

## **OPINION OF THE MINISTRY OF THE INTERIOR REGARDING THE UNITED NATIONS GENERAL ASSEMBLY RESOLUTION ON THE PROTECTION OF MIGRANTS**

The Resolution emphasises the importance of protecting vulnerable groups and protecting human rights of migrants, as well as the necessity of taking action aimed at enhancing migrant protection. The Republic of Croatia is fully aware of the importance of protecting most vulnerable groups of persons, given that it has been continuously exposed, since 2015, to an increased number of illegal entries of migrants across the external EU border. The Republic of Croatia supported the adoption of the Global Compact on Safe, Orderly and Regular Migration. It is aware that migration is a phenomenon which we will be facing for a long time to come, both on a European and a global level, and that, given these circumstances, the European and international legal framework must be adapted to the need for clearly distinguishing refugees from migrants in the current migratory movements.

### **1. Educating police officers with a view to protecting the rights of migrants**

Among those migrants who attempt to enter the Republic of Croatia illegally by crossing the external border, there is a certain number of vulnerable persons. Therefore, border police officers undergo training in order to be able to identify vulnerable persons and act accordingly (e.g. families with children, unaccompanied minors, the elderly, persons with disabilities, victims of violence).

Training is carried out within the framework of the *Emergency Assistance (EMAS) project „Strengthening border control activities at the Croatian part of the external border due to increased migratory pressure”* which provides special knowledge regarding access to the asylum system, cultural differences and circumstances in migrants’ countries of origin, humanitarian law and the provision of emergency medical assistance, and lifesaving (for example, in mountains and in various atmospheric conditions).

The Ministry of the Interior **successfully cooperates with several non-governmental organisations**. Various activities were carried out in 2019 with a view to further educating border police officers who come into direct contact with vulnerable groups of migrants.

A project entitled “Psychosocial services and support for applicants for international protection under Asylum, Migration and Integration Fund” was set up in cooperation with the **Croatian Red Cross** and following courses were held accordingly:

Education for border police officers in “International humanitarian law, Service for searching for and reconnecting with family members, Immediate provision of emergency medical assistance, Understanding cultural differences, Vulnerable groups of migrants, Occupational stress and burnout prevention (education was held between 9-11 June 2019, 20-21 June 2019, and 11-12 July 2019). Additional police officers are also educated in police stations through the multiplier system.

Targeted education was held in 2019 in cooperation with the **International Organisation for Migration (IOM)** for border police officers who come into contact with vulnerable groups with the aim of identifying and acting accordingly towards vulnerable groups.

The above mentioned education covered the following topics: “Migration associated health risks, provision of assistance in non-urban environments, Using automatic external defibrillators, Resuscitation and use of automatic external defibrillator” (education was held between 12-14 June 2019 and 26-28 June 2019). Additional police officers are also educated in police stations through the multiplier system.

Independent non-governmental organisation, the **Croatian Law Centre** (which deals with the protection of human rights), carries out the monitoring of forcible removals of third-country nationals to ensure the protection of their fundamental human rights. In this regard, education was held in 2019 with the aim of enhancing the knowledge of border police officers when it comes to identifying and acting accordingly towards potential asylum seekers:

The above mentioned education covered the following topics: „Human rights of migrants, Access to the asylum system, Protection of vulnerable groups of migrants and asylum seekers, Police officer accountability“ (education was held between 24-26 April 2019 and 08-10 May 2019). Additional police officers are also educated in police stations through the multiplier system.

### **Monitoring mechanism of actions taken by border police officers**

1. ***Independent monitoring mechanism, fully funded by UNHCR and carried out by the Croatian Law Centre*** is aimed at monitoring the actions taken by border police officers towards illegal migrants and potential applicants for international protection.

Observers from the Croatian Law Centre can come unannounced at any time and to any police station on the external border to examine how migrants are treated. On the other hand, all migrants who are encountered deep within the territory are taken to police stations to be processed in line with the Aliens Act. The said monitoring does not include monitoring which takes place on or in close proximity to the state border, due to the fact that the Croatian Law Centre and UNHCR do not consider such monitoring possible without the technical assistance from the police (due to vehicle transport in special conditions and the dangers to personal safety of the observers). This is also in line with the practice of other Member States, as there is not a single case of monitoring carried out by civil society organisations in the close proximity to the border.

In 2018 and 2019, the Croatian Law Centre carried out up to 18 monitoring missions per year.

2. ***Monitoring mechanism carried out by the Ombudsman*** is implemented on the basis of the Ombudsman Act upon filed complaints and other information regarding police activities. Likewise, pursuant to the National Preventive Mechanism Act (NPM), the Ombudsman acts with regard to persons who have been deprived of their liberty.

In the implementation of the NPM, the Ombudsman can choose which civil society organisations assist him during monitoring. So far, cooperation has been established with B.a.B.e association, Croatian Law Centre, Croatian Helsinki Committee for Human Rights, Croatian Centre for Peace Studies, Human Rights House, and the Jesuit Refugee Service as well as numerous independent experts.

In the implementation of the NPM, the Ombudsman may make unannounced monitoring at police stations in which there are persons deprived of liberty, contact them and examine files related to any actions taken. In 2018, there was a total of 14 and, in 2019, a total of 13 visits to police stations related to the treatment of migrants. Even though they were unannounced, all arrivals were allowed, and no persons were found at the police stations who were deprived of their liberty.

Furthermore, during monitoring, the Ombudsman has the right to request a delivery of files on the actions taken and set a deadline for comments. In 2018, the Ombudsman sent a total of 30 and, in 2019, a total of 14 requests for comments regarding actions taken towards migrants. Responses were sent to all requests in a timely manner.

## ***2. Monitoring mechanism carried out by European Union agencies***

***A) FRONTEX carries out monitoring via the Sirious Incident Reports (SIR) mechanism of incidents related to FRONTEX operations.*** So far, FRONTEX carried out several operations in the Republic of Croatia, but there are no ongoing FRONTEX operations at the moment. On the other hand, the Republic of Croatia can request, on its own initiative, that an operation be launched.

***B) The EU Fundamental Rights Agency (FRA) carries out monitoring via its mechanisms related to the protection of human rights (field visits, questionnaires and reports).***

Furthermore, when it comes to the treatment of illegal migrants and potential applicants for international protection, the General Police Directorate adopted new Standard Operating Procedures (SOPs) in 2017, thus replacing the 2013 SOPs. SOPs contain specific guidelines for police officers who interact with international protection applicants and officials who process the applications for international protection in line with the Act on International and Temporary Protection. For the most part, SOPs contain operational instructions which are essentially not normally covered by regulations (for example, the body which the police inform of their actions, the email address to which notifications are sent, the data which need to be confirmed when taking action, coordination of bodies involved in the procedure of reception and return in line with the Dublin Regulation). SOPs are drafted and updated in coordination with the Border Police Directorate and the Directorate for Immigration, Citizenship and Administrative Affairs (competent for issues of international protection) of the Ministry of the Interior. Taking into consideration the purpose of education in sub-action 5 activities of the above mentioned EMAS (protecting the fundamental rights of migrants), both UNHCR and the Croatian Law Centre got involved in the procedure of drafting and amending the SOPs.

## **2. International protection system in the Republic of Croatia**

Under the increased migratory pressure that the Republic of Croatia has been facing in the past few years, that is, predominantly mixed migratory pressure, the national asylum capacities and the actual administrative procedure are also bearing significant burden. Following the migratory crisis in 2015, there has been **considerable increase in the number of submitted applications for international protection** when compared to previous years. This number grew significantly in 2019.

In this regard, **efforts are being continuously invested in improving reception conditions** for applicants for international protection as well as the **quality level of the procedure**. Accordingly, **several projects co-financed under EU AMIF** are underway for the **reconstruction of the Reception Centre for applicants for international protection in Zagreb** and **procurement of equipment** as well as **training and vocational training courses for expert staff** involved in the procedure of international protection. With a view to increasing efficiency of the procedure for international protection, continuous training is being held within the framework of the EASO curriculum – European Asylum Support Office with headquarters in Malta (*online* and on seminars held in Malta), whereas civil servants can also attend training and education at the State School for Public Administration. Particular attention is paid to **strengthening administrative capacities**. A **quicker, better and more efficient asylum procedure** was ensured directly through the **reorganisation of the current organisational structure of the Ministry of the Interior** in the area of international protection as well as through ensuring a higher number of working posts.

The area of international protection is regulated in the Republic of Croatia by the **Act on International and Temporary Protection** (“Official Gazette”, no 70/15 and 127/17) and relevant bylaws, and has been **completely harmonised with the EU acquis**.

**Special procedural guarantees, aimed at providing adequate support**, apply to international protection applicants in cases of **special personal circumstances** such as age, sex, sexual orientation, gender identity, disability, serious illness, mental health or consequences of torture, rape or other serious forms of psychological, physical or sexual violence. The procedure for identifying the special circumstances of the applicants is continuously being carried out by adequately trained police officers, employees of the Ministry of the Interior and other competent authorities, from the moment an application is made until the moment the applicant receives a decision. Accordingly, the employees who work on international protection have completed the EASO module “Interviewing vulnerable persons”.

**Unaccompanied children must be singled out as a special category. They are appointed with a special guardian during the procedure in order to protect their rights and interests in the procedure and their applications are processed as a matter of priority.**

### **2.1. Treatment of unaccompanied children who are applicants for international protection**

When implementing the Act on International and Temporary Protection, the Ministry acts in line with the principle of the best interests of the child, taking into consideration the well-being

and social development of the child and the child's origin, protection and safety (in particular if he or she might be a human trafficking victim), the child's opinion depending on his or her age and maturity, possible family reunification. All of the actions taken in this regard follow four basic principles of the Convention on the Rights of the Child:

- protection of the child's well-being,
- protection against all forms of discrimination,
- right to life, safety and development, and
- right to participate and freely express one's own opinion.

When an unaccompanied child makes an application for international protection, **a guardian is appointed and the child is informed thereof**. It is the obligation of a special guardian to take care of the best interests of the child during the entire procedure, including the child's rights and obligations, and to carry out all the actions in the procedure and contact all the authorities and associations involved in the procedure, or for the purpose of family reunification. **Applications made by unaccompanied minors are processed as a matter of priority.**

**In August 2018**, the Government of the Republic of Croatia adopted **a Protocol on the Treatment of Unaccompanied Minors**, taking into consideration this particularly vulnerable group of persons. The Protocol was drafted in order to set up an efficient national system and clearly define treatment of unaccompanied children who are asylum seekers and illegal migrants with the following aim: **to standardise the procedures used when dealing with unaccompanied children in the Republic of Croatia, to ensure effective health care for unaccompanied children, to clearly define the obligations of all the actors** involved in the treatment of unaccompanied children (during the actions taken by the police, accommodation, procedures for granting international protection, family reunification or integration into Croatian society), and **to improve cooperation among all competent authorities.**

Operational cooperation among the authorities involved is carried out through regular meetings of the Inter-agency Committee for the Protection of Unaccompanied Children.

Four regional trainings were also held for illegal migration officers (and employees of social welfare centres) on the practical implementation of the Protocol on the Treatment of Unaccompanied Minors. They were organised by the UNHCR in collaboration with state administration authorities (ministries) and NGO-s.

The Ministry of the Interior (Directorate for Immigration, Citizenship and Administrative Affairs, and the Border Police Directorate) was responsible for drafting the Protocol. Other authorities and organisations which participated in this process included the Ministry for Demography, Family, Youth and Social Policy, Ministry of Health, Ministry of Science and Education, Office for Human Rights and Rights of National Minorities, UNHCR, UNICEF and the Centre for Missing and Exploited Children.

Moreover, pursuant to the provisions of the Act on International and Temporary Protection, **children who are applicants for international protection are entitled to primary and**

**secondary education (the same as children who are Croatian nationals), all with a view to integrating them into the educational system and Croatian society as efficiently as possible.**

### **2.1.1. Rights of and support to unaccompanied children**

**Unaccompanied children** who are applicants for international protection exercise **a right to health care in the same scope as persons insured under the mandatory health insurance.** The costs are covered from the state budget allocated to the Ministry of Health.

**Successful cooperation** has also been established with **civil society organisations** with a view to improving the conditions for reception and carrying out of procedures, as well as integration of persons who have been granted international protection. Thus, the Ministry of the Interior cooperates with various NGOs that provide support to applicants for international protection in improving the quality of their lives. These are primarily the following: the Jesuit Refugee Service, the Croatian Law Centre, Ruke Nade Association (Croatian Baptist Aid), the Baptist Church Zagreb, Zemljani - Are You Syrious Association, RTC Zagreb - Stress and Trauma Rehabilitation Centre.

Likewise, support to applicants for international protection accommodated at the Reception Centre for asylum seekers and persons who have been granted international protection is also provided through the project entitled “Psychosocial support and social services for international protection applicants” that is being carried out by the Croatian Red Cross, and through the project entitled “Prevention of disease, psychological support, access and assistance in health care for international protection applicants - 4P” that is being carried out by *Medecins du Monde* (MDM - Belgique). Moreover, the Croatian Law Centre continuously provides information related to the international protection procedure in cooperation with the Ministry of the Interior and based on a project entitled “Legal counselling for international protection applicants” financed under the EU funds. A family reunification leaflet was published in cooperation with UNHCR and the Croatian Law Centre and it is available to all applicants and those who have been granted international protection.

Likewise, assistance in searching for persons can also be requested from international or other organisations. For example, the Croatian Red Cross provides assistance in searching for family members and relatives.

## **3. Integration into society**

Pursuant to the provisions of the above Act, persons who have been granted international protection in the Republic of Croatia are entitled to integration and inclusion into society. This includes procedures, more specifically exercising one’s right to stay in the Republic of Croatia, right to family reunification, accommodation, work, health care, education, freedom of expression and religion, free legal aid, social care, right to own property under the 1951 Convention and acquisition of Croatian citizenship (in accordance with legislation). When it

comes to integration, the Ministry of the Interior cooperates with NGO-s. Thus, an agreement has been concluded on the implementation of the project entitled “Integration of persons resettled to the Republic of Croatia” carried out by the Jesuit Refugee Service (JRS).

In general, as regards the process of integration of all persons who have been granted international protection within the scope of competence of the Ministry of the Interior, a tender was launched and the procedure is currently in place for the selection of the implementer of the project entitled “Supporting the provision of assistance for the inclusion of persons who have been granted international protection into Croatian society”. The project was financed under AMIF. It will be implemented in the next three years by a civil society organisation which will meet all the requirements in terms of providing individualised access to support and assistance to persons in exercising the rights guaranteed by the Republic of Croatia.

Likewise, a number of projects are being implemented within the scope of competence of various state administration authorities in terms of strengthening inter-agency cooperation for the purpose of empowering third-country nationals (a project entitled "INCLuDE"- Inter-agency cooperation for the purpose of empowering third-country nationals), strengthening the capacities of social workers who work with this category of persons (a project entitled "Empowering experts with a view to successfully integrating asylees"), strengthening accommodation capacities (a project entitled "Equipping the apartments for persons who have been granted international protection") and providing Croatian language courses (a project entitled: "Integration of asylees and aliens under subsidiary protection into Croatian society, education and preparations for the inclusion into the labour market").

In addition to the above said, **in November 2017**, the Government of the Republic of Croatia adopted **an Action Plan for the integration of persons who have been granted international protection for the period 2017-2019**, defining the obligations of state administration authorities when it comes to exercising rights in the area of social welfare system, health care, accommodation, Croatian language learning, education and employment. The Office for Human Rights and Rights of National Minorities is responsible for the implementation of the Action Plan. It monitors the integration of persons who have been granted international protection into Croatian society based on inter-agency cooperation.

#### **4. Resettlement of third-country nationals to the Republic of Croatia**

**The resettlement of third-country nationals** or stateless persons allows displaced persons who are in need of international protection to legally and safely enter an EU Member State and be granted international protection. Resettlement is also a tool of international solidarity and shared responsibility with third countries facing a large number of displaced persons, as well as a tool for managing migration and crisis and preventing smuggling.

The Republic of Croatia actively participates in the European resettlement scheme based on European and international acts. Thus, a total of 250 Syrian nationals with granted asylum have been resettled from Turkey so far. Thereby, the Republic of Croatia has fully fulfilled the resettlement quota defined by the 2015 and 2017 Government Decisions. For the purpose of

ensuring efficient integration of those persons, integration projects are being carried out in cooperation with our partners in the Republic of Croatia, as indicated above.

In 2019, the Government of the Republic of Croatia adopted a new Decision on the resettlement of third-country nationals or stateless persons who meet the requirements for international protection, thereby committing to admit up to 150 third-country nationals or stateless persons under the resettlement scheme, that is, based on its participation in other forms of solidarity with EU Member States.

## **5. Rights of migrant workers**

The Aliens Act (Official Gazette, No: 130/2011, 74/2013, 69/2017 and 46/2018), which has been aligned with the EU acquis with regard to legal migration, lays down the conditions of entry, movement, stay and work of third-country nationals, as well as the conditions of work and rights of posted workers in the Republic of Croatia. Furthermore, the Act guarantees rights to workers from third countries who are staying in the Republic of Croatia legally and who possess a stay and work permit, or who may work without obtaining a stay and work permit. The Act defines the following rights:

1. the longest prescribed working hours and the shortest duration of breaks,
2. the shortest duration of paid annual leave,
3. the lowest salary, including increased salary for overtime work,
4. protection of health and safety at work,
5. measures of protection for the work of pregnant women, women who have recently given birth or who breastfeed, and minor workers,
6. prohibition of discrimination,
7. conditions for hiring-out through employment agencies.

Those rights are guaranteed on the level of rights set up by legal regulations of the Republic of Croatia, i.e. collective agreements whose application has been extended to all employers and workers in a certain area, branch or activity, pursuant to special legislation.

The following rights have also been guaranteed to this category of persons: right to professional development, education and student scholarship, social care, rights under the pension and healthcare insurance, right to child benefit, maternal benefit and parental allowance, tax benefits, access to goods and services market, freedom of association and affiliation and membership in organisations representing workers or employers or organisations whose members are engaged in a specific occupation, including remuneration granted by those organisations. Generally speaking, third-country nationals enjoy all rights laid down by the legislation of the Republic of Croatia regulating the above areas.

The said Act specifically prescribes the rights of researchers, students, trainees, volunteers and pupils, as well as the rights and judicial protection of seasonal workers, pursuant to Directive EU 2016/801 of the European Parliament and of the Council of 11 May 2016 (on the conditions

of entry and residence of third-country nationals for the purposes of research, studies, training, voluntary service, pupil exchange schemes or educational projects and au pairing) and Directive 2014/36 of the European Parliament and of the Council of 26 February 2014 (on the conditions of entry and stay of third-country nationals for the purpose of employment as seasonal workers).

Title XIV of the said Act regulates inspection and administrative supervision of the implementation of this Act, and Title XV contains misdemeanour provisions related to violation of certain provisions of the Act.

The inspection over the implementation of the provisions of the Act relating to the work of aliens, conditions of work and rights of posted workers, as well as accommodation of seasonal workers is conducted by inspectors and civil servants working in state administration authorities within their scope of competence and in line with special legislation. The administrative supervision over the application of the provisions of the said Act relating to the conditions of work and rights of posted workers is conducted by the central state administration authority for labour, unless stipulated otherwise by any other law.

### **The provisions of the Act with regard to human trafficking victims**

Pursuant to the Aliens Act, it is possible to grant **temporary stay on humanitarian grounds** to the said category of persons **if they meet legal requirements** and if they have accepted to be included in the assistance and protection programme. In this regard, the Act has been aligned with Council Directive 2004/81/EC of 29 April 2004 on the residence permit issued to third-country nationals who are victims of trafficking in human beings or who have been the subject of an action to facilitate illegal immigration, who cooperate with the competent authorities. In particular, it is prescribed that special care will be taken of pregnant women and people with disabilities as particularly vulnerable groups of victims, and that all authorities involved in the programme for providing assistance and protection to minor victims have to take into account the best interests of minors. In addition, continuous training has been provided for all employees on human trafficking victims in the context of international protection, primarily through the EASO module “Trafficking in Human Beings”.