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**Subject: “Submission COVID-19 & migrants report”**

Dear all,

Below you can find the report:

The COVID-19 pandemic has caused tectonic shifts across the planet and in the first place it has put people’s lives and health at risk. Many countries, including Bosnia and Herzegovina, have adopted a number of measures which have been subject to frequent change due to the unpredictability of the situation. In such circumstances, the use of the monitoring mechanism the ombudspersons use when tackling individual complaints and in *ex officio* cases has been made difficult. Isolation and quarantine measures that have been used in Bosnia and Herzegovina in the protection against the COVID-19 pandemic could constitute encroachment on many of the rights protected by the European Convention of Human Rights, such as the right to freedom of movement, right to health, freedom of religion, education, access to justice, right to trial within a reasonable time, freedom of assembly, freedom of association, and other rights. The ombudspersons of Bosnia and Herzegovina, aware of the importance of migration issues in Bosnia and Herzegovina, decided as early as in 2018 to draft the *Special Report on the Migration Situation in Bosnia and Herzegovina[[1]](#footnote-1)*.

Bosnia and Herzegovina is a transit country for migration. With regard to that, the COVID-19 pandemic has slowed down but has not stopped migration along the so-called *Balkan route*. European Commission measures, which refer to the travel ban for third-country citizens to the European Union, have also had an impact on that. During the COVID-19 pandemic, European Union borders, but also the borders of most countries, were completely closed for any kind of migratory movements, except for repatriation to places of residence. That is why migrations from third countries were stopped and the largest numbers of migrants have been kept in border camps where they are still waiting for the epidemiological situation to stabilise so that they could continue westwards.

Under the Asylum Act, asylum-seekers staying in Bosnia and Herzegovina have the right to primary healthcare. For that purpose, the migrant population enjoys all primary healthcare rights provided for in the Asylum Act[[2]](#footnote-2) as citizens of Bosnia and Herzegovina do. The Council of Ministers of Bosnia and Herzegovina (Ministry of Security and Ministry for Human Rights and Refugees) secures primary healthcare for persons who have expressed their intention to file asylum applications, for persons who have applied for asylum, for persons under subsidiary protection and for persons who have been recognised as refugees.

The Ministry of Security has concluded contracts with Sarajevo Canton healthcare centres to provide primary healthcare for asylum-seekers, and the Contract on Primary Healthcare Provision at Salakovac Reception Centre, run by the Ministry for Human Rights and Refugees, has been secured via the DRC[[3]](#footnote-3). The Ministry of Security also signed a Memorandum of understanding that secured some of the accommodation capacities for asylum-seekers and primary healthcare that is continuously provided to asylum-seekers on their admission to two centres, Salakovac and Delijaši, depending on their needs.

In addition, facilities are secured in the two centres where persons with suspected COVID-19 and persons with confirmed COVID-19 are to be accommodated for the purpose of isolation and securing hygienic and epidemiological measures, with the view to protecting the other staff and asylum-seekers when admitted. There have been no death cases of asylum-seekers with confirmed COVID-19 in the said centres. As for the protection of personal data, the Asylum Department acts according to the Personal Data Protection Act and internal documents adopted by the Ministry of Security, with a view to protecting asylum-seekers’ personal data.

The Asylum Department secured all necessary and prescribed sanitary and epidemiological measures and protection for admitted persons, and in line with the restriction measures adopted by the competent authorities with a view to providing general protection in Bosnia and Herzegovina, and for a period in 2020, it imposed restrictions on movement outside the centre facilities, all according to the authorities’ recommendations and orders. The Asylum Department took measures falling within its competence and, in the given period, managed to secure humane admission, accommodation, food, maintenance of personal hygiene and facilities, provision of required healthcare and medical treatment by securing medicaments and medical examinations at the Asylum Centre facilities in Delijaš and the same can be confirmed for Salakovac Centre. It managed to secure all this without any kind of problems and restrictions throughout the pandemic. The ombudspersons of Bosnia and Herzegovina have not received complaints pointing to violations of migrants’ human rights, right to health and healthcare.

The Danish Refugee Council (DRC) is an international non-governmental organisation providing support to vulnerable refugees and migrants in Bosnia and Herzegovina. The DRC is active in two key areas, healthcare and protection. In its agreement-based work, the DRC has continuously cooperated with the Health Department of the Ministry of Civil Affairs of Bosnia and Herzegovina, the Immigration Department of the Ministry of Security of Bosnia and Herzegovina, the Health System Organisation and Development Department of the FBiH Ministry of Health. The DRC submits monthly reports on the provision of healthcare services and on taking preventive measures against COVID-19 at the reception centres in Bosnia and Herzegovina. Since the beginning of 2019, the DRC has been responsible for providing primary and secondary healthcare[[4]](#footnote-4) in many [reception](https://help.unhcr.org/bosniaandherzegovina/bs/where-to-seek-help/reception-centres/) centres. In Una-Sana Canton, these are TRC (temporary reception centre) Bira, TRC Miral, TRC Sedra and TRC Borići. This includes TRC Ušivak in Sarajevo, and TRC Salakovac in Mostar. Medical teams make regular visits to each of these locations and provide medical examinations and referrals. In the course of its work on providing healthcare to people on the move (POTM), the DRC cooperates with the Red Cross, Jesuit Refugee Service, Doctors of the World, UNFPA, UNHCR, UNICEF, IOM, and World Health Organisation. DRC practices in the protection of the POTM population from COVID 19 are good in the sense that rapid medical mobilisation and timely emergency response, such as systematic screening for COVID-19 of the entire user population in the camps in Una-Sana Canton and Sarajevo Canton, are secured. Furthermore, qualified staff are directly engaged (epidemiologists, infectious disease specialists, inspection services, etc.) and COVID-19 response guidelines are correctly applied, POTM communities are engaged (built) to improve the application of the sanitary and epidemiological measures that are in place, there are inclusive testing practices for people in need, healthcare institutions’ responses are enhanced in parallel with joint activities of stakeholders taken to finance and coordinate the comprehensive response to COVID-19, webinars are organised for health workers and other subordinate stakeholders. Of course there are systemic challenges, such as the already overburdened public health system, introduced bans on carrying out certain humanitarian activities, violent pushbacks at borders, care for complex cases, difficulties in connecting stakeholders with a view to establishing a strategic approach to resolve emergency situations, lack of objective reporting by the media.

Association “Your Rights” of Bosnia and Herzegovina provides free legal aid to people on the move based on the Agreement with the Ministry of Security of Bosnia and Herzegovina. The Institution of Human Rights Ombudsman of Bosnia and Herzegovina has not received any complaints concerning violations of the right to health in the context of COVID-19.

The coronavirus (COVID-19) pandemic is an extraordinary challenge for all authorities. Persons deprived of liberty are a vulnerable population category since the position they are in has an impact on the physical, psychological, social, legal, and every other aspect of their lives. The challenges faced by the staff working in different places of deprivation of liberty, including police holding facilities, penitentiaries, **immigration detention centres**, psychiatric hospitals and social care homes, as well as in newly-established facilities/zones where persons are placed in quarantine, are specific and intensive. The Institution of Human Rights Ombudsman of Bosnia and Herzegovina (hereinafter referred to as “IHROBiH”) within its mandate and with a view to protecting human rights, monitors and follows up on the implementation of the measures that are adopted by the competent bodies of all levels of government in Bosnia and Herzegovina,including institutions for execution of criminal sanctions, and that are connected to the treatment of persons deprived of liberty in times of the coronavirus (COVID-19) pandemic. IHROBiH sent a memo[[5]](#footnote-5) to all correctional facilities and requested information on the measures taken to protect persons deprived of liberty from coronavirus infection. The responses provided give rise to the conclusion that the measures prescribed by the Republika Srpska Government, Federation of Bosnia and Herzegovina Government, competent ministries, RS, cantonal and municipal crisis headquarters are implemented in all institutions where persons deprived of liberty are placed. All correctional facilities have taken a number of sanitary and epidemiological measures to protect persons deprived of liberty from coronavirus infection and to introduce measures to compensate for the restrictions imposed for public health purposes. For that purpose, there is a noticeable increase in the implementation of non-custodial measures as an alternative to detention, such as suspended sentences/delaying prison sentences, a greater number of granted conditional releases, temporary releases, replacing prison with house arrest. A series of measures has been taken to facilitate contacts between detainees and prisoners and the outside world and thus balance out the restrictions imposed for reasons of public health protection.

The Immigration Centre management has adopted a number of measures to prevent the spread of COVID-19, ranging from banning all other persons from entering the Immigration Centre, strict respect of sanitary and epidemiological measures, mandatory quarantine for new users, to other measures as recommended by the competent crisis headquarters. Deportations of foreign nationals were suspended due to the closure of borders, suspension of regular flights, with the exception of deportations of citizens of the Republic of Serbia that admitted its citizens with negative COVID-19 tests. Immigration Centre users were not allowed to leave the Immigration Centre due to the COVID-19 pandemic, with the exception of persons readmitted to the neighbouring Republic of Serbia, or persons whose monitoring period expired and for whom were no grounds to hold them any longer and who were then taken to temporary reception centres. There was no moratorium on new requests to put persons under monitoring, and thus such measures could not have been considered due to clear legal provisions. The “alternatives to detention” (ATD) principle did not apply to migrants and/or asylum-seekers released from detention because persons readmitted to the Republic of Serbia were tested for COVID-19 prior to their return and their tests were negative. Users of the Immigration Centre were not tested, except in the cases where there were grounds for suspicion, i.e. cases where measures and actions were taken to have them readmitted to the Republic of Serbia.

THE INSTITUTION OF HUMAN RIGHTS OMBUDSMAN OF BOSNIA AND HERZEGOVINA

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1. <https://www.ombudsmen.gov.ba/documents/obmudsmen_doc2019010713545979bos.pdf> [↑](#footnote-ref-1)
2. Article 76, Asylum Act [↑](#footnote-ref-2)
3. Danish Refugee Council Bosnia and Herzegovina [↑](#footnote-ref-3)
4. Health of people on the move: Primary and secondary protection: Provision of healthcare services by deploying field medical teams at medical units in temporary reception centres, referral to primary and secondary care specialists, mental health and psychosocial support, improved access to sexual and reproductive health services, securing medical equipment and expendable supplies (to people on the move and healthcare institutions), ensuring implementation of prevention measures and measures for raising awareness of importance of health, provision of financial and technical assistance to relevant healthcare entities, by procuring PPE and specialised medical equipment and contribution to SOP development, continuous cooperation with relevant authorities and institutions at local, cantonal and FBiH levels. [↑](#footnote-ref-4)
5. ОI-К-SА-60/20 dated 16 April 2020 [↑](#footnote-ref-5)