases of readmission to Greece.

Italy places push-backs under the bilateral readmission agreement signed on 30 March 1999 between Italy and Greece¹⁸. The agreement (Article 5) envisages that each party shall readmit into its territory, on the request of the other party and without any formality, the third-country national entering the territory of the second party.

Although the agreement includes a safeguard clause (Article 23), which means that implementation is subject to compliance with the 1951 Geneva Convention and other agreements and conventions that bind the Parties as regards the protection of human rights, the practices encountered by NGOs involved in on-site monitoring reveal quite the opposite. As confirmed by data obtained through general civic accesses, between September 2018 and January 2019 at least 195 people were readmitted to Greece from the Adriatic ports¹⁹. Most foreign nationals are returned from the Adriatic ports to Greece²⁰. However, it involves informal procedures, replicating what has already been ascertained in the sentence of European Court of Human Rights "Sharifi vs. Italy and Greece", after which Italy was convicted of indiscriminately pushing back a group of Afghan and Sudanese asylum seekers and an Eritrean to Greece, already considered to be an "unsafe" country in view of the serious structural shortcomings of its asylum and reception system.

The on-going nature of these practices was also ascertained by the Committee of the Council of Ministers of the Council of Europe which, following the decision taken by the Court, continued to monitor the effective and correct execution of the sentence²¹.

**THE EURO-
PEAN COURT
OF HUMAN
RIGHTS
CONDEMNED
ITALY FOR
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AND ONE
ERITREAN
TO GREECE**

Foreign citizens who are pushed back - often through direct assignment to the carrier even before coming into contact with authorities in port areas - thereby return to Patras without any disposition proving that readmission has taken place.

From here, new attempts to leave the Greek peninsula are resumed, either by trying the land route and the Balkan route again or by trying to board departing ships once again, waiting for the most appropriate time to move while hiding in factories abandoned for undefined periods of time.

Notes:

1. This testimony, collected and published by the Border Violence Monitoring Network (BVMN), is just one of many denouncing the illegal push-backs and violence perpetrated by Croatian authorities under the aegis of European Union Member States (see <https://www.borderviolence.eu/violence-reports/december-3-2019-0400-zeljava-air-base-hr/>).
2. The Aida Croatia Report for 2019, https://www.asylumineurope.org/reports/country/croatia/access-territory-and-push-backs#_ftnref5, quotes, as regards UNHCR data, the Desperate Journeys Report - January to September 2019, which can be consulted at <https://bit.ly/2vMkbeG>.
3. See Are You Syrious article dated 7 January 2020, which quotes BMVN data, available at <https://medium.com/are-you-syrious/ays-special-2019-2020-a-year-of-violence-monitoring-pushbacks-on-the-balkan-route-1f8fbeb46dc3>.
4. In this regard, see the Amnesty International report "Pushed to the edge: Violence and abuse against refugees and migrants along Balkan Route", page 10, available at <https://www.amnesty.org/download/Documents/EUR0599642019ENGLISH.PDF>.
5. In its sentence concerning the Hirsi vs. Italy case, the European Court of Human Rights condemned Italy for the Italian Navy having pushed back 24 Somalis to Libya in violation of Article 3 of the European Convention on Human Rights, because Libya offered no assurance of treatment in accordance with international standards for asylum seekers and refugees and indeed exposed them to forced repatriation. On this occasion, the Court emphasised that even acts implemented on the high seas may constitute a violation of the principle of non-refoulement (no push-backs), by virtue of the extra-territorial applicability of this principle.

6. See Article 1 ECHR, Article 2 ICCPR, Article 1 cCadup and Article 1 Cadu, in addition to Article 3 of the Convention against Torture.
7. *Soering vs. United Kingdom* Appeal no. 14038/88, para 87, see [https://hudoc.echr.coe.int/fre#{%22itemid%22:\[%22001-57619%22\]}](https://hudoc.echr.coe.int/fre#{%22itemid%22:[%22001-57619%22]}).
8. Article 53 of the 1969 Vienna Convention on the Right of Treaties.
9. Article 18 of the Charter states: "The right to asylum is assured in compliance with the regulations defined by the Geneva Convention dated 28 July 1951 and the protocol dated 31 January 1967 concerning the status of refugees, and in accordance with the European Union Treaty and the Treaty on the Functioning of the European Union."
10. The Procedures Directive, the Qualifications Directive, the Reception Directive, the Dublin Regulation and the Eurodac Regulation.
11. See Amnesty International "Pushed to the edge: Violence and abuse against refugees and migrants along the Balkan Route", March 2019, page 10, available at <https://www.amnesty.org/download/Documents/EUR0599642019ENGLISH.PDF>.
12. In addition, the Department of Public Security of the Italian Ministry of the Interior and the General Directorate of Police of the Slovenian Ministry of the Interior signed a protocol concerning the implementation of mixed patrols on the Italian-Slovenian border, signed in Ljubljana on 21 June 2019 and in Rome on 25 June 2019 (valid until 30 September, extendable).
13. Data obtained through a request for general civic access sent to competent authorities.
14. Aida Croazia, see www.asylumineurope.org/reports/country/croatia/access-territory-and-push-backs#_ftnref4.
15. See <https://rsaegean.org/en/violence-in-patras-port/>.
16. Directive 2013/33/EU.
17. The only exception is a centre for unaccompanied foreign minors managed by IOM (with a declared capacity of about 20 places) and reception of a number of families in apartments made available by the local council. See <https://eur-lex.europa.eu/legal-content/IT/TXT/?uri=CELEX%3A32013L0033>.
18. See https://www.meltingpot.org/IMG/pdf/GR_ITL.pdf.
19. General civic access request issued by Altreconomia.
20. In the sentence issued on 21 October 2014, the Court highlighted the violation of Article 4 Protocol 4 (prohibition of collective expulsions of foreigners), Article 3 (prohibition of inhuman or degrading treatment) and Article 13 (right to effective recourse), in conjunction with Article 39.
21. Monitoring revealed that illegitimate push-back practices from Adriatic ports to Greece are still current. Furthermore, port reception services, designed to ensure legal and language assistance to applicants, are discontinuous or unavailable. The absence of subjects intended to ensure correct access to the asylum procedure inevitably brings about an increase in the risk of illegitimate readmissions of foreigners, of whom no trace evidently remains. <https://www.asgi.it/news/respingimenti-italia-indagine-caso-sharifi/>.



4.

Italy's responsibilities for readmissions to Slovenia

Since mid-May, Italian authorities have intensified "tracking" and "informal readmissions" to Slovenia, exposing people to inhuman and degrading treatment along the Balkan route

In mid-May 2020, the Italian Ministry of the Interior announced its commitment to increase readmission of migrants to Slovenia - sending, for this purpose, 40 agents to Italy's eastern border²². In subsequent days, readmissions followed at an intense pace and involved many Afghan and Pakistani citizens²³.

Notice of these readmissions, implemented not because of the reinstatement of internal border controls that never formally occurred but in application of the bilateral Agreement between the Italian and Slovenian governments concerning the readmission of persons at the border signed in Rome on 3 September 1996, was issued by police forces themselves.

On 20 May 2020, the Pordenone police headquarters announced on its website that two Afghan citizens had been returned to Slovenia after being found hidden in a truck among wooden pallets. The two persons, aged 20 and 21, were returned to the border at Gorizia and from there handed over to Slovenian authorities, since they had entered Italy illegally from Slovenia²⁴.

On 28 May 2020, the Prefect of Trieste then stated that "readmitted migrants are not deprived of the possibility of requesting asylum since Slovenia is part of the European context"²⁵.

On 2 June 2020, in reply to the associations responsible for reception in the Trieste area, the Prefect added that, according to

Two young couples, one Egyptian and the other Iraqi, try to keep warm in front of a fire in the woods along the road to the Croatian border. Bihać. December 2019

directives received from Government, readmissions are implemented as an integration to the Dublin Regulation²⁶.

The situation on the Italian-Slovenian border and immediately beyond the border is extremely serious.

The Italian authorities cannot ignore the fact that persons readmitted into Slovenia, on the basis of the bilateral readmission agreement signed in Rome on 3 September 1996, are then subject to subsequent readmission from Slovenia into Croatia²⁷ and from here, all too often after unheard of violence perpetrated by Croatian police authorities, they are then readmitted to Serbia or Bosnia and consequently left in conditions of moral and material abandonment²⁸.

Initially, it should be noted that the bilateral agreement between Italy and Slovenia, which includes dispositions intended to facilitate readmission into the territory of the two States of citizens of one of the two Contracting States as well as citizens of third States, is of dubious legitimacy for two reasons: although it has a clear political nature, it has not been ratified by a law authorising ratification pursuant to Article 80 of the Constitution. Furthermore, as an inter-government agreement stipulated in simplified form, it cannot envisage changes to laws in force in Italy (another case in which Article 80 of the Constitution envisages a prior authorisation law for ratification) and cannot derogate from the primary source of regulations for the Italian legal system.

In any case, even if we were to disregard any further assessment of the illegitimacy profiles of the Readmission Agreement, it is evident that application is excluded not only to refugees recognised as such under the Geneva Convention (at the time, the notion of subsidiary protection still did not exist) as clearly stated in Article 2 of the Agreement itself but also to asylum seekers since, as is well-known, the recognition of refugee (and subsidiary protection) status is a process of recognition of a perfect subjective right, the assumptions of which the foreigner precisely asks to ascertain.

There is therefore no possibility of arbitrarily and illegitimately distinguishing between applicants for protection and recognised refugees in having in any case to assure access to the asylum procedure for the foreigner who specifically requests recognition of refugee status.

**PEOPLE
"READMITTED" FROM
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SLOVENIA
ARE THEN
FURTHER
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THEN, AFTER
UNSPEAKA-
BLE VIO-
LENCE, INTO
SERBIA OR
BOSNIA**

Furthermore, it should be noted that the expression included in the Agreement in relation to readmissions implemented “without formalities” (Article 6) certainly cannot be understood in the sense that readmission can take place without issuing an administrative disposition, since it is indisputable that the action taken by public security entities through forced accompaniment into Slovenia has an impact on the legal situation of the parties involved.

In compliance with the general principles of the legal system and the specific dispositions of Law 241/90 as amended, the readmission procedure must be motivated by fact and in law and notified to the party in question even in brief form and, even if immediately enforceable, it must be possible to appeal before the judicial authority.

In any case, readmission, just as push-back, must be considered as prohibited when a request for asylum is made (Article 10, paragraph 4, Italian Legislative Decree no 286/1998) and for persons who, in the State of readmission, are not protected against the risk of being sent to another State where they may be subjected to persecution or torture (Article 19, paragraphs 1 and 1bis, Italian Legislative Decree no. 286/1998).

The expression “without formalities” mentioned in Article 6 of the Agreement must therefore be correctly understood in the sense that it is not possible to carry out readmission of foreign citizens without issuing any dispositions (which would at least constitute a modification of laws and should therefore be subject to the authorization law for ratification pursuant to Article 80 of the Constitution), but rather in the sense that the procedures for reporting and coordinating readmission operations between Italian and Slovenian authorities can take place in a simplified manner, without any particular procedural burdens.

Although the possibility of applying these readmission agreements is envisaged in European Union law (Article 6, Directive 2008/115/EC) as well as national law (Article 13, item 14 ter of Italian Legislative Decree 286/98), it is evident that the execution of readmission of foreign citizens can never take place in violation of the standards of the Common European Asylum System and the so-called Schengen Border Code²⁹, and in all cases where readmission gives rise to a violation of fundamental human rights and/or the risk of chain reaction push-backs to third countries.

READMISSION INVOLVING A VIOLATION OF FUNDAMENTAL HUMAN RIGHTS AND/OR THE RISK OF CHAIN REACTION PUSH-BACKS IS UNLAWFUL

Based on the foregoing facts and testimonies, numerous violations of international and European legislation perpetrated by Italy and/or Slovenia can be identified. In particular³⁰:

- violation of the European Convention on Human Rights, Article 13 - Right to effective recourse;
- violation of the European Convention on Human Rights, Article 3 - Prohibition of inhuman or degrading treatment;
- violation of Regulation (EU) no. 2016/399 (Schengen Border Code), Article 3 and 4 - Applicants for international protection and non-refoulement;
- violation of Regulation (EU) no. 2016/399 (Schengen Border Code), Article 14 - Push-backs;
- violation of Regulation (EU) no. 604/2013 (Dublin III Regulation), Articles 3, 4 and 6-11.

Notes:

22. Il Piccolo. New arrivals along the Balkan route. Rome sends 40 agents to the border - 15 May 2020, <https://ilpiccolo.gelocal.it/trieste/cronaca/2020/05/15/news/nuovi-arrivi-dalla-rotta-balkanica-roma-invia-40-agenti-al-confine-1.38848289>

23. Data released by the Ministry of the Interior, following a civic access to documents, suggest that between 31 July 2018 and 31 July 2019 361 people, mostly from Pakistan and Afghanistan, were readmitted to Slovenia from Gorizia and Trieste across the land border with Friuli-Venezia Giulia

24. Pordenone Police Headquarters returns two foreign nationals hidden among wooden pallets to Slovenia. <https://questure.poliziadistato.it/it/Pordenone/articolo/8485ec52360b7c45775038045>, 20 May 2020

25. Triesteprima, Migrants tracked and pushed back as the Balkan Route becomes an Odyssey, 28 May 2020, <http://www.triesteprima.it/cronaca/migranti-rotta-balkanica-confine-sloveno.html>

26. Il Piccolo: "The realities of reception against informal returns: unacceptable practices that trample human rights" - 2 June 2020

27. Slovenia and Croatia have signed a readmission agreement whereby persons found to be staying illegally in Slovenia can be readmitted to Croatia within 72 hours if it is proven or presumed that this person entered directly after stay in or transit from Croatia. On readmissions by the Slovenia to Croatia, see <https://www.meltingpot.org/Rapporto-sulle-pratiche-illegali-di-espulsione-collettiva.html#.XtPt4cbONQI>

28. See Chapter 3

29. Regulation 2016/399/EU

30. See Asgi note "Balkan route, ASGI: stop illegal readmissions on the Italian-Slovenian border" <https://www.asgi.it/allontamento-espulsione/rotta-balkanica-asgi-interrompere-le-riammissioni-illegali-al-confine-italo-sloveno/>

A young Tunisian migrant shows the wound from beatings by Croatian police suffered during a push-back. December 2019 Bira Camp, BiHac.



The criminalisation of solidarity along the Balkan route

Organisations and individuals offering solidarity to migrants are “inconvenient”: they monitor and report the violence and responsibilities of European authorities. That is why they are obstructed in every possible way

Solidarity organisations along the “Balkan route” have helped migrants over the years. Their fundamental denunciation work brought them into the spotlight: as Amnesty International commented in the 2018 report “Pushed to the edge. Violence and abuse against refugees and migrants along the Balkans route”, both “Are You Serious” and “CMS” (see

chapter 2) have suffered serious consequences in terms of accusations and pressure for their work, being discredited in the media on several occasions by the Croatian Ministry of the Interior and seeing the preclusion of the social activities carried out inside and outside the camps for many years. Other organisations in Serbia and Bosnia-Herzegovina suffered similar fates in 2019.

The “No Name Kitchen” and “Aid Brigade” NGOs, respectively active in Šid (Serbia) and Velika Kladuša and Sarajevo (Bosnia-Herzegovina), have been subject to repeated harassment and checks by police to the point of criminalising their work, even forcing the latter to wind up and cease its work. This conflict has also affected “local people” whose solidarity has ensured first-hand help and calls for international assistance. Denouncement and stigmatisation processes have seriously endangered their safety and that of their families, with the risk of causing a permanent turning point in their daily lives.

Egyptian boys waiting to understand where they will be transferred after being cleared from the informal Vučjak camp. December 2019



The outsourcing of borders. Agreements between the EU and third countries and the role of Frontex

A key player in the externalisation policies of the European Union's borders is the Warsaw-based agency founded in 2005. Its budget has grown steadily

European institutions have repeatedly emphasised, both in political and regulatory texts, that control of external borders is an essential requirement for the preservation of the Schengen agreement and the freedom of movement across internal borders, although these declarations are contradicted by the progressive closure of internal European borders justified

by the fight against secondary movements and implemented through the suspension of Schengen even for very long periods of time³¹.

As regards external borders in the Balkan area, the contents of the Communication concerning the verification of full application of the Schengen agreement by Croatia are significant³². The European Commission noted how Member States wishing to join the Schengen area must, inter alia, have “the preparation and ability to take responsibility for the control of external borders on behalf of other Schengen States.”

A key player in the implementation of outsourcing policies is the European Border and Coast Guard Agency, previously called Frontex, which was recently reformed through Regulation 1896/2019 that came into force on 4 December 2019 at the end of a very rapid process of elaboration and approval.

The political centrality that the Agency has taken on as regards EU outsourcing and control actions can be highlighted simply taking a quick look at the economic investments authorised over the years to implement its operations.

In particular, resources grew from around 6.3 million euros in 2005 to 333 millions in 2019, with a further increase expected for the period 2021-2027³³, with a particularly significant increase in resources allocated for return operations: 63 millions in 2019 compared to 80,000 euros in 2005.

The new Regulation 1896/2019 also introduces very strong and stringent action instruments, attributing an increasingly strategic role to the Agency which becomes, to all intents and purposes, a player with control and intervention powers in state management of external border control, both within the Union and within third countries.

What must be highlighted is that the teams formed by the Agency to intervene in operational areas also include members of the Agency's statutory staff³⁴. The latter not only can carry out tasks for which executive powers are necessary - among others, the verification of personal identity, authorisation for entry, push-backs at borders, patrols on border crossing points, interception and detention of persons entering without authorisation and registration of digital fingerprints in Eurodac - but are also authorised to use force.

Among the Agency's tasks, cooperation with third countries is also of particular importance and even implemented through the operational use of teams to manage their borders.

In order to allow cooperation between Frontex and third countries, the European Union has signed agreements with various third countries including, within the scope of interest of this report, Albania³⁵ and Serbia³⁶.

These agreements seek to govern all aspects of cooperation between third countries and the Agency as required to execute action that may take place within the territory of the third State and where the members of Agency teams may have executive powers. Joint operations carried out by staff of the Agency and the third Country personnel intended to control external borders and support return operations must be agreed and defined within operational frameworks. Agency agents must act under the control and in the presence of border guards or other police officers of the third country concerned who may authorise Agency staff to use force.

The involvement of Frontex agents in return and push-back operations at external borders has been repeatedly denounced by international organisations that have accurately described the human rights violations committed.

THE RESOURCES ALLOCATED BY FRONTEX FOR REPA- TRIATION OPERATIONS HAVE GROWN FROM 80,000 EUROS IN 2005 TO 63 MILLION EUROS IN 2019

According to the report in July 2019 by the Border Violence Monitoring Network, agents with the blue band of Frontex and the Italian flags sewn on their uniforms were present at border police station in Hungary. Although the evidence collected suggested that Frontex agents did not take part in push-backs to Serbia, the internal Frontex documents in fact indicate that the organisation is aware of human rights violations committed by Hungarian, Bulgarian and Greek border officials, including undue violence and illegal cross-border push-backs. Subsequent reports also denounce the involvement of Frontex agents in Croatia³⁷, Albania and Montenegro³⁸.

In Croatia, Frontex agents arranged for the initial capture of a group of people by holding them at the place of arrest for an hour until the arrival of local Croatian police. During this time, the group was searched and their personal belongings taken away from them. Frontex officials spoke with members of the group without recording general information but taking pictures of the men and asking questions about their religious affiliation.

The violation of human rights in joint operations carried out by agents of the European Border and Coast Guard Agency have long been the subject of attention not only by analysts and non-government organisations³⁹, but also by the European Ombudsman who, as early as 2012, at the end of an investigation concerning the respect of human rights standards by Frontex and, in particular, the requirements of the EU Charter of Fundamental Rights⁴⁰, sent a detailed report to the European Parliament.

Intervention by the European Parliament to reform the Agency, through amendments to the text of the new Regulation intended above all to ensure compliance with the EU Charter of Fundamental Rights, however appreciable, also risks being frustrated by the Agency's enormous powers and the substantial opacity of its work.

The obligation to draft operational plans and provide "precise, detailed, timely and complete information about its activities" effectively clashes with the possibility that the Agency can circumvent third party control by entrenching itself behind claims of potential compromise to public safety, as evidenced by the sentence whereby the Court of the European Union⁴¹ rejected the appeal put forward with the aim of obtaining access

to “documents containing information relating to the name, flag and type of every vessel the Agency used in the central Mediterranean in the context of the joint Triton operation.”

Notes:

31. See Article 29 para 2 Regulation of the European Parliament and the Council 2016/399

32. See The communication sought to take stock of Croatia’s progress towards meeting the necessary conditions for the application of all parts of the Schengen agreement, taking into account the results of Schengen evaluations and the follow-up undertaken by the country from the onset of evaluation in 2016 through to October 2019. <https://ec.europa.eu/transparency/regdoc/rep/1/2019/IT/COM-2019-497-F1-IT-MAIN-PART1.PDF>

33. See, in this regard, <https://altreconomia.it/nuovo-bilancio-frontex/>

34. The permanent staff of the Agency is divided into four categories: the Agency’s statutory staff, long-term staff seconded to the Agency by Member States, staff from Member States on hand to the Agency for short-term use, the rapid reaction reserve consisting of staff from Member States ready to be used in rapid interventions

35. See <http://data.consilium.europa.eu/doc/document/ST-10290-2018-INIT/en/pdf>

36. See <https://data.consilium.europa.eu/doc/document/ST-15579-2018-REV-1/it/pdf>

37. BVMN August 2019

38. BVMN October 2019

39. See the report by rsaegean.org/wp-content/uploads/2019/12/20191201-rsa-proasyl-frontex-2.pdf and tni.org/en/guarding-the-fortress

40. See <https://www.ombudsman.europa.eu/it/special-report/it/52465>

41. Sentence, 27 November 2019, Case T 31/18, Izuzquiza & Semsrott vs. European Border and Coast Guard Agency (Frontex)

THE WORK OF THE AGENCY IS CHARACTERISED BY SUBSTANTIAL OPACITY. THE NEED FOR “PUBLIC SAFETY” HAS BEEN INSTRUMENTALISED MANY TIMES



7.

How the management of the Covid-19 emergency affected the route

In Greece, measures to contain the novel Coronavirus pandemic were an excuse to strengthen borders and launch mass detention initiatives against asylum seekers

On 27 February 2020, prior to Turkey announcing the opening of its borders, Greece decided to increase border controls to prevent migrants potentially carrying Covid-19 from entering the territory. This was a pretext not only to strengthen borders but also to start mass detention of asylum seekers, both in the Aegean islands and mainland Greece.

This was joined by the hard line Athens has implemented since 1 March: suspension of the right of asylum until 31 March for people entering Greece “illegally”, mass push-backs on sea and land borders and detention for anyone who managed to cross the border.

Amnesty International in its “Caught in a political game” report in April 2020 denounced all human rights violations, push-backs and the involvement of Frontex.

In Serbia on 15 March, President Aleksandar Vučić proclaimed a state of national emergency and listed the various measures taken, including the deployment of the army to supervise hospitals, borders and reception centres for asylum seekers and the ban on anyone registered there of being able to leave. Inasmuch, 21 operational camps came into being, enclosing more than 9,000 people.

In March, as denounced by the NGO Infopark, public demonstrations sponsored by extremist groups against the presence and reception of migrants were authorized in several cities in Serbia - including Subotica and Belgrade.

Passport photos of a migrant found along the road to the Croatian border in the Glinica area, province of Velika Kladuša. December 2019

**THE SLO-
VENIAN
GOVERN-
MENT HAS
INSTALLED
CONTAINERS
TO HOLD
CAPTURED
MIGRANTS
BEFORE
RETURNING
THEM TO
CROATIAN
AUTHORI-
TIES**

The state of emergency saw a curfew imposed in Bosnia-Herzegovina. Once again, special attention was given to migrants and asylum seekers in the territory, with the consequent opening of a new tent city in Lipa, Una-Sana Canton, where people from the informal areas outside the camps managed by OIM were taken by force. According to UNHCR estimates as of January of this year, more than 8,000 people were registered in camps or reception centres in the country.

In Gorizia, in the Trieste area and along the border crossings, checkpoints have been set up on the old borders, brought back into existence initially on the wishes of the Slovenian government. On the opposite border, Prime Minister Ivan Janša instead installed new containers where captured migrants could be detained before returning them to Croatian law enforcement agencies. The President of the Friuli-Venezia Giulia region, Massimiliano Fedriga, obtained the deployment of police and military personnel along the Slovenian border to prevent arrivals along the Balkan route.

Side: a young Egyptian walking along the snow-covered track through the Bosnian mountains on the way to Croatia. December 2019



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