



1156-1/2016

Geneva, 26 May 2016

Dear Mr. Ghezraoui,

Please find attached the reply of the Government of the Republic of Serbia to a joint urgent appeal from 3 March 2016 sent by the Special Rapporteur on the human rights of migrants, Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, and Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment.

Sincerely yours,

OHCHR REGISTRY

26 MAY 2016

Recipients: SRB.....

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Vladislav Mladenovic
Ambassador,
Permanent Representative

Mr. Karim Ghezraoui
Chief a.i.
Special Procedure Branch
Office of the High Commissioner for Human Rights

OFFICE FOR HUMAN AND MINORITY RIGHTS
Department for monitoring of implementation
of international and regional human rights treaties
Belgrade, April 13, 2016

**Response of competent authorities in the Republic of Serbia to the urgent,
joint appeal of the Special Rapporteur on the Human Rights of Migrants, Special
Rapporteur on Contemporary Forms of Racism, Racial Discrimination, Xenophobia
and Related Intolerance and Special Rapporteur on Torture and Other Cruel, Inhuman
or Degrading Treatment or Punishment**

- On February 18, 2016, after performed analysis of migration flows and issues related with management of migrant crisis along so called West Balkan route, police directors of the Republic of Macedonia, Republic of Serbia, Republic of Croatia, Republic of Slovenia and Republic of Austria signed a joint statement for the purpose of more efficient and humane management of the migrant crisis.

Considering possible solutions for improvement of cooperation in management of migrant crisis, among other things, the following was agreed:

- Support is provided for all the activities of the European Union and Frontex on the external borders of the European Union in the region of South East Europe, particularly Greek -Turkish, i.e. Macedonian - Greek border.
- Each partly will promptly inform all the parties along the route about all the measures and limitations it plans to introduce, not later than five days before their implementation.
- Standard unified form for registration of migrants is accepted for the purpose of standardization of registration of migrants, and it will be issued at the first point of entry to a country, and competent state police authorities of the countries along the route will place the relevant stamp on it.
- For humane reasons, entry may be permitted to the citizens of third countries who do not meet the conditions listed in the Statement, but they are in need of international protection (for example: Syria, Iraq), under the condition that they can prove their citizenship (they possess identification document or they can confirm their citizenship by knowledge of language, copy or scanned document) and have the registration form issued by any state on the West Balkan route.

Signing of this statement is primarily motivated by the intention and need to provide more efficient and humane transfer of migrants towards the countries of the West Europe i.e. countries of final destination, and is reflected in the following:

- Establishing of the conditions for entry of migrants at one point, i.e. Greek-Macedonian border, leads to the situation where the migrants tend to stay longer only at that one point, while at the other border crossings it is only necessary to establish identity and compare the lists (there is no need to establish country of origin, or country of final destination), which significantly expedites transit of migrants to the final destination.
- Described approach prevents profiling of migrants at other borders, their possible return, different interpretation of conditions for reception and further transit by certain countries on their route, as well as waiting at the border crossings.

- Each change of the conditions for reception of migrants by the country of final destination (Austria and Germany) may be implemented faster and in uniform way, which excludes the possibility of different interpretation and possibility that certain migrants remain “stuck” (stay in one of the countries on the route because a neighboring country refuses to accept them).
- Reduce the opportunities for smuggling of migrants, forging of documents and other illegal activities.
- Reception and transfer i.e. transit of migrants is more humane and safer.

Above described procedure based on the joint statement of the police directors applied as of February 18, 2016 until March 7, 2016, when West Balkan route was closed and we think that it gave good results, i.e. that the migrants reached their final destination in safer and more humane way.

Competent authorities of the Republic of Serbia in cooperation with international organizations are currently working on organization and implementation of voluntary return of migrants to their countries of origin, considering the fact that so called West Balkan route is closed, as well as that a certain number of migrants remained on the territory of the Republic of Serbia.

- On July 10, 2015, the Ministry of Labor, Employment, Veteran and Social Affairs issued the *Instruction for the activities of the Centers for Social Services and Institutions for Social Protection for Accommodation of Beneficiaries in provision of protection and accommodation for unaccompanied underage migrants*, and it was delivered to all the centers for social services and it includes instruction for the actions of the centers in the conditions of significant increase of immigration to the Republic of Serbia. The goal of the Instruction was to secure timely, comprehensive, equal and legal actions of the centers for social services, institutions for accommodation of beneficiaries which have special organizational units, within their structure, for temporary accommodation and reception of unaccompanied underage migrants, and other institutions for social protection for accommodation which can provide accommodation for underage immigrants and immigrants who, pursuant to the Law on Migrations Management¹, may be placed in the institutions for social protection. The Instruction stipulates the duty of the stated institutions to secure measures of family-legal protection-guardianship and accommodation, pursuant to the principle of the protection of migrants’ rights, with observance of their specific needs and interests to the highest extent, pursuant to the resources of the Republic of Serbia, and in compliance with ratified international treaties and generally accepted rules of international law. Furthermore, the centers for social services were also directed in the Instruction to, immediately upon receipt of written or verbal notice from the Ministry of Internal Affairs – Police Directorate – Border Police Administration or Commissariat for Refugees and Migrants about found unaccompanied underage immigrant, provide guardianship to such underage person by appointment of temporary guardian pursuant to Article 132, paragraph 2, item 4 of the Family Law².

¹ “Official Gazette of the RS“, number 107/2012

² “Official Gazette of the RS“, number 18/2005, 72/2011- other law and 6/2015

- The Ministry has prepared the Action plan for provisions of help, assistance and protection of unaccompanied underage migrants who travel without adult responsible persons.

Above referred plan includes the following activities:

1. Establishing of the scope and contents of available capacities for accommodation of unaccompanied underage migrants in the system of social protection (Within this activity, it is necessary to establish available capacities in the institutions for social protection for accommodation of children without parental care, children with behavioral problems and children with developmental problems. This means that the analysis should be done to establish current occupancy of available capacities, number of available places, organization of space for reception of unaccompanied underage migrants, approach for securing safety, health care and existential conditions, required financial means and professional and other staff required for provision of assistance for these children);
2. Provision of required financial means, professional and other staff required for provision of assistance for the unaccompanied underage migrants;
3. Provision of accommodation and distribution of unaccompanied underage migrants in provided capacities within the system of social protection (Upon receipt of notice on the need for accommodation of unaccompanied underage migrants, whether it is an individual or a group, which exceeds the capacities of existing organizational units for accommodation of unaccompanied underage migrants in the institutions for social protection, in cooperation with the directors of the institutions for social protection which, according to the analysis, have required conditions for reception and accommodation of these children, direct them to accommodation in these institutions);
4. Provision of protection of the rights and interests of unaccompanied underage migrants – Immediately upon receipt of the written or verbal notice form the Ministry of Internal Affairs – Police Directorate – Border Police Administration or Commissariat for Refugees and Migrants about found unaccompanied underage migrant, on the territory of its territorial or subject matter jurisdiction, the Center for Social Services will provide such underage person with: guardianship by appointment of temporary guardian pursuant to Article 132, paragraph 2, item 4 of the Family Law³ - scope and contents of authorizations of the temporary guardian will be defined solely in regards to provision of temporary accommodations in the institution for social protection for accommodation of beneficiaries which have, within their organizational structure, a special organizational unit for temporary accommodation and reception of unaccompanied underage immigrants. Upon accommodation, competent center for social services for the territory where the institution where the child is accommodated is located, will immediately appoint a new temporary guardian for that underage migrant, for the purpose of temporary protection of person, rights and interests of the child. In case of a transfer of the child from the institution to the Asylum center, transfer will be organized by the institution where that child is accommodated, and the child will be transfer in presence of guardian and interpreter. Center for social services, which has territorial jurisdiction where the Asylum center is located, will appoint a new temporary guardian for an underage person immediately upon accommodation, for the purpose of temporary protection of person, rights and interests of the child, as well as accommodation in the institution for social protection for accommodation of beneficiaries.
5. Provision of accommodation (Institution for social services for accommodation of beneficiaries is under obligation to, pursuant to its field of activities, provide an underage

³ “Official Gazette of the RS“, number 18/2005, 72/2011 - other law and 6/2015

migrant with the following: safety; health care in accordance with special regulations related with health care; existential conditions (housing, adequate diet in accordance with national and religious origin of underage migrant, means for personal hygiene, clothes, shoes etc.).

6. Monitoring of the implementation of the activities defined by the Action plan and reporting in accordance with the Instruction for the activities of the Centers for Social Services and Institutions for Social Protection for Accommodation of Beneficiaries in provision of protection and accommodation for unaccompanied underage migrants, and based on the obligation of the director of the center for social services, i.e. institution for social protection will provide, either monthly reports or as requested by the ministry, on their activities on reception of unaccompanied underage migrants, and will deliver written reports to the Ministry of Labor, Employment, Veteran and Social Affairs – Sector for family care and social protection.
- In cooperation with the UNICEF, the Ministry of Labor, Employment, Veteran and Social Affairs has done as follows:
 1. Pursuant to internationally accepted documents, conventions, directives etc. clearly and unambiguously defined the term “children – underage migrants not accompanied by adult responsible person“;
 2. Defined the risk assessment procedure for unaccompanied children or separated children at key points and border crossings;
 3. Defined the elements of the best interest of the child - underage migrant not accompanied by adult responsible person;
 4. Defined the standard operational procedures for identification of the child - underage migrant not accompanied by adult responsible person;
 5. Defined the standard operational procedures for undertaking of the measures of social and family-legal protection of the child - not accompanied by adult responsible person;
 6. Provided additional filed social workers for direct work with children – underage migrants not accompanied by adult responsible person, in reception and transit centers, at entrance to and exit from the Republic of Serbia;
 7. Provided 24 hours, 7 days a week shifts of professionals from the centers for social services in reception and transit centers for reception, as well as along the route of the migrants’ movement;
 8. There is an ongoing preparation of the training program and its implementation for the professionals in the centers for social services and institutions for social protection on the topic of work with children - underage migrants not accompanied by adult responsible person;
 9. Three seminars-conferences were organized on the activities in the system of social and family-legal protection with children- underage migrants not accompanied by adult responsible person (Belgrade, Subotica and Kanjiza);
 - In cooperation with the International Organization for Migration (IOM), four training sessions were held for the professionals in the system of social and family-legal protection working with children-underage migrants not accompanied by responsible adult person (Bujanovac, Vranje, Pirot, Sid), which were attended by the professionals from the centers for social services on the territories of the region through which the migrants enter the Republic of Serbia, move along the territory and exit the Republic of Serbia, as wells as by the representatives of the Commissariat for Refugees and Migrations of the Republic of Serbia, representatives of civil society organizations

providing services to children, Red Cross, UNHCR etc.;

- In cooperation with the Danish Refugee Council, assistance and support programs are prepared for children – underage migrants not accompanied by adult responsible person. Two trainings were held for the centers for social services and other stakeholders for provision of assistance and support for children migrants victims of abuse and neglect, as well as children and families from reception centers where domestic violence was established;*
- Project for expansion, adaptation and reconstruction of the Center for Education of Children and Youth is implemented based on cooperation with the Swiss Confederation which provided the funds, and this Center has an organizational unit for reception of unaccompanied underage migrants. Special attention will be dedicated to creation of conditions for reception of female underage migrants. It should be emphasized that the International Organization for Migrants has expressed preliminary intent to take part with its resources and support implementation of this project.

- Ever since the beginning of the migrant crisis, the Republic of Serbia has consistently applied the principle of humane treatment of migrants. There has been no use of force against migrants on the territory of the Republic of Serbia, inland or on the border crossings, and the Republic of Serbia has not placed any obstacles on the borders. During 2015, more than 600,000 migrants passed through the territory of the Republic of Serbia. As of the beginning of 2016, total of 97,743 migrants has been registered, out of which 96,116 confirmations of entry to the territory of the Republic of Serbia were issued, while 1,627 persons expressed their intention to seek for asylum.

During the migrant crisis, the Republic of Serbia has never used the approach of “mass deportation” of refugees and migrants. On the contrary, in their work so far, the competent authorities have, pursuant to the law, performed detailed analysis and establishing of facts and circumstances for each person, avoiding general assumptions. This practice will continue in the future.

- All the migrants who have spent some time on the territory of the Republic of Serbia, whether they entered it regularly or irregularly, have been provided, without discrimination, with humanitarian assistance in form of accommodation, food and health care. Also, with the increased involvement of competent social services, as well as numerous civil society organizations, constant identification of vulnerable categories of migrants has taken place (unaccompanied underage persons, victims of violence, and potential victims of human trafficking) and suitable assistance was provided in all discovered cases.

All persons were appropriately informed, in several languages mostly used by migrants, of the possibility to seek asylum in the Republic of Serbia and all the persons who wanted to receive protection from the Republic of Serbia were enabled to initiate the procedure to obtain protection.

In respect of the “quotas” of migrants, in its practice so far, the Republic of Serbia has never treated migrants through quotas or numbers, but has accepted all the persons who entered its territory in accordance with law and principles of humanity.

After their entry to the territory of the Republic of Serbia and in further transfer, all the persons i.e. migrants had and still have access to the system of asylum in the Republic of Serbia, as regulated by law.

- Members of the Ministry of Internal Affairs are continuously educated through Program of professional development which is implemented systemically, for all the members of police, which includes, *inter alia*, the matter of human rights in comparison with international and national regulations and standards. In their work with migrants, the police officials of the Ministry of Internal Affairs have demonstrated high level of professionalism, legality, as well as human solidarity which is confirmed by numerous international and civil society organizations which have taken active part in the field during the migrant crisis.

When working with migrants, the police officials have paid special attention to vulnerable groups, such as elderly, sick, persons with disabilities, mothers with children, underage persons etc.

Police officials perform their work pursuant to legal authorizations, while complying with established and achieved standards of police actions, considering internationally accepted general standards of action, which apply to, *inter alia*, exercise of human and minority rights and freedoms, non-discrimination in performance of police assignments, ban of torture and use of inhumane and degrading procedures etc.

Furthermore, pursuant to the provisions of the Law on Police⁴, police officials are under obligation to treat everyone equally regardless of their race, gender or nationality, their differences arising from social background, birth, religion, political or other beliefs or opinions, gender and gender identity, financial status, culture, language, age and psychological or physical disability.

⁴ "Official Gazette of the RS", number 6/2016