

## CASE REPORT \_\_\_\_\_

### **Push-backs at the Greek-Macedonian border violating human rights**

On 14 March 2016, more than 1500 refugees were collectively and summarily pushed back from the Former Yugoslav Republic of Macedonia (FYROM) to Greece – an operation violating the fundamental rights which signatories to the European Convention on Human Rights purport to guarantee. One family and several individuals have decided to act against the violations they suffered and to claim their rights in front of the European Court of Human Rights. The eight applicants from Syria, Iraq and Afghanistan assert that their collective expulsion without an examination of individual circumstances and without access to an effective remedy is in breach of Art 4 Protocol 4 and Article 13 of the Convention. The ECCHR and Pro Asyl are jointly supporting the litigation against FYROM and against human rights violations at the external borders of the EU.

The claimants risked the dangerous maritime crossing to Greece hoping to continue their journey to FYROM and further along the Balkan corridor, which had permitted the relatively safe passage of thousands of refugees since mid-2015. However, the closure of the Balkan corridor on 8 March 2016 trapped more than 10.000 persons in the self-organised refugee camp Idomeni at the Greek-Macedonian border, exposing adults and children to intolerable living conditions and the severe deficiencies of the Greek asylum system. In the absence of legal routes across the border, the eight claimants and those who walked with them tried to forge their own path into FYROM. However, the refugees who reached FYROM were apprehended by the Macedonian military, threatened, loaded into army vehicles, returned to the border, and ordered to crawl under the fence from FYROM back to the Greek side – back to the unbearable circumstance they had tried to escape. This operation is not an isolated incident, but forms part of a systematic pattern of collective expulsions and human rights violations carried out in the context of the closure of the Balkan corridor.

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**The expulsion of at least 1500 individuals from FYROM to Greece on  
14 March 2016**

Around midday on 14 March 2016, between 1500 and 2000 refugees decided to leave Idomeni and walk to FYROM. Aspiring to escape from the substandard conditions in Idomeni camp, the group started what soon became known as the “March of Hope”. Adults and children marched along a road parallel to the border fence separating Greece and FYROM for several kilometers. Arrived at the Suva Reka River, participants and supporters formed a human chain to help others resist the strong current, carrying children and persons with disabilities across the cold river. Approximately 40 minutes after the river crossing, the group knew that they had reached FYROM: They could see the border fence behind them, and checked their GPS location confirming their entry into Macedonian territory. Many expressed their happiness about having escaped the difficult situation in Idomeni and having overcome the obstacles to reach FYROM.

In FYROM, a first group of uniformed FYROM officers carrying weapons approached the group, but did not stop them. The forceful intervention began 10 - 15 minutes later, when the group reached the Macedonian village of Moin. The group was surrounded by FYROM military forces and a FYROM tank was stationed on the road to impede their forward progress. Within a few minutes, a second armoured vehicle arrived, and a large group of additional Macedonian soldiers equipped with riot gear and weapons exited the car. The military officers screamed insults at the assembled refugees, commanded them to sit down in the mud, and threatened to strike those who did not comply immediately, using the batons they carried. Requests for blankets, water and food for the children were denied. The international media and European citizens who had accompanied the group of refugees until Moin were targeted for arrest, preventing the documentation of the ensuing actions by the FYROM officers (for further information, see [ARD media archive](#)).

Around 6pm, several military trucks arrived at the main intersection of the town, and the soldiers ordered the first group of approximately 25 refugees to enter the truck. The operation continued for several hours: Group after group was loaded into the trucks and driven away. The military vehicles returned to the border, and stopped close to the fence demarcating the territorial division between FYROM and Greece. The refugees were instructed to exit the trucks, screamed at, threatened with violence, and ordered to leave FYROM. “Do not come back this way. This place is not open for you. We will kill you if you come back!”, one of the FYROM officers threatened. While the FYROM officers watched, the refugees had to crawl under the fence from FYROM back to the Greek side.

A smaller group of around 600 refugees was apprehended by the Macedonian military before reaching the village of Moin. They had walked beyond the border fence and past a small number of Macedonian soldiers carrying Kalashnikovs, but were then stopped on a hill by a large group of uniformed officers. The soldiers blocked the refugees from advancing, pointed their weapons at those who came near, yelled at them to sit down and treated those who did not comply immediately with extreme aggression. The group had to spend the night outside on the hill, while further military reinforcements arrived. Around 5am the next morning, the soldiers ordered everybody to “turn back” to Greece and asserted that they “will use force” on those who do not obey. Faced with threats and hostility, the group had no choice but to walk back to Idomeni.

Witnesses, human rights organisations and the media reported between 1500 and 2000 push-backs on 14 March 2016 and the ensuing night. In a [statement](#) issued on 15 March, the FYROM Ministry of Interior confirmed that the authorities returned everybody who had crossed into the territory of the Republic of Macedonia. The refugees had no opportunity to explain their personal circumstances, to ask for international protection, or to contest their expulsion from FYROM. Instead, the group was immediately and summarily returned to Greece.

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## **The closure of the Balkan corridor and concomitant human rights violations**

The immediate summary expulsions from FYROM to Greece on 14 March 2016 occurred in the context of the gradual closure of the Balkan corridor starting in late 2015 and the corresponding eventual complete blockage of the border between FYROM and Greece on 8 March 2016. These decisions resulted in the de facto denial of legal routes across the border, and their enforcement engenders predictable human rights violations.

The so-called “humanitarian corridor” forged in the second half of 2015 enabled the legalised and therefore relatively safe passage of refugees from Greece to Northern Europe – but only temporarily. Beginning in the fall of 2015, European institutions and political authorities along the West Balkan route began developing and implementing a series of restrictive border control policies aimed at reducing and deterring migration. In October, EU Heads of State

agreed on a [17-point plan](#) to strengthen border management and “regain control”. From November onwards, the states along the Balkan corridor began restricting the passage to individuals with registration papers from an increasingly limited number of selected countries. Eventually, on 7 March 2016, the European Council made the [announcement](#) that “irregular flows of migrants along the Western Balkans route have now come to an end”. The day after the summit, the Balkan corridor officially closed: FYROM completely blocked the border crossing in Idomeni, and Serbia and Slovenia announced that they would only permit entry to persons holding EU passports or valid visas.

These closures of migratory paths and the concomitant violent enforcement of restrictions result in predictable and systematic human rights abuses: While the hardship increased, the possibilities to escape it reduced. The closure worsened the humanitarian crisis in Idomeni and exacerbated the exposure to substandard conditions in Greece. Remaining in Greece and applying for asylum, family reunification, or relocation presented and continues to present no viable alternative due to the severe deficiencies in the Greek asylum system. The lack of legalised routes leaves no option but to cross the border without authorisation, a precarious endeavour characterised by the absence of safeguards and a high risk of immediate return.

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## **Systematic Collective Expulsions from FYROM to Greece**

The push-backs of 14 March 2016 mark the largest reported incidence of collective expulsions at the Greek-Macedonian border, but they are not an isolated case. To the contrary, they are part of a pattern of systematic deportations from FYROM to Greece. FYROM implemented the coordinated decision to close the humanitarian corridor in part by carrying out summary group returns of refugees back to Greece. Numerous human rights organisations, including but not limited to [Amnesty International](#), [Human Rights Watch](#), the [Special Representative of the Council of Europe on Migration and Refugees](#), and the [Macedonian Helsinki Committee](#), reported on push-back practices at the Greek-Macedonian border. The reports include incidences of violence and ill-treatment, and many of those affected emphasised having been returned on multiple occasions. Given the absence of any procedure provided during these summary returns, there is no official record and no comprehensive account of their frequency. However, FYROM’s [Minister of the Interior Natalia Spirova](#)

herself emphasised that more than 11.800 individuals were returned from FYROM to Greece between the border closure on March 8 and mid-May alone.

The border between FYROM and Greece is the first terrestrial border faced by refugees who survived the maritime crossing from Turkey to Greece. Thus, FYROM is an EU accession candidate occupying a geopolitically key position along the West Balkan Route. While the EU emphasises the importance of cooperation with Balkan countries, FYROM equally emphasises its readiness to assist. [Prime Minister Emil Dimitriev](#) reasserted FYROM's willingness to "affirm everything that has been done in the refugee crisis management, since Macedonia acted as a credible EU partner in this regard". The political negotiations were accompanied by the continuous implementation of restrictive measures at the Greek-Macedonian border. In August 2015, FYROM declared a state of emergency in order to deploy military forces to the border. Moreover, military and police units from other countries are stationed in FYROM. In November, the authorities began the construction of a new fence along the Greek-Macedonian border, which is now a tall double-barrier structure topped with barbed wire. And those who manage to overcome the newly constructed fence are regularly returned to Greece without any safeguards or opportunity to explain their personal circumstances.

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## **Legal Intervention at the European Court against Expulsions on the Balkan Route**

This series of closure policies and their implementation effectively suspend human rights at the border. FYROM is a signatory to the Geneva Convention on the Status of Refugees and the European Convention on Human Rights, but the country's control operations violate fundamental rights. Refugees in a precarious legal situation are especially vulnerable to grave human rights abuses and simultaneously often excluded from access to justice systems to intervene against the violations.

Nevertheless, two women and six men including a person using a wheelchair who crossed into FYROM and were pushed back to Greece on 14 March 2016 decided to intervene against FYROM's practices and submit an application to the European Court of Human Rights in September 2016. The claimants from Syria, Iraq and Afghanistan assert that their summary and collective expulsion from FYROM's territory violates Article 4 Protocol 4 of the European

Convention, which prohibits the expulsion of a group of non-nationals without the consideration of their individual circumstances. Article 4 safeguards a core and irrestrictible right: it guarantees access to the legal system, enables the corresponding examination of each person's case and thus prevents subsequent human rights violations. This protection is universal: it applies regardless of the means of entry or the legal status of the person concerned, and states cannot excuse noncompliance with reference to crisis situations. The applicants denounce that they were apprehended by armed Macedonian officers and forced to return to Greece without the possibility to explain their particular situation or apply for international protection. The applicants also contend that their lack of access to any administrative or legal procedures to contest their expulsion in FYROM breached their right to an effective remedy, protected under Article 13 of the European Convention. The absence of an individualised procedure during a collective return implies the lack of an effective remedy to challenge this unlawful treatment before Macedonian authorities – a de facto denial of the right to have rights.

The applicants who decided to take action against the violations in front of the European Court of Human Rights are represented by ECCHR's cooperating attorney Carsten Gericke and supported by *Pro Asyl*. ECCHR's long-term work on migration is funded by *Brot für die Welt*. Over the past three years, ECCHR has used strategic litigation to contest human rights violations at the borders of the EU and assisted affected persons with individual legal proceedings. As EU Member States increasingly seek to transfer the onus of managing migration onto cooperating non-EU states, the human toll of exclusion and the brutality of border management are hidden from the European political landscape. Thus, states are often able to violate the human rights of refugees with impunity. ECCHR's cases seek to hold Europe accountable for the inhumane consequences of migration control, and to support those who try to cross the borders of Europe in reclaiming the right to have rights. The present submission to the European Court is one of the very few cases addressing human collective expulsions at terrestrial borders, and the first case challenging the human rights violations occurring in the context of border reinforcement along the Balkan Route.

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**Stand: September 2016**

# **EUROPEAN CENTER FOR CONSTITUTIONAL AND HUMAN RIGHTS**

