

# Bulgaria's Compliance with the Convention on the Rights of the Child

Written Input for the 95th Session of the Committee on the Rights of the Child

Submitted by:  
Border Violence Monitoring Network

## **I. Reporting Organisation**

1. Border Violence Monitoring Network (BVMN) is a coalition of organisations working to document illegal pushbacks, collective expulsions and police violence along the EU's external borders in the Western Balkans and Greece since the network's formulation in 2016. The collection of data on illegal pushbacks and police violence is done by a consortium of independent voluntary field experts who are part of or cooperate with humanitarian support groups united through the Border Violence Monitoring Network.

## **II. Executive Summary**

2. We affirm that the continuous action of pushbacks and collective expulsion of refugees and migrants, carried out by Bulgarian authorities is illegal and in contradiction to the obligations set out under the Convention on the Rights of the Child, including but not limited to, Articles 3, 6, 9, 20, 22 and 37. BVMN affirms, in line with multiple other UN Committees, that pushbacks are neither reflective of a return decision or judicial order and occurs outside all legal safeguards.

3. Furthermore, we maintain that the continued and credible evidence published by a range of NGOs and international monitoring bodies demonstrates how pushbacks carried out by Bulgarian authorities are consistently violent and force children to witness or endure treatment amounting to torture or inhuman treatment.

4. BVMN asserts that within the reporting cycle there is continued evidence that Bulgarian authorities are subjecting people on the move, including children, to arbitrary and incommunicado detention, often in conditions that we assert would be found to be inhuman. Additionally, evidence shows an emerging use of improvised detention or 'detention black' sites whereby Bulgarian authorities arbitrarily detain people on the move in abandoned buildings or barns before carrying out pushbacks.

## **III. Pushback of Migrant Families and Children as a Violation of the Convention of the Rights of the Child**

**Article 3 CRC:** Article 3 of the Convention of the Rights of the Child

**Article 6 CRC:** Article 6 of the Convention of the Rights of the Child

**Article 20 CRC:** Article 20 of the Convention of the Rights of the Child

**Article 37 CRC:** Article 37 of the Convention of the Rights of the Child

### **Explanatory note:**

5. 'Pushback' is a common term to denote the action of State representatives forcibly and in most cases collectively returning individuals seeking protection to another country in an

irregular/informal manner and subsequently preventing or restricting them access to protection mechanisms.

6. Pushbacks are neither reflective of a return decision or judicial order and occurs outside all legal safeguards and therefore should not be viewed as a form of ‘forced returns.’ Furthermore, whilst encompassing the rights violation of collective expulsion, pushbacks have increasingly been identified as a unique and definable human rights issue by international monitoring bodies, academics, civil society organisations and pushback survivors.

7. Furthermore, Pushbacks encompass the legal concept of *non-refoulement* which is implicitly prohibited under Article 3, 6, 20 and 37 of the Convention.<sup>1</sup> In line with General Comment 6, BVMN affirms that Bulgaria ‘must fully respect *non-refoulement* obligations deriving from international human rights, humanitarian and refugee law’,<sup>2</sup> and that “[the] State shall not return a child to a country where there are substantial grounds for believing that there is a real risk of irreparable harm to the child, such as, but by no means limited to, those contemplated under articles 6 and 37 of the Convention, either in the country to which removal is to be effected or in any country to which the child may subsequently be removed [...] The assessment of the risk of such serious violations should be conducted in an age and gender-sensitive manner’.<sup>3</sup>

8. In *D.D. v. Spain* (No. 4/2016) the Committee clearly held that the Convention applies to all children, and cannot be curtailed at the border or due to a child’s legal status or lack thereof.

9. Moreover, pushbacks often themselves entail treatment that is contrary to Article 6 and 37 of the Convention. For example, pushbacks can directly entail torture, arbitrary or inhuman detention of migrant children or families without access to legal assistance. BVMN asserts that the well-documented evidence of the mass proliferation of violence and abuse during pushbacks carried out by Bulgarian authorities, that BVMN asserts amount to torture, demonstrates an infringement of Article 37 of the Convention of the Rights of the Child.

10. Furthermore, we assert that due to the inherently violent nature of pushbacks that routinely places victims in situations that pose a real and immediate threat to life, the Bulgarian State is knowingly breaching Article 6 of the Convention of the Rights of the Child.

## **Evidence of Migrant Families and Children Subjected to Pushbacks from Bulgaria**

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<sup>1</sup> UN General Assembly, *Convention on the Rights of the Child*, 20 November 1989, United Nations, Treaty Series, vol. 1577, p. 3, available at: <https://www.refworld.org/docid/3ae6b38f0.html>

<sup>2</sup> UNCRC. UNCRC General Comment No.6 [26] *Treatment of Unaccompanied and Separated Children Outside Their Country of Origin*, 1 September 2005. Available at:

[https://www.right-to-education.org/sites/right-to-education.org/files/resource-attachments/CRC\\_General\\_Comment\\_6\\_2005.pdf](https://www.right-to-education.org/sites/right-to-education.org/files/resource-attachments/CRC_General_Comment_6_2005.pdf)

<sup>3</sup> UNCRC. UNCRC General Comment No.6 [27] *Treatment of Unaccompanied and Separated Children Outside Their Country of Origin*, 1 September 2005. Available at:

[https://www.right-to-education.org/sites/right-to-education.org/files/resource-attachments/CRC\\_General\\_Comment\\_6\\_2005.pdf](https://www.right-to-education.org/sites/right-to-education.org/files/resource-attachments/CRC_General_Comment_6_2005.pdf)

11. Data and evidence collected by the Bulgarian Tripartite Working Group (TWG) composed of representatives from UNHCR, BHC and GDBP further highlight consistent failures of the Bulgarian authorities to meet its obligations under international refugee legislation.

11.1. In 2021<sup>4</sup>, as a part of the national border monitoring mechanism, the Bulgarian Helsinki Committee reported to have registered 2,513 alleged pushback incidents affecting a total of 44,988 individuals in 2021.

11.2. In 2020<sup>5</sup>, the Bulgarian Helsinki Committee conducted 509 border monitoring visits on the Bulgarian-Turkish border, during which the national border monitoring framework registered 1,067 pushback incidents which affected 15,173 individuals.

11.3. In 2019<sup>6</sup> the Bulgarian Helsinki Committee conducted 535 border monitoring visits on the Bulgarian-Turkish border. Through the tripartite national border monitoring framework, 337 alleged pushback incidents affecting 5,640 individuals were registered. Further highlighting the number of children transiting through Bulgaria and possibly being exposed to indiscriminate pushbacks, the Bulgarian Helsinki Committee identified that in 2019 16% of asylum applicants at borders and detention sites were submitted by children, 10% of which were unaccompanied<sup>7</sup>.

12. Further to this, the Bulgarian Ministry of Interior has published regular statistics that show the number of people prevented from entering Bulgaria.

12.1. In January 2023<sup>8</sup>, the Bulgarian Interior Minister reported 160,000 people were prevented from entering the country, suggesting that these people have been prevented from entering through Bulgarian-orchestrated tactics of illegal removals, i.e. pushbacks.

12.2. The Ministry of Interior also reported that in 2022<sup>9</sup> 16,767 people were apprehended after entering the country from either *irregular entry*, *irregular exit*, or *irregular stay in territory*.

13. Further demonstrating the indiscriminate nature of pushbacks and attributed human rights violations, BVMN has consistently documented pushbacks of children by Bulgarian authorities since 2020. These testimonies consistently highlight how migrant children, some as young as

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<sup>4</sup> Bulgarian Helsinki Committee. (2022). Annual Border Monitoring Report for 2021. Available at: <https://www.bghelsinki.org/en/reports/2022-annual-border-monitoring-report-for-2021-en>

<sup>5</sup> Bulgarian Helsinki Committee. (2021). Annual Border Monitoring Report for 2020. Available at: <https://www.bghelsinki.org/en/reports/2021-annual-border-monitoring-report-for-2020-en>

<sup>6</sup> Bulgarian Helsinki Committee. (2020). Annual Border Monitoring Report for 2019. Available at: <https://www.bghelsinki.org/en/reports/annual-border-monitoring-report-for-2019>

<sup>7</sup> Ibid

<sup>8</sup> News.bg. (2023), Безопасността на границите: Ремонт на Калотина и Кардам, спрени са 160 000 мигранти, 6 January 2023. Available at: <https://bit.ly/41OZhWA> [Accessed 14 December 2023]

<sup>9</sup> Ministry of Interior. (2022). Migration Statistics, December 2022. Available at: <https://bit.ly/3kRy7xE>. [Accessed 14 December 2023]

two years old<sup>10</sup>, have been violently pushed back from Bulgarian territory, in direct variance with the States obligation under the Convention.

13.1 In 2023, BVMN and its partner organisations collected evidence of the pushback, ill-treatment and abuse of an estimated 66 people. This evidence was collected through 4 oral testimonies provided by people on the move, of which 1 testimony recalls children being present amongst the pushback groups.

13.2. In 2022, BVMN and its partner organisations collected evidence of the pushback, ill-treatment and abuse of an estimated 362 people. This evidence was collected through 30 oral testimonies provided by people on the move, of which, 15 testimonies recall children being present amongst the pushback groups.

13.3. In 2021, BVMN and its partner organisations collected evidence of the pushback, ill-treatment and abuse of an estimated 1,182 people. This evidence was collected through 57 oral testimonies provided by people on the move, of which, 30 testimonies recall children being present amongst the pushback groups.

13.4. In 2020, BVMN and its partner organisations collected evidence of the pushback, ill-treatment and abuse of an estimated 280 people. This evidence was collected through 3 oral testimonies provided by people on the move.

14. The data of the use of pushbacks against migrant children and families is further compounded by the narrative accounts reflected in testimonies collected by BVMN. In these accounts, migrant families often recall how they have experienced multiple sequential pushbacks from Bulgaria:

14.1 In 2023, BVMN reported a testimony of a pushback of a 31-year old Syrian man who explained this was his 23rd pushback from Bulgaria to Turkey over the course of 10 months<sup>11</sup> The respondent stated that during the pushback, minors were present.

14.2. In 2022, BVMN documented a pushback from Bulgaria in which the family (male respondent, his wife and their 11 year old child) explained that this pushback was the 7th time the family had been pushed back from Bulgaria to Turkey<sup>12</sup>.

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<sup>10</sup> Border Violence Monitoring Network. (2021). "He Touched My Body And Took Off My Head Scarf And He Kept Kicking Me And Scream At Me And Rip My Dress And Keep Searching And Touching My Body In Front Of My Kid". Available at: <https://www.borderviolence.eu/violence-reports/july-18-2021-0000-vaysal/>

<sup>11</sup> Border Violence Monitoring Network. (2023). "My friends and I were attacked by the police dogs only for not giving the passcodes, in order for the police to take our phones" Available at: <https://borderviolence.eu/testimonies/may-1-2023-between-topcular-turkey-and-fakiya-bulgaria/>

<sup>12</sup> Border Violence Monitoring Network. (2022). "we Were So Afraid To Talk... We Could Barely Breathe." Available at: <https://www.borderviolence.eu/violence-reports/march-20-2022-0000-malko-tarnovo-bg-to-sukrupasa-tr/>

14.3. Furthermore, in 2022, BVMN collected a testimonial from a 45-year old woman from Syria who was pushed back from Bulgaria to Turkey along with her 10-year-old son and her husband. They were part of a larger group of 20 people aged between 10 and 50 years old, all from Syria. The respondent explained that she had been pushed back 8 times by Bulgarian authorities, each time whilst travelling with her 10-year-old son and husband.

15. The testimonies collected by BVMN have demonstrated that pushbacks by Bulgarian authorities are an endemic human rights issue, indiscriminately affecting migrant families and children. In addition to the reporting efforts of BVMN, a range of other international actors and civil society organisations have similarly documented Bulgaria's continued use of pushbacks.

15.1 In 2023, news agency AFP<sup>13</sup> interviewed a 16-year-old Syrian boy in a border town who recalled a violent pushback from Bulgaria to Turkey in which he described how the Bulgarian police “divided us into Arabs and Afghans and started beating us up. They beat us with batons.”

15.2. In 2022, The Bulgarian Helsinki Committee estimated 5,730 pushbacks occurred at the Bulgarian-Turkish border, impacting 87,650 people. The actual number is likely to be much higher<sup>14</sup>.

15.3. In 2022, Human Rights Watch reported on how Bulgarian authorities are brutally and summarily pushing back migrants and asylum seekers across the land border with Turkey.” In that report, Human Rights Watch identified the continued presence of children in pushback groups including A 14-year-old Afghan boy from Kapisa Province, Afghanistan, who was pushed back by Bulgarian authorities into Greece, whilst being beaten by police ‘with their fist and a stick’ and had police dogs set upon them. The 14 year old boy also recalled ‘they did not separate children ... in fact they broke one of their arms and didn’t do anything to help.... They called for a car and continued to beat us in the car. They beat me on my head and hands, my fingers were injured. They took us to the Greek-Bulgarian border, took our clothes, made us lay down, and continued to beat us. They made us walk down a hill to Greece”.

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<sup>13</sup> France 24. (2023). Bulgaria Accused Of Brutal Border Pushbacks. Available at: <https://www.france24.com/en/live-news/20230208-bulgaria-accused-of-brutal-border-pushbacks>

<sup>14</sup> InfoMigrants. (2023). Bulgaria migrant pushbacks: What's behind the rise in violence at the Bulgarian-Turkish border? (1/4) Available at: <https://www.infomigrants.net/en/post/51197/bulgaria-migrant-pushbacks-whats-behind-the-rise-in-violence-at-the-bulgarianturkish-border-14>

15.4. In both 2014<sup>15</sup>, 2016<sup>16</sup> and 2022<sup>17</sup>, Human Rights Watch released reports into the continued and systematic practice of Bulgarian authorities carrying out illegal pushbacks of asylum seekers and migrants. These reports show a sustained and habitual pattern of rights abuses that we assert independently affirm the reports taken by BVMN.

### **Evidence of Children Subjected to Torture, Violence and Abuse During Pushbacks by Bulgarian Authorities**

16. As the aforementioned evidence demonstrates, children on the move are consistently being subjected to pushbacks from Bulgaria. During these pushbacks, we affirm that children routinely witness, or are directly subjected to violence and abuse amounting to torture or inhuman treatment.

17. Across all years of reporting, all Bulgarian pushback testimonies collected by BVMN report one or more forms of violence or abuse carried out by Bulgarian authorities against people on the move. Testimonies recall the use of excessive and disproportionate force, dog attacks, forced undressing<sup>18</sup>, punitive use of electric discharge weapons, threats or violence with a firearm and being subjected to inhuman treatment inside police vehicles or detention sites. Testimonies that recall such types of violence or abuse consistently indicate migrant children and their families witnessing or being directly subjected to such abuse.

18. BVMN has routinely documented pushbacks that show the use of excessive and disproportionate force that we assert would amount to torture and inhuman treatment. Across these pushbacks, evidence shows how children are consistently witnessed or are subjected to such violence.

18.1. In 2020, BVMN<sup>19</sup> member organisation documented a testimony of a pushback of 80 people, the youngest being 6 years old, from Bulgaria to Turkey. Describing the indiscriminate use of violence against children amongst the pushback group, the respondent described his shock at seeing the officers beat everyone, including the women and small children. The respondent further explained “*there was an 8-year-old boy who got punched in his eyes. A blue circle formed around his eyes. He had broken teeth. We*

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<sup>15</sup> Human Rights Watch. (2014). Containment Plan: Bulgaria’s Pushbacks And Detention Of Syrian And Other Asylum Seekers And Migrants. Available at:

<https://www.hrw.org/report/2014/04/28/containment-plan/bulgarias-pushbacks-and-detention-syrian-and-other-asylum-seekers>

<sup>16</sup> Human Rights Watch. (2016). Bulgaria: Pushbacks, Abuse at Borders: Halt Summary Returns, Beatings, Robbery of Asylum Seekers. Available at: <https://www.hrw.org/news/2016/01/20/bulgaria-pushbacks-abuse-borders>

<sup>17</sup> Human Rights Watch. (2012). Bulgaria: Migrants Brutally Pushed Back at Turkish Border: The EU Should Act to Stop Illegal and Dehumanizing Pushbacks. Available at:

<https://www.hrw.org/news/2012/05/26/bulgaria-migrants-brutally-pushed-back-turkish-border>

<sup>18</sup> Border Violence Monitoring Network (2021). “the Women Was Searched By A Male Officer Who Touched All Her Body Looking For Hidden Phone Or Money. As She Started Crying He Screamed At Her And Pushed Her After He Was Done Searching Her.” Available at:

<https://www.borderviolence.eu/violence-reports/october-21-2021-0000-malko-tarnovo-bg-to-sukrupasa-tr>

<sup>19</sup> Border Violence Monitoring Network. (2020). “He Asked For Asylum In Both Bulgaria And Greece. Both Times The Answer Was Beatings.” Available at: <https://www.borderviolence.eu/violence-reports/december-15-2020-0000-orestiada-karakasim>

*were hit too much with the baton.*” After the beating, the respondent also described how together with the children, the group was detained at a detention site for 3 days without food, water, a place to sleep or access to toilets.

18.2. Further demonstrating the heightened level of violence that children are subjected to or forced to witness during a pushback, BVMN member organisation documented a pushback from Bulgaria to Turkey of 29 people, including children as young as 14. Describing the violence, the respondent explained “*2 policemen with a big wooden baton started beating us on the head and they did not stop until they didn't see the blood coming out from our heads*”.<sup>20</sup>

19. Furthermore, during pushbacks BVMN has collected consistent evidence of the use of forced undressing or sexual assault against pushback groups containing children.

19.1. In 2021<sup>21</sup>BVMN documented a violent pushback of a 32-year-old woman from Syria travelling with her 10-year-old child, in a large group of 24 people, including 6 women, and children as young as 2 years old. The respondent described how during the pushback from Bulgaria to Turkey she was sexually assaulted in front of her child, and her 10 year old child was kicked by Bulgarian officers leading to the child being sick and experiencing shortness of breath.

19.2. In 2021<sup>22</sup>BVMN documented a testimony from a 17-year-old in which he recalled being pushed back alongside 5 other people from Bulgaria to Turkey by Bulgarian authorities. The 17-year-old described how Bulgarian authorities forced them to undress and took their clothing, shoes, and collectively around 250 euros from the men. This occurred on November 21st, and the group remained fully naked in the cold for 30 minutes. When their clothing was finally returned, the officers threw back only their pants and shirts, screaming, “*pick up your clothes!*” Neither their shoes nor phones were returned. At the end of the beating, the respondent reported, “*we were beaten so hard...we could barely stand on our feet.*”

20. BVMN also asserts that there is clear evidence to show the police deliberately and knowingly use police dogs to violently attack or debase children during pushbacks. To date, BVMN has collected 15 different testimonies describing police dogs used against groups containing children. 16 of these testimonies described how the police dogs were used to bite and maul members of the transit group.

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<sup>20</sup> Border Violence Monitoring Network. (2022). “I Did Not Expect This Violence From The Police, Because The Duty Of The Police Is To Secure The People But Unfortunately It Is The Opposite Here”. Available at:

<https://www.borderviolence.eu/violence-reports/september-5-2022-1500-near-slivarovo-malko-tarnovo-municipality-bulgaria/>

<sup>21</sup> Border Violence Monitoring Network. (2021). “He Touched My Body And Took Off My Head Scarf And He Kept Kicking Me And Scream At Me And Rip My Dress And Keep Searching And Touching My Body In Front Of My Kid”. Available at: <https://www.borderviolence.eu/violence-reports/july-18-2021-0000-vaysal/>

<sup>22</sup> Border Violence Monitoring Network. (2021). “We Were Beaten So Hard...we Could Barely Stand On Our Feet” Available at: <https://www.borderviolence.eu/violence-reports/november-21-2021-1300-matochina-bg-to-hatipkov-tr/>



20.1. In 2023, BVMN member organisation collected a testimony detailing 10 people, including minors, being subjected to dog attacks. The respondent explained “*my friends and I were attacked by the police dogs only for not giving the passcodes, in order for the police to take the phones.*”<sup>23</sup>.

20.2. In 2022, a BVMN member organisation documented a testimony of a pushback of a group of 29 people from Bulgaria to Turkey. The respondent recalled; “*The dogs were aggressively biting us, on our hands and on our legs, and police did not show any humanity while the dogs were attacking us. After 5 minutes they removed their dogs from us and they started beating us with punches and kicks, they asked us to sit on the ground and 1 of them took the belt from his pants and he started beating us with it. Once he stopped, they took our mobile phones and money and put them in their pockets.*”<sup>24</sup>. The youngest in this pushback group was 14 years old.

20.3. In 2022, BVMN member organisation documented a testimony of a pushback from Bulgaria to Turkey of a group of 8 people. Recalling the use of police dogs, the respondent explained that once they were caught, the police “*pulled each one of us out of the group and then ordered the dog to bite him once on each leg*”. Amongst this group was a 16-year-old boy<sup>25</sup>.

#### **IV. Detention of Migrant Families and Children as a Violation of the Convention of the Rights of the Child**

**Article 9 CRC:** Article 9 of the Convention of the Rights of the Child

**Article 37 CRC:** Article 37 of the Convention of the Rights of the Child

##### **Explanatory Note:**

21. Article 37(b) of the CRC outlines that States are required to guarantee that “no child shall be deprived of his or her liberty unlawfully or arbitrarily. The arrest, detention or imprisonment of a child shall be in conformity with the law and shall be used only as a measure of last resort and for the shortest appropriate period of time”. Furthermore, Article 37(c) stipulates that “every child deprived of liberty shall be treated with humanity and respect, and shall not be separated from adults”. Article 37(d) further mandates that States ensure every child deprived of liberty has

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<sup>23</sup>Border Violence Monitoring Network. (2023). “My friends and I were attacked by the police dogs only for not giving the passcodes, in order for the police to take our phones” Available at:

<https://borderviolence.eu/testimonies/may-1-2023-between-topcular-turkey-and-fakiya-bulgaria/>

<sup>24</sup>Border Violence Monitoring Network. (2022). “I Did Not Expect This Violence From The Police, Because The Duty Of The Police Is To Secure The People But Unfortunately It Is The Opposite Here”. Available at:

<https://www.borderviolence.eu/violence-reports/september-5-2022-1500-near-slivarovo-malko-tarnovo-municipality-bulgaria/>

<sup>25</sup>Border Violence Monitoring Network. (2021). “They Pulled Each One Of Us Out Of The Group, And Then Ordered The Dog To Bite Him Once On Each Leg” Available at:

<https://www.borderviolence.eu/violence-reports/march-15-2021-0000-malko-tarnovo-sukrupasa-3/>

the right to access legal or other appropriate assistance and possesses “the right to challenge the legality of the deprivation of his or her liberty before a court or competent [body].”

22. Article 9 of the CRC requires States to ensure a child would not be separated from their parents against their will except in circumstances when it is for the best interests of the child. Moreover, “where such as a separation results from any action initiated by a State Party, such as detention [...] of one of both parents or of the child, that State Party shall, upon request the parents, the child or, if appropriate another member of the family with the essential information concerning the whereabouts of the absent member(s) of the family [...]”.

23. BVMN finds there is a strong correlation with the violent pushback of people on the move, including children, and the use of arbitrary detention. BVMN has collected evidence of the pushback and arbitrary detention of migrants, in which testimonies reported poor detention conditions depriving their rights, and the use of informal and incommunicado detention sites amounting to the violation of international law.

24. Furthermore, BVMN asserts that there is a strong correlation with inhuman detention conditions as a form of torture for detainees, specifically in relation to children. This was affirmed in *S.F. v. Bulgaria* (no. 8138/16), in which the European Court of Human Rights held Bulgaria had violated Article 3 of the European Convention on Human Rights when an Iraqi family and their children aged 16, 11, and 1 and a half years, were kept in a migrant detention facility in Vidin. The family experienced poor detention conditions concerning bedding, toilet facilities, and a failure to provide food and water.<sup>26</sup> The family were detained by Bulgarian authorities near the Bulgarian-Serbian border on 17 August 2015, and were granted asylum in July 2017.

### **Evidence of Arbitrary and Inhuman Detention Conditions:**

25. Since 2020, BVMN and its partner organisations have collected evidence of the pushback, ill treatment and abuse of an estimated 1,824 people, including children and families. The documented testimonies present the intrinsic link between pushbacks and the detention of migrants involved in such a process. Respondents who have been detained by authorities reported they were denied access to food and water, toilet facilities, medical care, and assistance via a translator. Moreover, the evidence collected by BVMN has also been supported by external sources on the correlation of pushbacks and detention.

25.1. On 15th January 2023<sup>27</sup> BVMN documented a pushback testimony in which the respondent described being detained in “*a big kind of large caravan*”. The respondent

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<sup>26</sup> *S.F. v. Bulgaria* (Application no. 8138/16), Available at: <https://hudoc.echr.coe.int/fre?i=001-179231>

<sup>27</sup> Border Violence Monitoring Network. (2023). “In order for us to ask for asylum, we should have space to communicate. But there wasn't. If you speak, they will beat you up.” Available at: <https://borderviolence.eu/testimonies/january-15-2023-bulgaria/>

believed it was neither a police station or an army station but rather described it as a “*random place*”, indicating this may have been an informal detention site. The respondents recalled how they were not provided with any food or water while they were held at the detention site. In addition, they reported that they did not have access to toilet facilities and were subjected to beatings if anyone spoke.

25.2. On 16 January 2021, BVMN documented a testimony on the detention of a person on the move near the Bulgarian-Turkish border.<sup>28</sup> The respondent recounts their experience being held in numerous detention sites. Firstly, the respondent reports being detained at a building of the traffic police for approximately an entire day. The respondent was not given access to food and water, or assistance from a translator. The respondent was subsequently detained at another site which he described being a “*small space*” and “*tight*”. The respondent additionally reported that he was beaten and humiliated by Bulgarian officers whilst in transit between detention sites.

25.3. On 8 April 2022, BVMN documented a testimony on the detention of a group of 8 people on the move near the Bulgarian-Turkish border.<sup>29</sup> The respondent recalled how their group were locked inside a 4x4 cell with one bunk bed alongside approximately 40 other people, including 3 women. There was no access to food, water, toilet facilities or translators. The respondent and their group were detained for about four hours.

25.4. On 26 May 2022, Human Rights Watch (HRW) published a report on the push back and detention of migrant children and families near the Bulgarian-Turkish border.<sup>30</sup> HRW interviewed and collected 15 Afghan men between November 2021 and April 2022, who have been described to be the victims of 19 pushbacks by Bulgarian authorities. Interviewees recalled some migrant children and families had been detained by the Bulgarian police prior to being pushed back to the Bulgarian-Turkish border.

26. BVMN has documented testimonies presenting evidence of the frequent use of informal and incommunicado detention centres to detain migrants.<sup>31</sup> These testimonies highlight the use of unofficial detention sites, such as abandoned derelict buildings used to detain migrants. Moreover, testimonies reported these informal detention sites lack provision of basic necessities, such as food, water, and healthcare in informal detention settings. These types of detention

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<sup>28</sup> Border Violence Monitoring Network. (2021). “He told me no Romania, no Bulgaria, no Germany, no Europe and spit on my face and tell me go back to Turkey” Available at:

<https://www.borderviolence.eu/violence-reports/january-16-2021-0000-malko-tarnovo-sukrupasa/>

<sup>29</sup> Border Violence Monitoring Network. (2022). “They told us “Yes we will take you to the camp” but nothing happened. All we got was beating.”, Available at:

<https://www.borderviolence.eu/violence-reports/april-8-2022-1900-belevren-bg-to-tatlipinar-tr/>

<sup>30</sup> Human Rights Watch. (2022). “Bulgaria: Migrants Brutally Pushed Back at Turkish Border”, Available at:

<https://www.hrw.org/news/2022/05/26/bulgaria-migrants-brutally-pushed-back-turkish-border>

<sup>31</sup> Border Violence Monitoring Network. (2021). “Annual Torture Report 2020. Available at:

<https://www.borderviolence.eu/annual-torture-report-2020/>

facilities are considered as a violation of international law and human rights, and BVMN contends as a form of torture.

26.1. On 3 April 2021, BVMN documented a testimony on the detention of 2 people near the Bulgarian-Turkish border.<sup>32</sup> They were taken to a detention site by Bulgarian police, in what the respondent described as an “*abandoned*” building which did not have any signs indicating it was an official police station or detention site. The respondents recalled they were locked in one of the rooms of the building which was described as “*cold, dirty and stinky*” and was “*not a proper cell*” as it was “*full of bottles of water and there was no place to sit on*” and “*a hole in the ground that was used as a toilet*”. They were denied access to food and water and were not provided translators. They were also beaten with a stick, were asked to undress, and had their personal belongings seized by Bulgarian police.

26.2. On 26 October 2022, BVMN documented a testimony on the detention of a group of 3 migrants near the Bulgarian-Turkish border.<sup>33</sup> According to the respondent, their group was intercepted by 2 uniformed men and were transported to a detention site described as “*an army base*”. The respondent and their group were placed and detained inside a toilet which was used as a form of cell with 10 other migrants. There was no presence of a translator, and they were not provided with food and water. The respondent and their group were locked and detained in the toilet for an hour and a half, and were then beaten and kicked by the uniformed men as they were pushed back to the border.

26.3. Moreover, Lighthouse Reports published a report, dated on 8 December 2022, on the use of secret facilities or “black sites” as informal detention systems in Bulgaria, Hungary and Croatia prior to the illegal deportation of people seeking refuge or asylum.<sup>34</sup> The report has collected visual evidence of refugees being detained and “routinely locked” in “[small] derelict, cage-like structure” resembling a “disused dog kennel, with bars on one side” for several hours to up to three days” next to a border police station in Sredets, Bulgaria, and are excluded from public access. Lighthouse Reports gathered witness testimony from asylum seekers who had recalled being denied food or water while being held in the cage. These detention facilities are classified as illegal as outside the scope of the legal framework as the treatment of detainees “amounts to torture”.

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<sup>32</sup> Border Violence Monitoring Network. (2021). “The officers pull up the fence to make us cross while beating us and laughing at us. They even followed us in the Turkish territory for about ten metres”, Available at: <https://www.borderviolence.eu/violence-reports/april-3-2021-0000-matochina-suakacagi/>

<sup>33</sup> Border Violence Monitoring Network. (2022). “He shoot one next to me very near me and then he was like holding the gun on me so if I moved he probably shoot me...”, Available at: <https://www.borderviolence.eu/violence-reports/october-26-2022-0030-near-road-e87-bulgaria/>

<sup>34</sup> Lighthouse Reports. (2022). “Europe’s Black Sites”, Available at: <https://www.lighthousereports.nl/investigation/europes-black-sites/>

27. Numerous sources have observed and confirmed the nature of inhuman detention conditions in Bulgaria, including its unsatisfactory standard in the presence of children and families:

27.1. On 11 July 2019, the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) published its report on its visit, from 10 to 17 December 2018, to Bulgaria to examine and observe the treatment and conditions of detained foreign nationals in Elhovo, Sofia Airport, Svilengrad (Kapitan Andreevo), Busmantsi, and Lyubimets.<sup>35</sup> As of the time of the visit in 2018, there were 150 detained foreign nationals, including 4 minors, and 70 of which were asylum seekers.<sup>36</sup> Detention conditions in Lyubimets and Busmantsi were described to have “dilapidated and virtually bare” with a “lack of privacy” and “inadequately heated”. The food quality was reportedly poor, and there was a ban on cooking their own meals.<sup>37</sup> Moreover, the CPT notes the absence of activities or recreational spaces offered to children, such as new playrooms.<sup>38</sup> Access to health care was regarded as unsatisfactory as medical equipment was “very scant”, there was a lack of medical confidentiality, and “very poor access” to psychiatric care, and also a lack of interpretation arrangements to assist foreign detained nationals to access health care.<sup>39</sup>

27.2. On 12 February 2021, the Asylum Information Database (AIDA) by the European Council on Refugees and Exiles (ECRE) released a country report on Bulgaria’s asylum practice, which included details pertaining to detention conditions experienced by asylum seekers, migrants, refugees or people on the move.<sup>40</sup> The report identified 2 pre-removal detention centres, Busmantsi and Lyubimets, which were described to have unsatisfactory detention conditions for families and children specifically, which was lacking in hygiene and toilet facilities, access to healthcare and food and nutrition.<sup>41</sup> Furthermore, the conditions of these facilities were reported to be of a poor standard; toilets and showers in the detention centres were “dilapidated, dirty and flooded” for women and children to use, and the food provided to children and pregnant women had poor nutrition and did not accommodate special diets.<sup>42</sup>

27.3. On 5 November 2021, the United Nations Subcommittee on Prevention of Torture (SPT) issued a press release regarding their visit to Bulgaria from 24th to 30th October

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<sup>35</sup> European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment. (2019). “Report to the Bulgarian Government on the visit to Bulgaria carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 10 to 17 December 2018”, Available at: <https://rm.coe.int/1680966286>

<sup>36</sup> Ibid, p.13

<sup>37</sup> Ibid, p.16

<sup>38</sup> Ibid, p.17

<sup>39</sup> Ibid, p.19-20

<sup>40</sup> Asylum Information Database (AIDA) (2021). “Country Report: Bulgaria 2020 Update”, Available at: <https://ecre.org/aida-2020-update-bulgaria/>

<sup>41</sup> Ibid, p.73

<sup>42</sup> Ibid

2021.<sup>43</sup> The SPT commented on the observation of the “high number of migrants and asylum seekers in Bulgaria [...] detained in special centres”, and were “particularly concerned about child migrants held in detention” of which some were unaccompanied children and considered them as the “most vulnerable group”. The SPT asserted the importance of humane detention conditions and regarded these to include appropriate health care services, legal assistance, interpretation.

28. Lastly, further affirming the increasing scale of the use of detention, in 2022, 4,233 asylum seekers were able to apply for international protection at the national entry borders and only 1% of them (49 individuals) had direct access to the asylum procedure without detention. The remaining 99% who were able to apply at entry borders were sent to the Ministry of Interior’s pre-removal centres. In 2021, 3% (34 out of 1,065 asylum seekers) of the applicants at the entry border had direct access to the asylum procedure without detention., showing that the use of detention is both increasing and expanding<sup>44</sup>

## **V. Developments and Legal Obligations for Children and Minors and Families in Detention:**

29. The Regulations for Implementation of the Law on Aliens in the Republic of Bulgaria (LARB Regulations) has been amended and enforce several provisions regarding the use of detention. As of 10 July 2018, the LARB introduced the prohibition of the detention of unaccompanied children and a maximum period of 3 months for the detention of accompanied children detained with their parents.<sup>45</sup> The CPT has observed a reduction in the number of minors being detained in Busmantsi and Lyubimets in October 2018 since their prior visit in 2017.<sup>46</sup> The CPT affirms detention would contribute a negative psychological effect on minors, and stated their placement in detention facilities should be enacted as a “last resort”.<sup>47</sup> In 2020, 236 unaccompanied children were referred to child protection services instead of being held in detention, and were assisted by the police and child care services in the asylum procedure.<sup>48</sup> However such assistance has been applied in practice to unaccompanied children aged up to 14 years.<sup>49</sup>

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<sup>43</sup> United Nations Human Rights Office of the High Commissioner (OHCHR). (2021). “Bulgaria torture prevention: UN experts concerned about migrant children in detention”, Available at:

<https://www.ohchr.org/en/press-releases/2021/11/bulgaria-torture-prevention-un-experts-concerned-about-migrant-children>

<sup>44</sup> Asylum In Europe. (2023) Access to the Territory and Pushbacks: Bulgaria. Available at:

[https://asylumineurope.org/reports/country/bulgaria/asylum-procedure/access-procedure-and-registration/access-territory-and-push-backs/#\\_ftnref22](https://asylumineurope.org/reports/country/bulgaria/asylum-procedure/access-procedure-and-registration/access-territory-and-push-backs/#_ftnref22)

<sup>45</sup> Article 44(9), The Regulations for Implementation of the Law on Aliens in the Republic of Bulgaria (LARB)

<sup>46</sup> European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment. (2019). “Report to the Bulgarian Government on the visit to Bulgaria carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 10 to 17 December 2018”, Available at: <https://rm.coe.int/1680966286>

<sup>47</sup> Ibid, p.14

<sup>48</sup> AIDA Country Report: Bulgaria 2020 Update, p.69-70

<sup>49</sup> Ibid

30. Unaccompanied migrant children continue to be detained in pre-removal detention centres in Busmantsi or Lyubimets. Moreover, the Bulgarian police apply an “attachment” practice for unaccompanied children ages from 14 to 18 years who have irregularly entered and attempt to leave Bulgaria.<sup>50</sup> The practice of “attachment” occurs when the Bulgarian police have arrested unaccompanied children and proceed to assign them to an adult who are unrelated or registered as adults without collecting any evidence or statements for a family link between them. It is through this “attachment” that the police continue to apply the detention of unaccompanied children. In 2020, the Bulgarian Helsinki Committee identified 294 unaccompanied children, including those detained as “attached” to an adult.<sup>51</sup>

31. The Law on Asylum and Refugees (LAR) has provided “the possibility to detain accompanied children for asylum purposes as a last resort, in view of ensuring family unity or ensuring their protection and safety, for the shortest period of time”.<sup>52</sup> However, specific alternatives to detention for children, such as alternative reception or care arrangements for unaccompanied children and families with children has not been introduced in the legal framework.<sup>53</sup>

32. Since the end of 2020, the LAR has introduced the responsibility of legal representation of unaccompanied asylum seeking and refugee children from the municipalities to the National Legal Aid Bureau.<sup>54</sup> Unaccompanied children would be able to have legal representation “throughout the asylum procedure, after recognition and before all relevant agencies responsible for the children’s rights and entitlements.”<sup>55</sup>

33. In 2019 and 2020, the International Organization for Migration (IOM) established “safety zones” for unaccompanied minors in the Voenna Rampa and the Ovcha Kupel reception centres in Sofia.<sup>56</sup> These “safety zones” aimed to create a safe environment for unaccompanied minors seeking international protection, and includes services such as accommodation, social, psychological, legal support, cultural mediation, interpretation, and access to basic services to seek protection in Bulgaria.

## **VI. Recommendations**

34. Recalling recent concluding observations of the Committee and General Comment No. 6 (2005) and No. 23 (2017), the Border Violence Monitoring Network calls upon the State party to immediately end the pushbacks of families and migrant children and ensure they are individually

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<sup>50</sup> Ibid

<sup>51</sup> Ibid

<sup>52</sup> Article 45f(1), Law on the Asylum and Refugees (LAR); AIDA Country Report: Bulgaria 2020 Update, p.69

<sup>53</sup> Ibid

<sup>54</sup> Article 25, LAR

<sup>55</sup> Information in English and Language taken from AIDA Country Report: Bulgaria 2020 Update, p.12

<sup>56</sup> International Organization Migration (IOM). (2022). “Support for Unaccompanied Minors, Seeking International Protection”, Available at: <https://bulgaria.iom.int/support-unaccompanied-minors-seeking-international-protection>

identified, registered and protected against refoulement, including through effective access to asylum procedures, and free legal and humanitarian assistance, in accordance with articles 6, 22 and 37 of the Convention.

35. BVMN urges the Bulgarian authorities to immediately carry out an independent and thorough investigation into the illegal and violent pushbacks and hold accountable and sanction all those responsible. Additionally, BVMN recommends that the Bulgarian authorities provide support, compensation and protection to child victims.

36. Furthermore, BVMN recommends the Bulgarian authorities take steps to introduce further national safeguards to appropriately monitor and report on instances of pushbacks and refoulement by establishing an independent border monitoring mechanism.

37. BVMN recommends the Bulgarian authorities immediately cease the practice of placing children in immigration detention and prioritise the immediate transfer of asylum-seeking children and their families out of detention centres, while ensuring timely identification procedures.

38. BVMN urges the Bulgarian authorities to immediately carry out an independent and thorough investigation into the use of improvised, arbitrary or incommunicado, including the reported use of so-called ‘detention black sites’ and hold accountable and sanction all those responsible.

39. BVMN recommends the creation of independent monitoring mechanisms for detention centres, with the focus on upholding international standards and rights for detainees, including access to essential services, medical care and legal support.

40. BVMN suggests the CRC should consider requesting Bulgaria to develop child centric policies to take into account and prioritise the needs and rights of migrant children. Actions and decisions must be taken in the best interest of migrant children.

41. Published on 18th October 2023, the European Commission Report on the six-month implementation of the pilot projects with Bulgaria for rapid procedures for granting protection and return<sup>57</sup> describes increased ‘cooperation with Frontex, with the implementation of a roadmap providing Bulgaria with additional resources, including Standing Corps and technical equipment for border management.’ BVMN recommends that in light of this increased cooperation between Frontex and Bulgaria, the CRC should question Bulgaria about this update

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<sup>57</sup> European Commission. (2023). “Commission reports on progress made by Bulgaria and Romania on the Pilot Projects for Fast Asylum and Return Procedures”, Available at: [https://ec.europa.eu/commission/presscorner/detail/en/IP\\_23\\_5063](https://ec.europa.eu/commission/presscorner/detail/en/IP_23_5063) [Accessed 15 December 2023].



and what effects this will have on the arbitrary detention, torture, violence and pushback of migrant families and children.