



人权理事会
第四十六届会议
2021年2月22日至3月19日
议程项目6
普遍定期审议

普遍定期审议工作组报告*

克罗地亚

增编

受审议国对结论和/或建议提出的意见、作出的自愿承诺和答复

* 本报告未经正式编辑印发。



1. 克罗地亚共和国坚定致力于普遍定期审议，并欢迎 2020 年 11 月 10 日在日内瓦以虚拟形式与感兴趣的国家进行互动辩论后提出的建议。根据既定规则，克罗地亚很高兴作出答复。
2. 克罗地亚与所有相关机构密切合作，仔细审查了 224 项建议。
3. 克罗地亚接受 194 项建议。
4. 克罗地亚注意到其他 30 项建议。由于这些建议中关于警方对待移民的措辞，克罗地亚认为，须对这一敏感问题作出进一步解释。从这个意义上说，克罗地亚决定注意到移民、难民、寻求庇护者这一大项之下的所有建议。
5. 克罗地亚根据与辩论期间表示兴趣的主题相对应的大项来编排本增编。这样做还有助于鉴于共同承担的责任参与了对克罗地亚的第三轮普遍定期审议的所有相关机构的内部协商进程。

批准和报告进程

- 137.1** 接受，正在落实。
- 137.2** 接受，正在落实。我们正在考虑批准的可能性。
- 137.3** 接受，正在落实。
- 137.4** 接受，正在落实。
- 137.5** 接受，正在落实。
- 137.6** 注意到。克罗地亚仍然认为，考虑到主要人权原则和最高人权标准必须成为国内框架的一部分，可以在国家层面恰当提供对移民的法律保护。目前，批准这项公约不属于我们的优先事项¹。
- 137.7** 注意到(见 137.6)。
- 137.8** 注意到(见 137.6)。
- 137.9** 注意到(见 137.6)。在克罗地亚，家政工人受到劳动法的充分保护，并享有与任何其他工人相同的权利，不受任何歧视。他们有权受益于已付缴款，获得休息时间、年假和工资。
- 137.10** 注意到(见 137.9)。
- 137.224** 注意到。克罗地亚尚未加入该公约，但在国内立法中，这方面的主要人权原则和最高人权标准是国内框架的组成部分。
- 137.11** 接受，正在落实。
- 137.12** 接受，已经落实。克罗地亚于 2003 年向所有专题特别程序发出了长期有效邀请，并愿意协助和接受访问，包括少数群体问题特别报告员的访问。
- 137.13** 接受，正在落实。
- 137.14** 接受。《消除一切形式种族歧视国际公约》和《儿童权利公约》之下的报告已经提交。提交《经社文权利国际公约》的报告正在编写。
- 137.15** 接受，正在落实。

137.16 注意到。《禁止核武器条约》不属于联合国人权理事会的职权范围。

立法和体制框架

137.17 接受，正在落实。

137.18 接受，正在落实。

137.19 接受，正在落实。

137.20 接受。

137.21 接受。

137.22 接受。

137.23 接受。

137.24 接受。

137.25 接受，正在落实。

137.26 接受，正在落实。

137.27 接受。

137.28 接受，正在落实。

137.29 接受，正在落实。

137.30 接受，正在落实。

137.31 接受，正在落实。

137.32 接受。

137.33 接受。

137.34 注意到。单一的选举法并不恰当，因为为举行选举规定统一的程序和机构并不恰当，而且，该法也不能意味着对完全不同类型政治选举适用一个独一无二的框架²。

137.35 接受，正在落实。

137.125 接受，正在落实。

137.126 接受，正在落实。

137.127 接受，正在落实。

137.160 注意到。医院有义务确保堕胎手术应病人的请求进行。如果专业医生出于良心拒绝施行手术，他须将病人转介给相关医疗机构的其他专业医生。鉴于这一问题的重要性，卫生部负责对这一问题进行监测，并且特别慎重地对待这一问题。

137.111 接受，已经落实。

137.128 接受，正在落实。

137.67 接受，正在落实³。

137.66 接受⁴。

137.68 接受⁵。

气候变化

137.69 接受。

137.70 接受。

137.71 接受。

反对歧视、仇恨罪和仇恨言论

137.60 接受⁶。

137.62 接受。

137.57 接受，正在落实。

137.39 接受。

137.40 接受，正在落实。

137.42 接受。

137.43 接受，正在落实。

137.44 接受，正在落实。

137.61 接受，正在落实。

137.58 接受，正在落实。

137.56 接受，正在落实。

137.59 接受，正在落实。

137.64 接受，正在落实。

137.54 接受，正在落实。

137.53 接受，正在落实。

137.63 接受，正在落实。

137.45 接受。

137.55 接受，正在落实。

137.105 接受，正在落实。

LGBTQI

137.41 接受，正在落实。

137.46 接受，正在落实。

137.47 接受。

137.48 接受，正在落实。

137.49 接受，正在落实。

137.50 接受，正在落实。

137.51 接受，正在落实。

137.52 接受，正在落实。

137.65 接受，正在落实。

137.112 注意到。关于现行或未来立法，应当考虑使整个立法与国际公认的承诺即欧洲法规特别是《欧洲人权公约》和欧洲人权法院判例法相一致。

137.113 注意到(见 137.112)。

贩运人口

137.73 接受，正在落实。

137.72 接受，正在落实。

137.74 接受，正在落实。

137.75 接受，正在落实。

137.76 接受，正在落实。

记者和媒体自由

137.95 接受，正在落实。

137.101 接受，正在落实。

137.107 接受，正在落实。

137.97 接受，正在落实。

137.103 接受，正在落实。

137.110 接受，正在落实。

137.100 接受，正在落实。

137.96 接受，正在落实。

137.98 接受，正在落实。

137.104 接受，正在落实。

137.106 接受，正在落实。

137.102 接受，正在落实。克罗地亚对记者普遍实行保护，使其免遭恐吓⁷。《刑法》(详见《刑法》正文)第 127 条规定，侵犯思想和表达自由属于刑事罪⁸。

137.109 接受，正在落实(见 137.102)。《刑法修正案法》(2019 年)对诽谤法作了修改⁹。

137.108 注意到。诽谤是《刑法》列出的刑事犯罪。另一方面，《民法》规定了对以诽谤为由提出索赔的一方作出赔偿的可能性和条件。《民法》规定的先决条件一般适用于所有索赔。

司法

137.93 接受，正在落实。

137.99 接受，正在落实。

137.94 接受，正在落实。

137.86 接受。

137.87 接受，正在落实。

137.80 接受，正在落实。

137.81 接受，正在落实。

137.82 接受，正在落实。

137.83 接受，正在落实。

137.84 接受，正在落实。

137.85 接受，正在落实。

妇女

137.161 接受，正在落实。

137.162 接受，正在落实。

137.163 接受，正在落实。

137.164 接受，正在落实。

137.165 接受，正在落实。

137.166 注意到。所有符合规定的法律要求的用户，不论性别，都可以行使获得最低保障福利或其他社会福利的权利。

137.167 接受，正在落实¹⁰。

137.170 接受，正在落实。

137.149 接受，正在落实。

工作场所的歧视

137.114 接受，正在落实。

137.115 接受，正在落实。

137.116 接受，正在落实。

137.117 接受，正在落实。

137.118 接受，正在落实。

137.119 接受，正在落实。

137.120 接受，正在落实。

137.121 接受，正在落实。

137.122 接受，正在落实。

137.123 接受，正在落实。

137.168 接受，正在落实。

137.135 接受，正在落实。

家庭暴力和基于性别的暴力

137.137 接受，正在落实。

137.138 接受，正在落实¹¹。

137.139 接受，正在落实(见 137.138)。

137.140 接受，正在落实(见 137.138)。

137.141 接受，正在落实。

137.142 接受，正在落实。

137.143 接受，正在落实¹²。

137.144 接受，正在落实。

137.145 接受，正在落实(见 137.60)。

137.146 接受，正在落实(见 137.143)。

137.147 接受，正在落实(见 137.143)。

137.148 接受，正在落实。

137.150 接受，正在落实。

137.152 接受，正在落实¹³。

137.154 接受，正在落实¹⁴。

137.156 接受，正在落实。

137.157 接受，正在落实。

137.158 接受，正在落实。

137.159 接受，正在落实。

137.136 接受，正在落实。

137.169 接受，正在落实。

137.37 接受，正在落实

137.151 接受，正在落实。

137.153 接受。

儿童

137.171 接受，正在落实。

137.172 接受，正在落实。

137.173 接受，正在落实。

137.174 接受，正在落实。

137.176 接受，已经落实。

137.177 接受，已经落实。

137.178 接受，已经落实。

137.132 接受，正在落实。

137.131 接受，正在落实

137.175 接受，正在落实。

137.133 接受，正在落实¹⁵。

137.36 接受。

137.129 接受，正在落实。

137.130 接受，正在落实。

残疾人

137.202 接受。

137.205 接受，正在落实。

137.207 接受，正在落实¹⁶。

137.155 接受，正在落实。

137.206 接受，正在落实。

137.134 接受，正在落实

137.200 接受。

137.204 接受，正在落实。

137.203 接受，正在落实。

137.201 接受，正在落实。

少数民族

137.38 接受，正在落实。

137.199 接受，正在落实。

137.183 接受，正在落实。

137.184 接受，正在落实。

137.185 注意到。克罗地亚已经采纳并实施了确保保护少数群体权利的最为相关的联合国和欧洲委员会法律文书和机制。此外，克罗地亚执行了一些相关的欧安组织文件以及国际机构和专家的许多建议，以实现少数群体的真正融合，并对少数群体权利实行高度保护。

137.192 接受，正在落实。

137.197 接受，正在落实。

137.198 接受，正在落实。

137.193 接受，正在落实。

137.179 接受，正在落实。

137.181 接受。

137.187 接受，正在落实。

137.180 接受，正在落实。

137.182 接受。

137.189 接受，正在落实¹⁷。

137.195 接受，正在落实。

137.190 接受，正在落实。

137.191 接受，正在落实。

137.188 接受，正在落实。

137.194 接受，已经落实。

137.196 接受，正在落实。

137.186 接受。

移民、难民、寻求庇护者

137.208 注意到。在克罗地亚共和国和与塞尔维亚共和国以及波斯尼亚和黑塞哥维那接壤的边界地区，数千名移民再三试图越过欧盟外部边界非法进入克罗地亚。克罗地亚警方根据《申根边境法》第 13 条第 2 款阻止这些人入境¹⁸。

137.209 注意到。警员在处理移民问题时，根据一般人权文件、欧盟立法框架和国内立法，尊重移民的基本权利和尊严，并允许移民诉诸国际保护制度¹⁹。

137.210 注意到。内政部允许对警察对移民采取的行动进行独立监测的机构和组织进入其房地并获取数据，这样做依据的是国内立法和与这些组织缔结的协议。监察员有权在关于其职权范围的立法规定的范围内，以该立法规定的方式，获得履行其任务所需的所有信息²⁰。

137.211 注意到。内政部各级，从警察局和警务署一直到部长办公室，都有一个跟踪警员活动的合法性的内部监测系统跟踪。对警员活动的所有投诉都要经过几个阶段的核实，无论是公民举报，还是警务署或警察局高级官员发现不当行为²¹。

137.212 注意到(见 137.211)。

137.213 注意到(见 137.209)。

137.214 注意到。克罗地亚是唯一对警员对移民采取的行动进行独立监测的欧盟成员国，这种做法称为边境监测机制。这个机制 2008 年在与难民署和克罗地亚法律中心——克罗地亚法律保护人权的非政府组织——的合作下建立²²。

137.215 注意到(见 137.211)。

137.216 注意到(见 137.209)。

137.217 注意到(见 137.214)。

137.218 注意到。2019 年和 2020 年，与几个非政府组织合作，举办了各种移民处置问题警员培训课²³。关于在过境点提出庇护申请和寻求庇护的权利方面，没有任何法律限制或制约²⁴。

137.219 注意到。内政部与一些非政府组织建立了积极的合作关系，还与这些组织联合执行了保护移民权利的项目²⁵。

137.220 注意到(见 137.209)。

137.221 注意到(见 137.208)。

137.222 注意到(见 137.211)。

137.223 注意到。2018 年，政府通过了新的《无人陪伴未成年人处置规程》，规定了未成年移民和国际保护申请人处置程序²⁶。

与国土战争有关的问题

137.77 接受，正在落实。

137.78 接受，正在落实。

137.88 接受，正在落实。

137.89 接受，正在落实。

137.90 接受，正在落实。

137.91 接受，正在落实。

137.92 接受。

137.79 接受，已经落实。

137.124 接受，正在落实。

注

¹ The new Aliens Act entered into force on 1 January 2021. It is aligned with a total of 21 directives, recommendations, decisions and resolutions, thus transposing into the Croatian legislation both Council Rec. of 27 September 1996 on combating the illegal employment of third-country nationals (OJ C 304, 14. 10. 1996.) and 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 (OJ L 261, 6. 8. 2004.).

The Aliens Act prescribes that temporary stay on humanitarian grounds will be granted to third-country nationals if they have accepted, as victims of trafficking in persons to be part of the assistance and protection programme, if they are a minor who has been abandoned or is a victim of organised crime or is otherwise left without parental protection, guardianship or is left unaccompanied, and if they cooperate with the competent authorities and it is indispensable that they participate in criminal proceedings brought against the employer who illegally employed them.

An employer must not employ a third-country national staying in Croatia illegally nor benefit from his/her work. The following categories of third-country nationals may work in Croatia without a stay and work permit or a work registration certificate: those who have been granted temporary stay for the purpose of family reunification with a Croatian national, a third-country national who has long-term residence, permanent stay, or who has been granted asylum or subsidiary protection in line with the legislation governing international protection, those who have been granted temporary stay for the purpose of life partnership with a Croatian national, a third-country national on long-term residence, permanent stay, or who has been granted asylum or subsidiary protection in line with the legislation governing international protection, or those who have been granted asylum or subsidiary protection, or who are applicants for international protection in line with the legislation governing international protection.

² Electoral rules differ according to the type of elections and are regulated by various special laws – the Act on the Election of the President of the Republic of Croatia, the Act on Elections of the Representatives to the Croatian Parliament, the Act on Elections of Members from the Republic of Croatia to the European Parliament, the Act on Local Elections, the Act on the Right of Citizens of Other Member States of the European Union in elections for representative bodies of local and regional self-government units. The diversity of elections is the result of fundamentally different political and social goals for which they are conducted and significantly different powers and competencies of those elected in such elections (state officials, members of representative bodies of local and regional self-government units, members of the European Parliament).

³ The new anti-corruption strategy aims is to build strong and functional anti-corruption mechanisms in the public and private sectors. This will be achieved by meeting the specific objectives and by coordinated implementation of policies in five priorities: strengthening the institutional and legislative framework for the fight against corruption, strengthening transparency of the work of public administration bodies, strengthening the integrity of the conflict of interest management system, strengthening the anti-corruption potentials of the public procurement system and raising public awareness of the damage of corruption.

⁴ The Anti-corruption Strategy 2021-2030, is currently being drafted. In formulating the specific objectives of the Strategy, the identified areas of corruption risk from international assessment documents, including the fifth round of the GRECO evaluation report on Croatia, were also taken into account.

⁵ Efforts are underway to develop a national strategy in the area of business and human rights and corporate social responsibility, following the UN Guiding Principles on Business and Human Rights.

- ⁶ The Criminal Code (further in text: CC) prescribes “Hate crime” in Article 87 paragraph 21, as follows: “*A hate crime shall mean a criminal offence committed on account of a person's race, colour, religion, national or ethnic origin, language, disability, gender, sexual orientation or gender identity*”. Unless a more severe punishment is explicitly prescribed, such conduct shall be taken as an aggravating circumstance. The CC prescribes certain criminal offences where the motive “out of hatred” is integral part of the legal description of the criminal offence (such as, for example Aggravated Murder, Bodily Injury, Serious Bodily Injury...) and a more severe punishment is explicitly prescribed by the CC. For all other criminal offences, the legal description of which does not explicitly contain the motive “out of hatred” alongside with a more severe punishment, the fact that it was committed out of hatred shall be taken as an aggravating circumstance when determining the sentence. By Act on Amendments to the Criminal Code (2019) a number of criminal offences containing the motive “out of hatred” had their prescribed sentences made stricter (for example Bodily Injury, Serious Bodily Injury). More strict sentences were also prescribed for criminal offences Domestic Violence (Article 179a), Rape (Article 153), Sexual Harassment (Article 156), Lewd Acts (Article 155), Serious Criminal Offences against Sexual Freedom (Article 154). Also, the concept of the criminal offence Rape was changed in a way that any non-consensual sexual intercourse or sexual act equated with it shall be considered a criminal offense of Rape, even when there is no use of force or threat to the life and body of the raped or other person.
- ⁷ It is provided by prescribing a range of criminal offences, such as: Stalking (Article 140), Bodily Injury (Article 117), Serious Bodily Injury (Article 118) and Particularly Serious Bodily Injury (Article 119). Additional protection of the journalistic profession is provided through the criminal offence Threat (Article 139), by which the legislator prescribed as a qualifying circumstance the fact that the threat was committed against a journalist in connection with his work and for which, in that case, the prosecution shall be initiated ex officio, and a prison sentence from six months to five years is prescribed.
- ⁸ Whoever denies or limits the freedom of speech or public expression, the freedom of the press or other media of communication or the free establishment of mass media institutions, shall be punished by imprisonment not exceeding one year. The same sentence shall be imposed on whoever orders or practices censorship or unlawfully denies a journalist the freedom to report or limits this freedom. The same punishment shall be inflicted on whoever unlawfully prevents the publication, sale or distribution of books, magazines, newspapers or other printed matter, or the production and broadcasting of radio and television programmes, news agency programmes or the release of other media content.
- ⁹ By this Act the criminal offence Serious defamation, which was prescribed by Article 148 of the CC was omitted from the CC, leaving the injured person with the possibility to claim damages in civil lawsuit. This change in the CC was made due to statistical data showing that only a small number of criminal proceedings were initiated for the above mentioned criminal offence, and they mostly ended in acquittals. Consequently, at this moment there are only two criminal offences against honour and reputation prescribed by the CC: Insult (Article 147) and Slander (Article 149), both punishable solely by fine. Criminal proceedings for these criminal offences are initiated by a private lawsuit. Also, Article 148a prescribes the exclusion of illegality for criminal offence of Insult if the perpetrator performed its characteristics in public information or in journalistic work, and he did so in the public interest or for other justified reasons.
- ¹⁰ In order to improve the environment and financial conditions for families, the legislation regulating maternity and parental benefits has been improved. The last amendments to the Maternity and Parental Benefits Act increased the maximum amount of salary compensation paid during the use of parental leave for employed and self-employed parents from 120% of the monthly budget base (the current limit of HRK 3,991) to 170% of the budget base (HRK 5,654). This represents a significant step forward, since the maximum amount of salary compensation was extended for the second time in the previous mandate of the Government. Also, a new draft of Maternity and Paternity Act, will be prepared especially bearing in mind the obligation of alignment with the acqui – implementation of Directive (EU) 2019/1158 of the European Parliament and of the Council of 20 June 2019 on work-life balance for parents and carers and repealing Council Directive 2010/18/EU.
- ¹¹ Thus, the Act on Amendments to the Criminal Code (2019) introduced more strict punishments for criminal offences Bodily Injury (Article 117), Serious Bodily Injury (Article 118) and Particularly Serious Bodily Injury (Article 119) when committed out of hatred (including based on gender or gender identity) and also for criminal offence Domestic Violence (Article 179a).

- ¹² Criminal offence Domestic Violence, described in the Article 179a of the CC is prosecuted ex officio. According to the Criminal Procedure Act (further in text:CPA) unless otherwise provided by law, the State Attorney shall initiate criminal proceedings if there are reasonable grounds for believing that a particular person committed a criminal offence prosecuted ex officio and there are no statutory obstacles to the prosecution of the said person. Proceedings shall be conducted without procrastination. In the case of proceedings in which the defendant has been temporarily deprived of liberty, the court and state bodies shall proceed with particular urgency. According to the CPA, the victim has, among other: the right to access services providing support to victims of criminal offences, the right to efficient psychological and other professional assistance and support of the body, authority or institution providing assistance to victims of criminal offences as provided for by law, the right to protection from intimidation and retaliation and the right to protection of the dignity of the victim when testifying. Before questioning the victim, the body conducting the questioning shall carry out, in cooperation with the bodies, organisations or institutions providing assistance and support to victims of criminal offences, an individual assessment of the victim. The individual assessment shall include establishing whether there is a need to take special protection measures in respect of the victim and if yes, which ones (special method of questioning the victim, use of communication technology so as to avoid visual contact between the victim and the perpetrator and other measures provided for by law). Where the victim of a criminal offence is a child, it shall be presumed that special protection measures need to be taken and it shall be established which ones. The individual assessment of a victim shall take into account the personal characteristics of the victim, the type or nature of the criminal offences and the circumstances of the criminal offence. In this context particular attention shall be paid to victims who have suffered considerable harm due to the severity of the criminal offence, victims of a criminal offence committed with a bias related to their personal characteristics and victims whose relationship to the perpetrator makes them particularly vulnerable. In the same terms, victims of terrorism, organised crime, human trafficking, gender-based violence, violence in a close relationship, sexual violence and exploitation, hate crime and victims with disabilities shall be duly included in the individual assessment. The victim of an intentional crime of violence is entitled under a special act to compensation from the state budget. If the victim has won a civil claim, the amount awarded shall be taken into account when determining the amount of compensation. If the victim has already been awarded state compensation, the court shall act likewise when determining the amount to be awarded on the basis of the civil claim made. According to the Law on Protection against Domestic Violence, the victim of the domestic violence has, among others, the right to access services providing support to victims of domestic violence, the right to efficient psychological and other professional assistance and support of the body, authority or institution providing assistance to victims of domestic violence, the right to protection from intimidation and retaliation and the right the right to protection of the dignity of the victim when testifying.
- ¹³ Croatia continues its efforts regarding legislative activities with the aim of improving protection of victims of domestic violence. The Law on Amendments to the Law on Protection against Domestic Violence (entered into force on 1 January 2020) has imposed higher fines and imprisonment sentences for all forms of domestic violence, with higher fines and imprisonment punishments for the perpetrator who repeats domestic violence or commits it in the presence of a child or person with a disability or of elderly age. Furthermore, physical violence was redefined in such a way that it was prescribed as the application of physical force resulting in no physical injury in judicial medical terms.
- ¹⁴ The CPA prescribes that the procedure must be carried out without any delay, and in proceedings in which the defendant is temporarily deprived of liberty, the court and state authorities will act in particular expeditiously.
- ¹⁵ Croatia promotes the integration of students with disabilities into the mainstream education system. In achieving above mentioned goal for the students with disabilities different activities are under the implementation: access to early identification and early intervention activities, providing appropriate curriculum, assistive technology, teaching assistants or professional communication mediator, co-financing the costs of transport, foods and didactic equipment, removing construction barriers including professional support during education as well as medical support for the students with serious level of disabilities.
- ¹⁶ National Plan for Equalization of Opportunities for Persons with Disabilities 2021-2027 will cover the topic of pandemic and other crisis situations.

¹⁷ Employment in the civil service is regulated in such a way as to ensure equal employment opportunities for all candidates, regardless of their nationality. At the same time, members of national minorities are provided with an advantage in employment under equal conditions. Also, as the ban on new employment in state bodies has been in force in the last few years, employment is possible only in exceptional and situations prescribed in advance. As a result, employment through regular admission to the civil service has become more difficult, which is reflected in the reduced possibility of new employment of persons belonging to national minorities in order to achieve their equal representation in these bodies/institutions.

¹⁸ The majority of them do not intend to stay in Croatia for a long period of time, and their only aim is to reach the desired Member State of the EU where they can lodge their application for international protection. Migrants are willing to use any means necessary to reach their goal, even if it means endangering their own lives and the lives of their family members, counting on the Croatian police to save them once they are in such danger. On the other hand, if they are prevented in their illegal entry attempt, they are capable of accusing the police of abuse and of preventing them from accessing the international protection system.

Very often the activists of NGOs note the statements of migrants, present them to the media as facts, and the media publish them with sensationalist headlines, however NGOs reports omit mentioning real events that are documented in detail and published in a number of national and/or international media by independent journalists and can therefore be considered reliable.

¹⁹ The approach of the Republic of Croatia and the Ministry of the Interior to allowing access to international protection is clearly illustrated by the number of submitted applications for international protection, the number of applicants who were granted international protection, as well as the number of refugees who should, according to the plan and the epidemiological situation, be resettled, and the number of Syrian refugees from Turkey who have already been resettled to Croatia within the framework of the resettlement scheme (250).

Croatia's experiences show that most applicants for international protection do not want to stay in Croatia and they regard it only as a country of transit - over 70% of applications are suspended due to the fact that applicants leave Croatia during the asylum procedure.

Having in mind the responsibility of the country of first entry of migrants (in accordance with the valid Dublin III Regulation), in a large number of cases migrants themselves refuse to apply for international protection in Croatia and to be fingerprinted for the Eurodac system. This way, Croatia becomes responsible for applicants for international protection, which is not in the interest of a large number of applicants. Statistics show that most applicants for international protection are not persons in need but merely economic migrants who misuse asylum system to reach the EU for different reasons. Croatia has also registered cases of individuals who were granted international protection but after some time went to other EU Member States.

The figures provided below show a significant increase in the number of applications for international protection made from 2016 to 2020 (increased migratory pressure), compared to the previous period: 2014 – 454 and 2015 – 210. The figures are: 2016 – 2,234; 2017 – 1,887; 2018 – 1,068; 2019 – 1,986; 2020 – 1,932. Please note, that out of 1,655 applications lodged in 2020, there were only 325 applicants for international protection in accommodation capacities in Croatia, which makes up only 19% of the total applications lodged.

The Dublin transfer to the Republic of Croatia from other EU Member States, as well as the number of applicants returned to Croatia from other EU MS within the framework of readmission, must be also taken into consideration. In accordance with the Dublin Regulation, Croatia received 6,567 requests for reception and readmission of asylum seekers from 2016 to 2018, out of which 1,074 were carried out. In 2019, Croatia received 1,702 requests (525 were carried out), and in 2020, there were 3,151 requests for reception and readmission of asylum seekers and 1,855 were carried out.

²⁰ However, it is important to mention that pursuant to the National Preventive Mechanism Act unannounced visits are allowed only if foreigners whose freedom of movement has been restricted are present in a police station.

Furthermore, the Ministry has explained to the Ombudsman that the access to the Information System of the Ministry needs personal authorisation. According to the Instruction on the allocation of usernames and passwords of the IT Department of the Ministry, police officers must not share their password and username with other persons and they must not provide other persons, who do not have such authorisation, with access to the Information System. Non-compliance with this instruction represents a serious breach of official duty, pursuant to the Police Act. Pursuant to Art. 24 of the Ombudsman's Act, and in relation to Art. 5, item 5 of the NPM Act, the employees of the Ombudsman are allowed during field visits, to requests printouts from the Information System and this data will be delivered to them in writing, as soon as possible.

- 21 Since the beginning of the migrant crisis, complaints come from humanitarian organisations, certain institutions in Croatia and NGOs, on the basis of statements made by migrants most often located in the Republic of Serbia and Bosnia and Herzegovina who have already attempted to enter the Republic of Croatia illegally on several occasions, but were discouraged from doing so by the Croatian police. The accusations are made with no information which could be used to identify the supposed victims, and, in most cases, the locations and times of the alleged incidents are not even approximately stated. In spite of such vague information, the competent departments of the Ministry have checked every accusation to determine the lawfulness of police actions. However, due to this lack of information, it is oftentimes very difficult, if not impossible, to verify these accusations. The Ministry practices a zero tolerance policy for unlawful use of means of coercion, as well as a zero tolerance policy for non-processing of any criminal offence or misdemeanor committed by police officers. The Ministry has called, on several occasions, for any persons who might have any knowledge regarding potential illegal actions taken by police officers against migrants to communicate such information, so that it could be verified and so that all facts could be established.

Also, migrants who were discouraged by police officers from entering the Republic of Croatia or who were subject to other prescribed procedures of return to the country from which they illegally entered the Republic of Croatia often accuse police officers of violence, expecting that such unfounded accusations will help them in a new attempt to enter Croatia and in continuing their journey to the countries of destination.

During 2018 and 2019, the general police director issued two clear warnings to all police administrations and police stations stating that excessive use of force and unlawful confiscations of migrant property by police officers will not be tolerated and that, in every potential case where means of coercion are used, a full prescribed procedure will be carried out to assess the legality of their use. Also, whenever there is a complaint about illegal confiscation of property, the relevant procedure will be carried out to identify and process potential perpetrators. Also, several meetings were held with heads of police administrations and police stations where they were instructed to treat migrants with utmost consideration and with respect to human dignity, particularly children, women and the elderly and other vulnerable groups. They were also instructed on prohibition from disproportionate, inadequate and illegal use of force. The said instruction was enclosed to all letters of communication from the central level with police administrations regarding migration.

- 22 Their observers gain direct insight into the actions taken by police towards migrants. The project is entirely financed by UNHCR funds and was implemented from 2008 to 2014, as well as in 2018 and 2019. Likewise, Croatia is currently the only EU Member State that is working even now, in cooperation with the European Commission, Frontex, and the EU Agency for Fundamental Rights (FRA), on the draft of the future independent monitoring mechanism of police treatment of migrants on the external EU border, in line with the Pact on Migration and Asylum which is still being negotiated on the EU level. According to the current text, the Ombudsman would also participate in the monitoring.
- 23 The following topics were covered in training organised by the Red Cross: IHL, Tracing service and restoring family links, Urgent first aid procedures, Understanding cultural differences, Vulnerable groups of migrants, Prevention of occupational stress and burnout, and Cultures and social situations in the countries of origin. The following topics were covered in training organised by IOM: Migration-related health risks, provision of aid in non-urban environments, Use of automated external defibrillators, CPR and use of automated external defibrillators, and Dealing with vulnerable groups. The following topics were covered in training organised by the Croatian Law Centre: Human rights of migrants, Access to the asylum system, Protecting vulnerable groups of migrants and asylum seekers, Police officer responsibility, and Treatment of applicants for international protection. Training organised by FRA was held on the topic of "Training on the Schengen Borders Code (Reg. (EU) No. 2016/399), fundamental rights and access to international protection".

- ²⁴ This is also confirmed by the number of expressed intentions, which has been relatively constant over the past few years (2016 – 2,234; 2017 – 1,887; 2018 – 1,068; 2019 – 1,986; 2020 – 1,932 applications made). Also, during this period of COVID, the number of expressed intentions did not fall despite travel restrictions.
- ²⁵ Accordingly, training courses have been organised in cooperation with UNHCR, Croatian Red Cross, Croatian Law Centre, and the IOM and were held for police officers on the external border on the following topics: accessing the system of international protection and protecting the human rights of migrants, first aid and health protection, basics in humanitarian law, etc.
- Croatia is one of the few EU Member States that has transposed the provision on assisting irregular migrants for humanitarian reasons into its national legislation (Art. 53 of the Aliens Act) from the Council Directive 2002/90/EC of 28 November 2002 defining the facilitation of unauthorized entry, transit and residence (OJ L 328, 5. 12. 2002.). However, the said provision does not provide for assisting in illegal border crossings, except in cases of saving lives and preventing injuries, which is unacceptable to certain NGOs.
- Activists from certain NGOs are present in the areas of neighbouring countries along the Croatian border (on the most endangered parts of the border), where they advise migrants on how to cross the border illegally and who to contact after their illegal entry into Croatia (including cell phone numbers). All of these actions are considered as assisting in the illegal crossing of the state border, in line with the Aliens Act and cannot be considered as assistance within the meaning of the Art. 53 of the Aliens Act. In that sense, several court proceedings are being conducted.
- ²⁶ Police officers in police administrations and police stations also cover the issue of treatment of unaccompanied minors in training which is organised regularly by the Ministry of the Interior. Likewise, this issue is one of the subjects in the basic course for border police. In 2019, four training courses were organised by UNHCR and held for police officers and staff of social welfare centers regarding the Protocol.
- Protection of vulnerable persons is prescribed by the Aliens Act, pursuant to which the best interest of the minor and the needs of other vulnerable persons must be taken into account when applying the measures for ensuring return, as well as family life and health condition of a third-country national who is subject to such measures.
- Likewise, pursuant to the Aliens Act, vulnerable persons have the right to free legal aid in the return procedure, in the form of free legal representation for submission of law-suits and representation before the Administrative Court.
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