

## **REPLY OF CROATIA TO THE LETTER SENT BY THREE UN SPECIAL RAPORTEURS**

The Republic of Croatia thanks the three UN Special Rapporteurs for their Joint Appeal, in which concerns and questions were raised in connection with the „Joint Statement of Heads of Police Service“ released following the meeting in Zagreb (3 February 2016) of the Heads of Police Services of the former Yugoslav Republic of Macedonia, Serbia, Croatia, Slovenia and Austria. Croatia is pleased to answer the claims and to give more information on the policies and principles of the Republic of Croatia in the matter.

From the inception Croatia is implementing its obligations as stipulated by the Dublin III Regulation, and fully respects the decisions of the European Court of Human Rights and European Court of Justice in this regard. Throughout the crisis, Croatia was actively involved in helping the refugees and migrants and thus handled a large number of people in a humane and dignified manner. As a transit country, Croatia fulfilled all the obligations arising from the Dublin procedure and the international human rights law. The text below will address each question from the letter.

### **1) Please provide any additional information and/or comment(s) you may have on the above-mentioned allegations.**

The Republic of Croatia has been systematically applying measures for the protection of human rights of migrants since the migrant crisis has started in the Croatia on 16 September 2015, before the adoption of the Joint Declaration of 18 February 2016.

After the end of the migration crisis in the Republic of Croatia on 8 March 2016, Croatia has been sending police officers to Macedonia to provide support to the Macedonian police in the control of their state border with Greece, in accordance with the Joint Declaration.

### **2) Please provide information regarding the measures to be taken to ensure the principle of *non-refoulement* as well as the right to life, physical, and mental integrity of migrants, in particular of vulnerable groups such as unaccompanied children.**

The principle of *non-refoulement* is prescribed by Croatian law.

Article 6 of the Act on International and Temporary Protection (Official Gazette 70/15) prescribes:

*(1) It is forbidden to expel or in any way return a third-country national or stateless person to a country:*

- in which his/her life or liberty would be threatened on account of his/her race, religious or national affiliation, membership of a particular social group or due to his/her political opinion; or*
- in which they could be subjected to torture, inhuman or degrading treatment; or*
- which could extradite him/her to another country, whereby the principle referred to in indents 1 and 2 of this paragraph would be undermined.*

*(2) A third-country national or stateless person who meets the conditions for approval of international protection or who has had international protection approved may be*

*expelled or returned to a country where the principle referred to in paragraph 1 of this Article would not be undermined if he/she represents a risk to national security, or has been convicted of a serious criminal offence by a final judgement, signifying that they are a risk for public order.*

Article 118 Sec. 1 of the Aliens Act (Official Gazette 130/11, 74/13) prescribes:

*(1) It shall be prohibited to deport an alien to a state where his life or freedom would be threatened on account of his race, religion or nationality, membership of a particular social group or political opinion, or where he might be exposed to torture or inhuman or degrading treatment or punishment or a death penalty might be executed against him, and to a state where he would be in danger of being deported to such a state.*

*The protection of migrants in the return procedure is prescribed in Art. 100 of the Aliens Act:*

*(1) At the time of applying measures for ensuring return, the best interest of minors and the needs of other vulnerable persons, family circumstances and the health condition of a foreigner against whom the measures are being taken must be taken into account.*

*(2) Within the meaning of Paragraph 1 of this Article, vulnerable persons means persons with disability, the elderly, pregnant women and single parent family with minor children, victims of violence and minors, especially unaccompanied minors.*

In addition to these general provisions, the Aliens Act contains other provisions that elaborate on the protection of migrants according to individual stages of the return procedure.

In this sense, the Aliens Act contains several provisions that refer to the protection of minors in the return procedure of which the most important provisions deal with *non refoulement* and limitations of the freedom of movement through accommodation into the reception centre for aliens.

The provisions of *non refoulement* of minors are contained in Art. 118 Sec. 2 and 3 of the Aliens Act:

*(2) It shall be prohibited to deport a minor, foreign national if that would be contrary to the Convention for the Protection of Human Rights and Fundamental Freedoms, the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, the Convention on the Rights of the Child and the Convention on the Exercise of Children's Rights.*

*(3) An unaccompanied minor, a foreign national shall be subject to deportation in which he shall be handed over to a member of his family, to an appointed guardian or to an institution for receiving children.*

Art. 132 of the Aliens Act contains provisions that refer to the limitation of the freedom of movement of minors.

- (1) An unaccompanied minor, foreign national and a minor foreign national accompanied by his family members shall be accommodated in the Centre, only if deportation cannot be organized in some other way.*
- (2) Foreigners referred to in Paragraph 1 of this Article shall be accommodated in the Centre separately from other foreigners in rooms, appropriate for the accommodation of minors.*
- (3) Members of the same family shall be accommodated in a separate room of the Centre.*
- (4) Accommodation of foreigners referred to in Paragraph 1 of this Article in the Centre may not be extended.*
- (5) Stricter police control may also be imposed on a minor, but only together with his parent or a legal representative.*
- (6) A minor in the Centre shall be provided with conditions appropriate to his age, and with the right to education in accordance with a special regulation.*
- (7) If, due to particularly large number of foreigners accommodated over an extended period of time, shall not be possible to ensure separate rooms, members of the same family shall be accommodated in the Centre regardless of the conditions referred to in Paragraph 3 of this Article.*
- (8) If there is serious doubt as to whether a foreigner who should be accommodated in the Centre is under age, an assessment of his age can be conducted.*

Following the end of the migration crisis in Croatia on 8 March 2016, all migrants from the migration wave who were refused entry into Slovenia or were returned to Croatia from other EU Member States were allowed to access the system of international protection.

Illegal migrants who refused to seek international protection in Croatia received adequate accommodation, care and other assistance in Croatia.

**3) Please provide information on how, during the implementation of this agreement with the former Yugoslav Republic of Macedonia, will continue to comply with its international obligations to protect individuals from *non-refoulement* pursuant to the Convention against Torture and the 1951 Refugee Convention.**

**4) Please provide information with regard to how mass expulsions-particularly of specific nationalities- will be prevented from being carried out?**

Since questions 3, 4 and 6 refer to the agreed mode of operation that has been agreed upon in the Joint Declaration from 18 February 2016 passed by the police officials from Macedonia, Serbia, Croatia, Slovenia and Austria, we can only mention in connection with those questions that our mission in Macedonia is staffed exclusively by police officers who have received training on basic human rights and rights of migrants, including human trafficking.

Likewise, all joint operations are staffed by police officers who received training in human rights, preferably by FRONTEX.

To get an overview of the obligations of the Republic of Croatia and the mode of operation from the Joint Declaration, see the Annex to this letter.

**5) Please provide information regarding how the proper identification and protection of all potential protection needs, including individual assessments, age assessments, claims for asylum and other vulnerabilities.**

During the migration crisis, our national system of dealing with mass influx and registration of migrants enhanced further.

A number of reception centres for accommodation and registration of migrants were opened. In the Slavonski Brod Centre, up to 5,000 migrants could be accommodated for the period of up to 48 hours. The accommodation part of the Centre was divided into six sectors. Each sector was provided with medical care, warm clothing and food, sanitary facilities, drinking water, access to the Internet, chargers for cell phones and containers for vulnerable persons.

Except for the accommodation of migrants, the Centre offered other facilities to meet the needs of migrants and for the normal functioning of the Centre. There were a currency exchange office, a restaurant, a police office, the Red Cross office, offices for civil society organizations, journalists and meeting rooms.

The migrants were brought to the Centre by trains. Upon the arrival of migrants, the police performed the initial safety inspection of persons and luggage and humanitarian activists distributed drinking water and food to migrants. Prior to registration, the migrants were informed about their rights and obligations in the languages they understood, via a video wall.

The registration was being carried out in tents. During the registration, police officers assisted by translators took personal and biometric data and issued decisions and certificates. To carry out the registration in the context of the mass influx of migrants a special application of the Information System of the Ministry of Interior was developed.

Medical assistance was provided for 24 hours, 7 days a week in the hospital as well as in the tents.

Upon the registration, the migrants were placed in special tents to rest. The Centre had 6 large tents with heating. Families with children, unaccompanied minors and other vulnerable persons were accommodated in special containers equipped with beds and other necessities.

Different international and humanitarian organizations operated in the Centre such as UNHCR, UNICEF (for care of children, babies and mothers), IOM, the Samaritans, MAGNA, Save the Children, the International Humanitarian Aid, the Red Cross, CARITAS with the help of translators, legal advisors and other volunteers.

Registration of migrants from one train usually took for 3-4 hours. After all migrants were registered, they embarked onto the train and were taken to another EU Member State (Hungary, Slovenia). Two to three trains arrived to the Centre each day.

After the migration crisis ceased to exist, the temporary reception centres were no longer needed so that the migrants now found in the Republic of Croatia are being accommodated in the Ministry of Interior's existing facilities for migrants (Aliens Reception Centre at Ježevo, Reception Centre for Asylum Seekers in Zagreb and Kutina, the Porin Hotel in Zagreb owned

by the Ministry of Interior, facilities of the Ministry of Social Policy and Youth). Until the end of 2016 the intention is to put in place two new aliens reception centres in Tovarnik and Trilj.

Identification of asylum seekers with special material reception needs is an ongoing procedure which starts by making an application for international protection whether at border crossing points or police stations. Following, reception staff is informed by police officers regarding any of identified special needs. The mechanism for identification of special needs is an interview. In addition, information on victims of human trafficking is provided to all relevant authorities.

If the doubt arises regarding the age of an unaccompanied minor, a procedure to assess the minor's age shall be conducted. The assessment of the minor's age is conducted on the basis of the information available on the minor, including the expert opinions of persons involved in work with the minor. If the information available is insufficient, a medical examination is conducted, with the prior written consent of the minor and the guardian ad litem.

**6) What happens to irregular migrants who are refused entry once the daily quota of irregular migrants into the country is met?**

See Answer 4.

**7) Please provide information regarding how the Dublin III Regulation safeguards for applicants for international protection in Europe will be implemented especially for those seeking family reunification.**

The application of the Dublin procedure is under the jurisdiction of the Administrative and Inspection Affairs Directorate of the Ministry of Interior. Since its accession to European Union, Croatia is implementing Dublin procedure in the way of respecting the integrity of obligations stipulated in Dublin III Regulation during the whole procedure, as well as during the organisation and realisation of transfers to the responsible Member State.

In line with concerns regarding the violation of Dublin III Regulation while effectuating transfers, Croatia is in full respect of the European Court of Human Rights and European Court of Justice suspending Dublin transfers to Greece. Respecting this decision, Croatia is in suspension of the Dublin procedure as well as the transfers to Greece. To this end, since 1<sup>st</sup> of July 2013, Croatia took over the responsibility for 211 persons on the basis of discretionary clause in respect to Greece. Croatia will continue to respect its obligations arising from the Dublin procedure, as well as from international human rights and refugee law. All the criteria, including the family reunification possibilities, will continue to be respected in their entirety.

In the course of the migration crisis and also after the mass influx of migrants in the Republic of Croatia ended on 8<sup>th</sup> March 2016, Croatia had a few cases of the transfer of migrants when the migrants were handed over to other EU Member States for the purpose of family reunification, among which there were also cases of unaccompanied minors.

The Ministry of Interior receives requests of the Croatian Red Cross and responds to them daily with a view to search for migrants and reunify them with their family members who arrived in the migration wave.

**8) Please provide information regarding how this agreement is not in contravention to recent European Court of Human Rights and European Court of Justice rulings to the effect that States should no longer transfer any applicants to Greece.**

In the course of the migration crisis in the Republic of Croatia, there were no cases of returning migrants to Greece. However, the Republic of Croatia provided for the reception and further transfer to other EU Member States of 658,068 illegal migrants who, during the registration procedure, did not seek or refused to seek for international protection in the Republic of Croatia. During the registration process each migrant from the migration wave was informed of the possibility of applying for international protection in a transparent manner and in the language which he/she understood.

**9) Please provide information with regard to whether the police officers being deployed at the border have human rights protection at borders training.**

The issue of the protection of human rights and the protection of rights of migrants is included in the education and training plans of police officers organized by the Ministry of Interior. The training is conducted on the basis of the Ministry of Interior's annual plan with reference to the National Plan for the Suppression of Human Trafficking. The Ministry of Interior regularly conducts training courses for police officers at police administrations who then, according to the "train the trainers" principle carry out further trainings for police officers at other police administrations and police stations.

Police officers of the Ministry of Interior participate also in FRONTEX's training courses relating to the protection of human rights, particularly training on fundamental human rights, training for debriefers and screeners and trainings for escort leaders on joint flights organized by FRONTEX. In addition, the Ministry of Interior, together with international organizations and civil society organizations, particularly UNHCR, the Croatian Law Centre and the Croatian Red Cross, organizes seminars for police officers relating to the protection of human rights. In 2015, four such seminars took place and one in 2016. Two more seminars of this kind are planned to take place until the end of the year.

Considering the concerns raised in existing of adequate guarantees for vulnerable groups, identification of protection needs and individual and age assessment, employees in the Department for asylum and Reception Centre are continuously trained in line with EASO modules. Also, employees of the Department for asylum are maintaining regular education of border police officers in the field of asylum. Moreover, continuous education and workshops are planned to be organised for asylum and border police officers through AMIF national programme 2016 – 2020.