



REPUBLIKA HRVATSKA
MINISTARSTVO UNUTARNJIH POSLOVA
DRŽAVNA TAJNICA

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Zagreb, 8. ožujka 2022.

MINISTARSTVO VANJSKIH I EUROPSKIH POSLOVA
n/p g. Frane Matušića, državnog tajnika

PREDMET: Upitnik posebnog izvjestitelja za ljudska prava migranata na temu kršenja ljudskih prava na međunarodnim granicama i preispitivanja "sigurne treće zemlje"
- informacije, dostavljaju se

Veza: Dopis Ministarstva vanjskih i europskih poslova KLASA: 004-02/22-01/1,
URBROJ: 521-V-02-02-22-17 od 18. veljače o. g.

Poštovani,

nastavno na Upitnik Posebnog izvjestitelja UN-a za ljudska prava migranata na temu kršenja ljudskih prava na međunarodnim granicama i preispitivanja „sigurne treće zemlje“ koji nam je dostavljen dopisom iz veze, u prilogu Vam dostavljam odgovore Ministarstva unutarnjih poslova prevedene na engleski jezik.

S poštovanjem,

DRŽAVNA TAJNICA

Terezija Gras

Prilog: kao u tekstu

Response from the Ministry of the Interior to the Questionnaire from the UN Special Rapporteur on the human rights of migrants on the topic of human rights violations at international borders and examination of the “safe third country” concept

1. Please provide information on any recently adopted domestic legislation amending border entry, asylum and other international protection procedures for not-nationals since May 2021.

The following legislation containing provisions on international protection of aliens has been adopted since May 2021:

- The Aliens Act (Official Gazette, No: 133/20), entered into force on 1 January 2021,
- The Ordinance on the treatment of third-country nationals (Official Gazette, No: 136/21), entered into force on 11 December 2021,
- The Ordinance on free legal aid in the return procedure (Official Gazette, No: 132/21), entered into force on 12 December 2021,
- The Ordinance on the stay at the reception centre for aliens and the manner of calculating the costs of forcible removal (Official Gazette, No: 145/21), entered into force on 6 January 2022.

We would like to point out that the Aliens Act has been translated into the English language and the translation is available on the following website: <https://mup.gov.hr/aliens-281621/281621>

Moreover, the Standard Operating Procedure in case of sexual and gender-based violence has been in force at reception centres for international protection applicants since April 2021. It prescribes actions to be taken and the roles of employees of the department in charge of reception and accommodation when providing support and assistance to male and female survivors of sexual and gender-based violence.

As regards the institute of temporary protection as foreseen by **Council Directive 2001/55/EC** of 20 July 2001 on minimum standards for giving temporary protection in the event of a mass influx of displaced persons and on measures promoting a balance of efforts between Member States in receiving such persons and bearing the consequences thereof, it has been transposed into the Croatian legislation by the Act on International and Temporary Protection (Official Gazette, No: 70/15, 127/17).

This Directive lays down **the plan for coping with a mass influx of foreign nationals into the European Union who are not able to return to their countries - particularly in cases of war, violence or violation of human rights, and it guarantees immediate temporary protection to such persons.**

It is precisely in this context that the unexpected armed conflicts in Ukraine caused a new humanitarian and refugee crisis, which has led to emergency provision

of assistance to over one million Ukrainian citizens who have entered the EU, and we are expecting the arrival of more than 8 million others. It is for this purpose that Member States adopted Council Implementing Decision on activating the Temporary Protection Directive (2001/55/EC), at the Justice Council meeting on 4 March 2022¹.

Since the Council of the European Union adopted a Council Decision activating the Temporary Protection Directive, **the Government of Republic of Croatia adopted on 7th March 2022 the Decision on the national level allowing for its application.** As a result of this Decision, all refugees from Ukraine who come to the Republic of Croatia will be granted temporary protection, their stay will be regulated and they will be issued with an identity document - a temporary protection ID card for aliens, as well as all other rights such as the necessary accommodation, medical and psychosocial assistance, and access to education and labour market.

2. Please provide information on recent or current border management legislation/policies/measures, (including those temporary measures as part of a state of emergency), with the view to control, reduce or prevent migrant arrivals in your country.

The Border Police Directorate was set up in 2001 within the General Police Directorate of the Ministry of the Interior as a strategic unit for managing and coordinating all types of border police activities.

Over the past 5 years, the Croatian Border Police has invested significant efforts in enhancing its capabilities.

Legislative changes have been made on the basis of adopted strategies and plans. The number of border police officers was increased to the current 6,500. Modern technical equipment was procured with the use of EU funds and the necessary infrastructural works were made. In addition, a training system was set up and courses were held for border police officers.

The migration wave in Croatia from 16 September 2015 until 5 March 2016 was a big challenge in terms of border and migration management. A total of 650,000 migrants crossed the Croatian territory at that time.

The most vulnerable part of the Croatian border during the migration wave was the land border with Serbia where we set up two big reception centres.

After the migration wave ceased, the Republic of Croatia continued to face increased number of migrants. As a result, in late 2016, the Croatian police started consistently applying the measures referred to in Article 13 of the Schengen Borders Code.

In late 2017, a new migration route was activated across the territory of Bosnia and Herzegovina. The part of the Croatian border with Bosnia and Herzegovina is the most vulnerable since the configuration of the terrain makes border protection

¹ Proposal for a COUNCIL IMPLEMENTING DECISION establishing the existence of a mass influx of displaced persons from Ukraine within the meaning of Article 5 of Council Directive 2001/55/EC of 20 July 2001, and having the effect of introducing temporary protection (COM(2022) 91 final)

exceptionally more difficult. Moreover, this part of the border is also preferred by migrants since it is the closest to the Slovenian border.

An increased number of police officers in charge of border protection has been deployed to the most vulnerable parts of the external border, and state-of-the-art technical equipment has been installed for long-range day/night optical and radar surveillance of the border line under all weather conditions.

Regional headquarters have been set up for coordinating all police activities on the external border.

Likewise, since July 2018, the border with Bosnia and Herzegovina and the sea border with Montenegro has been under aerial surveillance in cooperation with FRONTEX which provided its aircraft for the control of the external borders of the EU.

In the context of armed conflicts in Ukraine, the Republic of Croatia is **implementing the European Commission guidelines for external border management to facilitate border crossings at the EU-Ukraine borders.** In that regard, **on 4 March 2022, the Ministry of the Interior issued an instruction to all police administrations in the Republic of Croatia on the treatment of displaced persons who were forced to leave Ukraine due to armed conflicts.**

The following categories of **persons who have been displaced after 24 February 2022 should be allowed entry across border crossing points of the Republic of Croatia:**

- a) **Ukrainian citizens who were residing in Ukraine prior to 24 February 2022;**
- b) **Stateless persons and nationals of third countries other than Ukraine who were residing in Ukraine prior to 24 February 2022 and had granted international protection or equivalent national protection;**
- c) **Family members of persons listed in items a) and b);**
- d) **Stateless persons and nationals of third countries other than Ukraine who were legally residing in Ukraine prior to 24 February 2022 as they had a valid permanent residence permit or a valid temporary residence permit, or they can prove that they were in Ukraine prior to 24 February 2022 on short-term stay - if they cannot safely and permanently return to their country;**

The following persons are considered to be family members referred to in item c) if the family was already present and residing in Ukraine prior to 24 February 2022:

- A spouse or a common law partner of persons listed in items a) or b);
- Minor unmarried children of persons listed in items a) or b) or of their spouse, regardless of whether they were born into marriage or outside marriage, or were adopted;
- Other close relatives who were living together as a family at the time when the mass influx started, and who were at that time fully or mostly dependent on the persons listed in items a) or b).

3. Please provide information on how the „safe third country“ concept is applied and if there is any „safe third country“ list in your country with the view to

expedite border immigration and asylum procedures, as well as on any bilateral and multilateral agreement on collective/automatic re-admission of migrants of specific nationalities.

The Republic of Croatia does not have a list of safe third countries. A decision on whether a certain third country is safe or not when it comes to the return of third-country nationals is made on a case-by-case basis. During the negotiations on the CEAS and now during the negotiations on the proposal for the Pact on migration and asylum, the Republic of Croatia has indicated to the need for establishing, on the EU level, a common list of safe third countries of origin and a list of safe third countries of transit.

In 2018, the safe country of origin concept was applied to a group of international protection applicants who entered into the Republic of Croatia from the Republic of Serbia illegally. When taking into consideration the facts and individual circumstances, applications were rejected in each particular case as the safe country of origin concept could be applied. The decisions made by the Ministry were confirmed by the Administrative Court in Osijek in its judgments Usl-592/18-28 of 18 June 2018, Usl-587/18-27 of 2 July 2018 and Usl-591/18-27 of 2 July 2018, as well as by the High Administrative Court of the Republic of Croatia in its judgments Usž-3893/18-2 of 19 September 2018, Usž-3844/18-2 of 28 November 2018 and Usž-3876/18-2 of 12 December 2018. The Constitutional Court of the Republic of Croatia annulled the said decisions by its judgment U-III-4865/2018, U-III-837/2019 and U-III-926/2019 of 4 March 2021. It argued that it could not be established with sufficient certainty during the administrative and judicial proceedings whether the Republic of Serbia is a safe European third country. Since the judgment of the Administrative Court, the safe third country concept has not been applied with regard to the Republic of Serbia, and in general there were no cases where the safe third country concept would be applied.

4. Please provide information on any progress made in developing independent border monitoring mechanism(s) at the national level.

The Republic of Croatia had established an independent mechanism for monitoring police actions against migrants back in 2008. The mechanism was carried out by NGOs and according to the information available to us, it was the only system of this kind in the EU. From 2008 to 2011, independent monitoring was carried out through the cooperation of the Ministry of the Interior, the Croatian Law Centre (HPC) and the Ministry of Foreign Affairs of the Netherlands, and from 2012 to 2014, as well as in 2018 and 2019 in cooperation with HPC and UNHCR.

In 2020, independent monitoring was carried out through regular activities of the Ombudswoman who, as a plenipotentiary of the Croatian Parliament, promotes and protects human rights and freedoms laid down in the Constitution, laws and international legal acts on human rights and freedoms that the Republic of Croatia has approved. The Ombudswoman carries out her activities in accordance with the

Ombudsman Act and the Act on the National Preventive Mechanism for the Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

A new agreement on independent monitoring mechanism was concluded on 8 June 2021. The Republic of Croatia is the first Member State which has created legal basis for establishing a new Independent Monitoring Mechanism, in cooperation with the European Commission and national legal experts, as proposed by the new Pact on Migration and Asylum.

The agreement was signed for a period of one year with a possibility of extension and it is financed with the European Commission funds which are paid into the State Budget of the Republic of Croatia. The parties to the agreement are the Ministry of the Interior and the following implementers of activities: the Association of the Croatian Academy of Medical Sciences, the Croatian Academy of Legal Sciences, the Centre for Cultural Dialogue, the Croatian Red Cross and representatives from the Faculty of Law in Zagreb, as an independent legal expert in the area of human rights.

The Independent Monitoring Mechanism is carried out on the external EU border, that is, on the border between the Republic of Croatia and the Republic of Serbia, Bosnia and Herzegovina and the Republic of Montenegro, in police stations, on border crossing points, in reception centres for aliens, and on the green border. In accordance with the Agreement, a Coordination Committee was set up, comprising one representative of each implementer of activities. The Coordination Committee manages all the activities of the Mechanism, and its semi-annual report is publicly available. In accordance with the Agreement, in December 2021, the Coordination Committee drafted a semi-annual report on the implementation of the Mechanism for the period from June to December 2021. The report was published on the following website: <https://ccd.hr/>

The summary of the final annual report will also be published.

In addition to the Coordination Committee, the Mechanism also implies the establishment of the Advisory Committee which is an informal body and comprises representatives of EU and international organisations, as well as civil society organisations. The chair of the Coordination Committee presents the activities implemented within the framework of the Mechanism at the meetings of the Advisory Committee.

The activities that are directly carried out within the framework of the Mechanism include monitoring and access to files, which is carried out by direct implementers who are designated by the implementers referred to in the Agreement.

The activities which are monitored are actions taken by police officers against migrants in accordance with the legislation governing state border control, the legislation governing the stay of aliens and the legislation governing international protection. The Agreement provides for 20 monitoring missions that can be announced and unannounced.

Access to files refers to files related to complaints against the actions taken by police officers against migrants. In this regard, direct implementers are allowed to talk to police officers who had dealt with complaints, as well as to complainants.

A total of 10 monitoring missions were carried out so far, the documents are shared among the parties involved in accordance with the Agreement, and a manner of providing prompt information in special cases has also been agreed upon.