

## MIGRANTS, REFUGEES & ASYLUM SEEKERS

1. This submission has been prepared by the Centre for Peace Studies and focuses on migration and asylum. Concretely, this report focuses on deterioration of the access to asylum in Croatia, violation of human rights of migrants and refugees, pressures on human rights defenders, and integration issues.

### A. POLICY AND LEGISLATIVE FRAMEWORK

2. In 2019, Croatia has still not adopted a migration policy; the previous policy expired at the end of 2015. The Action Plan for Integration, adopted in 2017, still does not recognise seekers of international protection as a distinct vulnerable group.
3. **Croatia should adopt a new migration policy and include asylum seekers and foreigners in the next Action Plan for Integration (2020-2022).**
4. The government tried to criminalize solidarity through amendments of the Aliens Act in 2016. NGO advocacy efforts protected the humanitarian aid from criminalisation, but the vague formulation allows various interpretation by policemen, thus threatening criminalisation of humanitarian aid.
5. **Croatian Aliens Act should be amended in accordance with relevant international humanitarian law.**

### B. ACCESS TO THE RIGHT TO INTERNATIONAL PROTECTION

6. The implementation of Law on International and Temporary protection in terms of procedures of approving asylum in Croatia is still restrictive.<sup>1</sup> In the asylum approval procedure, superficial and selective methods are still applied in examining the reliability of information and statements of applicants for international protection. The Ministry of Interior (MoI) is late in sending notifications on the progress of approval procedures.
7. **Croatia should implement concrete measures to ensure timely and fair asylum approval procedures.**
8. In 2017, problems emerged in the conduct of the Security Intelligence Agency (SIA) while making security assessments of persons who submit a request for asylum. SIA marks a great number of cases as security threats, without giving any information as to the reasons either to the MoI or to the applicants and their lawyers, who are unable to challenge such conclusions in first instance administrative proceedings or in appellate proceedings, which threatens the right to fair trial. The number of such cases decreased in 2018 and 2019, but it remains an issue.
9. **Croatia should ensure that asylum applicants and their lawyers have information on conclusions in security assessments and take steps to prevent non-transparent security assessment procedures.**
10. Inadequate translation still presents a significant problem in the procedure of approving international protection. In addition to the fact that there are no translators available for some

languages and dialects, translators' insufficient sensitivity to political, cultural and other specificities of certain cases has a direct negative impact on the outcome of a submitted request. In addition, notifications on extended deadlines for approving asylum are sent only in Croatian language, without a translation or the presence of an interpreter.

11. **Croatia should ensure adherence to professional standards of translation in asylum procedures.**
12. **Croatia should tackle the existing irregularities in the asylum approval procedure. Croatia should respect UN Convention and Protocol Relating to the Status of Refugees.**

#### **Unaccompanied minors**

13. The system of protection of unaccompanied minors is inadequate; it shows serious deficiencies, is not guided by the principle of child's best interest, and does not enable social integration. Minors are accommodated in inappropriate institutions such as homes for abandoned children or homes for children with behavioural problems. There are not enough skilled staff capable of working with unaccompanied minors. The minors are not involved in education, they spend their time without interpreters and appropriate care, and often abandon the institutions of their own accord.
14. Croatian Government adopted a new Protocol on the treatment of unaccompanied children in 2018, but the implementation is still lacking.
15. **Croatia should ensure the protection of unaccompanied migrant children in accordance to Convention on the Rights of the child and other relevant legislation.**

#### **C. ACCESS TO CROATIAN TERRITORY, ILLEGAL EXPULSIONS AND EXTRADITION**

16. The *non-refoulement* principle is the cornerstone of refugee protection and is a part of customary international law. Still, this principle has been seriously undermined by practices and decisions of state officials and courts, primarily through chain pushbacks (mass expulsions through several states) and extraditions.
17. A deterioration in police conduct towards refugees on the borders has been recorded since the end of 2016. Cases of physical and verbal abuse and expulsion from Croatian territory have been increasingly frequent.<sup>2</sup> Such cases call into question the legitimacy of police conduct and represent an obstruction of the Act on International Protection, which grants people who find themselves in Croatian territory the right to express their intention to file a request for international protection, as well as obstruction of international refugee and humanitarian law.
18. Numerous domestic and international organisations, including UN Special Rapporteur on the human rights of migrants<sup>3</sup>, UNHCR<sup>4</sup>, Human Rights Watch<sup>5</sup> and Amnesty International<sup>6</sup>, as well as institutions such as Croatian Ombudswoman<sup>7</sup>, reported on illegal (mass) expulsions from Croatian territory. Testimonies include denial of asylum seeking, illegal expulsions at the green borders, destruction and theft of private belongings, sexual harassment, various forms of physical violence<sup>8</sup>.

19. The Ombudswoman of the Republic of Croatia warned about the pushbacks and violence, irregularities of police conducts in 2017.<sup>9</sup> Afterwards, numerous international organizations publicly wrote about it, often warning about chain-pushbacks that can lead to violation of the non-refoulement principle. European Commission and MEPs also questioned the situation. Despite all these warnings and inquiries, Mol still refuses to take responsibility and to investigate and stop such practice. Furthermore, in 2019, the Ombudswoman's Office received and published an anonymous complaint from border police officer about systematic illegal acts conducted by Croatian police.<sup>10</sup> Instead of investigating irregularities, representatives of Croatian authorities<sup>11</sup> attacked both the Ombudswoman and the press.<sup>12</sup>
20. The most public was the case of the family of a 6-year old Afghani girl, who lost her life as she was hit by a train at the border between Croatia and Serbia, after the mass expulsion by Croatian authorities. As the criminal proceedings before the national courts were unsuccessful the case was brought before the ECtHR<sup>13</sup> under Articles 2 (right to life) and 3 (protection against torture) of the ECHR and Article 4 (prohibition of collective expulsion of aliens) of Protocol 4 to the ECHR.
21. Refugees continue to cross the territory of Croatia and the neighbouring countries, using increasingly insecure paths, which often ends in tragic outcomes.<sup>14</sup> Throughout the year, particularly during the colder months, deaths of refugees in barely accessible places like mountains, quarries and riverbanks are not rare.
22. **Croatia should ensure right of access to asylum and territory for persons in search of protection, regardless of whether they hold valid travel documents.**
23. Furthermore, inadequate police conduct was registered in 2018, when Croatian police opened fire on a van carrying 29 migrants at the border, injuring nine, including two children, after the vehicle tried to crash through a roadblock to enter the country from Bosnia.<sup>15</sup>
24. **Croatia should cease and investigate every breach of duty and irregular or criminal practice perpetrated by the authorities.**
25. Croatian Parliament appointed members of the Council for Civilian Oversight of Security and Intelligence Agencies. However, the civilian oversight of repressive apparatus is still incomplete since neither the members of the Council for Civilian Oversight over the Use of Specific Police Authorities, nor the Commission for Complaints of Illegal Police Conduct have been appointed.
26. **Croatia should without further delay appoint members of the two civilian oversight bodies.**
27. **Croatia should act in accordance with national and international law, especially in accordance with the UN Convention and Protocol Relating to the Status of Refugees. Croatia must stop illegal practices of human rights violations that represent infringement of the International Covenant on Civil and Political Rights (especially articles 6, 7, 9, 10, 12 and 13), Convention against Torture and Convention on the Rights of the Child.**

#### D. DETENTION

28. Alternatives to detention are not implemented or available for vulnerable groups (including unaccompanied children and families with children), who are still detained in reception and transit-reception centres.
29. The Bylaw on the Rules Regarding Detention in the Reception Centre for Foreigners has severely limited access to detainees for NGO representatives and lawyers. Moreover, the treatment of lawyers as any other visitor imposes barriers in practice of their obligations.
30. **Croatia should ensure alternatives to detention for migrants (especially vulnerable groups) and enable access of lawyers and NGO representatives to detainees.**

#### E. PRESSURE ON HUMAN RIGHTS DEFENDERS

31. Unfounded allegations, space restrictions, the ban on monitoring and investigation tasks, and criminalization of solidarity are posing a serious threat to democracy and the rule of law in Croatia.
32. 2018 was marked with criminalisation of the work of lawyers, NGOs and activists who provide help and support to refugees and migrants, and who speak publicly about illegal pushbacks and violence at the borders, a persistent issue for the last couple of years. The pressures included investigative actions<sup>16</sup>, denial of entry to reception centres and detention centres, limitation of access to detainees for lawyers and NGOs.<sup>17</sup> The pressures continue in 2019.
33. **Croatia should ensure an enabling and safe environment for the work of human rights defenders.**
34. At the thematic session<sup>18</sup> on migration issues organized by the Parliamentary Committee on Human and National Minority Rights in October 2018, the Ombudswoman informed<sup>19</sup> the members and the public of her Office's findings regarding migrants' and refugees' complaints of police violence at the border submitted to the Office, and the obstacles faced by the Office when trying to undertake investigations. The Ombudswoman reported that the results of the investigations and on-the-spot checks showed violations of irregular migrants' human rights by the Croatian police.<sup>20</sup>
35. Additionally, in 2018 and 2019 the Ombudswoman was repeatedly denied direct access to information<sup>21</sup> necessary for the investigation by the Ministry of the Interior. Thus disabling its work as an independent institution according to the Constitution, the Ombudsman Act and the National Preventive Mechanism Act. Many other allegations regarding the Ministry of the Interior's non-transparent work and procedures, and inconsistencies in their statements were emphasized.
36. **Croatia should cease and investigate irregular practices perpetrated by the authorities.**
37. **Croatia should enable and ensure independent and autonomous work of Ombudswoman as national preventive mechanism and national human rights institution established in accordance to Paris principles.**

F. INTEGRATION INTO SOCIETY AND SOCIAL AND ECONOMIC RIGHTS

38. The asylum procedure often lasts longer than foreseen<sup>22</sup>, often up to two years, which risks the chances of those who submitted requests of successfully integrating into society. The applicants are mostly accommodated in reception centres in Zagreb or Kutina, and they receive financial support of just 100 HRK (app. 15 EUR) per month, which does not cover even the most basic costs.

39. **Croatia should review its asylum procedures to increase the efficiency of the asylum processes and enable prompt integration of asylum seekers.**

**Adequate standard of living and housing**

40. Persons under international protection have their housing expenses covered at the state's expense and they also have a right to social welfare payments in the minimum amount of 800 HRK (app. 100 EUR) per month for a single person, which again is not sufficient to cover basic life expenses. Furthermore, the state housing capacities are often inadequate, leaving refugees waiting for months for private housing solutions that are often inadequate and more expensive for the state.

41. Those seekers of international protection who are accommodated in the Porin Hotel in Zagreb are living in conditions that are inadequate for living: frequent power, water and heating shortages, as well as limited access to toiletries and sanitary articles. As part of the programme of relocation, a certain number of refugees were settled in Zadar, where neither the public institutions nor the local community offer them adequate support in integration. Families were not provided with adequate accommodation, which is why three of the seven resettled families left Zadar.

42. **Croatia should ensure the respect of the Article 11 of the International Covenant on Economic, Social and Cultural Rights (ICESCR) in regards to adequate standard of living and housing of asylum seekers and refugees.**

**Right to healthcare**

43. Persons under international protection in Croatia have a right to health protection to the same extent as citizens of the Republic of Croatia, but in practice this is not the case. The right to healthcare is obstructed by the lack of knowledge of health staff on specific regulations relevant to healthcare, discriminatory attitudes towards foreigners and bureaucratic barriers.

44. Instead of comprehensive healthcare, asylum seekers are only entitled to emergency healthcare. For all medical problems that do not fall under the category of emergency cases, asylum seekers turn to the non-profit organisation Médecins du Monde, which is unsustainable because the organisation is funded on a project basis, their daily time at the reception centre is limited, and they cannot issue referrals for medical examinations and medication. Emergency healthcare does not include prenatal and postnatal care, or healthcare for children of preschool and school age.

45. The system of protection of mental health of asylum seekers and persons under international protection is inadequate. It lacks psychological care and therapy for persons traumatised<sup>23</sup> by

the experience of war, war crimes and other inhuman practices, which limits individuals' opportunities for social integration.

**46. Croatia should ensure the respect of the Article 12 of the ICESCR in the regards of right to health of asylum seekers and refugees.**

**Right to education**

47. In the past four years, Croatian language courses remained unavailable and infrequent for persons under international protection.

48. Children of asylum seekers do not have the right to attend kindergarten, but only to one year of preschool education, which slows their learning of the language through interaction with their peers. Assessment of knowledge and competences of children of asylum seekers before enrolling in school is unregulated. Children are often placed in primary school automatically, regardless of their age and competences; they are enrolled belatedly, and due to administrative procedures like issuing the personal identification number, enrolment in school is delayed, which threatens the children's right to education.

49. Preparatory education for children's inclusion in schools is inadequate: specialised educational materials are not available, teachers are not additionally trained to work with pupils speaking different languages, there are no learning strategies or work methods, and the quality of preparatory teaching is contingent on the resources and motivation of a given school or teachers.<sup>24</sup>

50. Persons under international protection have the right to higher education either under conditions that apply to foreigners or conditions that apply to Croatian citizens. Under the conditions that apply to foreigners, persons must pay high tuition fees, which in most cases are not affordable. If they enrol as Croatian citizens, they must fulfil certain criteria such as passing the State Matriculation Exam in the Croatian language. Educational qualifications of persons under international protection are often not recognised; high costs of validation of foreign diplomas represent an additional obstacle to the education and employment of persons under international protection.<sup>25</sup>

**51. Croatia should ensure for asylum seeking children effective and non-discriminatory access to education, in regards to the Article 13 of the ICESCR.**

**Right to work**

52. Regardless of their qualifications, asylum seekers and refugees still face difficulties entering the labour market. Basic knowledge of the Croatian language is an important condition to enter the labour market. Employers and refugees are not sufficiently informed regarding the existing measures, and public funds are not sufficient to include a higher number of asylees in the labour market.<sup>26</sup>

**53. Croatia should take effective measures to secure right to work for asylum seekers and refugees in accordance with Article 6 and 7 of the ICESCR.**

<sup>1</sup> In 2018, 333 requests for asylum were approved in Croatia, including 163 for asylum and 10 for subsidiary protection. 1,068 asylum seekers were registered in the same period and their requests are still pending. Ministry of the Interior, *Statistical overview of the basic security indicators and work results in the year 2018*, available at:  
<https://mup.gov.hr/UserDocsImages/statistika/2018/Statisticki%20pregled%20temeljnih%20sigurnosnih%20pokazatelja%20i%20rezultata%20rada%20u%202018.%20godini.pdf>

<sup>2</sup> Centre for Peace Studies, *Reports on pushbacks*, available at: <http://welcome.cms.hr/wp-content/uploads/2017/01/REPORT-ON-ILLEGAL-AND-FORCED-PUSH-BACKS-OF-REFUGEES-FROM-THE-REPUBLIC-OF-CROATIA.pdf>; <http://welcome.cms.hr/wp-content/uploads/2017/08/THE-SECOND-REPORT-ON-UNLAWFUL-AND-FORCED-PUSH-BACKS-OF-REFUGEES-FROM-THE-REPUBLIC-OF-CROATIA-.pdf>; <http://welcome.cms.hr/wp-content/uploads/2017/05/REPORT-ON-THE-NEW-WAVE-OF-VIOLENCE-AGAINST-REFUGEES-ON-CROATIAN-BORDERS.pdf>; [https://www.cms.hr/system/article\\_document/doc/504/Fourth\\_Report\\_on\\_Illegal\\_Pushbacks.pdf](https://www.cms.hr/system/article_document/doc/504/Fourth_Report_on_Illegal_Pushbacks.pdf); [https://www.cms.hr/system/article\\_document/doc/597/5\\_5TH\\_REPORT\\_ON\\_PUSHBACKS\\_AND\\_VIOLENCE\\_20052019.pdf](https://www.cms.hr/system/article_document/doc/597/5_5TH_REPORT_ON_PUSHBACKS_AND_VIOLENCE_20052019.pdf)

<sup>3</sup> UN Special Rapporteur on the human rights of migrants, *End of visit statement of the UN Special Rapporteur on the human rights of migrants, Felipe González Morales*, available at:  
<https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25088&LangID=E>

<sup>4</sup> UNHCR, *DESPERATE JOURNEYS: Refugees and migrants arriving in Europe and at Europe's borders; January-December 2018*, available at: <https://www.unhcr.org/desperatejourneys>

<sup>5</sup> Human Rights Watch: <https://www.hrw.org/news/2017/01/20/croatia-asylum-seekers-forced-back-serbia>; <https://www.hrw.org/news/2018/12/11/croatia-migrants-pushed-back-bosnia-and-herzegovina>

<sup>6</sup> Amnesty International, 2019, *Pushed to the edge: Violence and abuse against refugees and migrants along Balkan Route*, available at: <https://www.amnesty.org/en/latest/news/2019/03/croatia-eu-complicit-in-violence-and-abuse-by-police-against-refugees-and-migrants>; <https://www.amnesty.org/en/documents/eur05/9964/2019/en/>

<sup>7</sup> Ombudsperson's Office, *Annual Ombudsman Report for 2018*, available at:  
<https://www.ombudsman.hr/en/reports>

<sup>8</sup> Such as: baton strikes, forced barefoot walking through the snow, electrocution etc.

<sup>9</sup> Ombudsperson's Office, *Annual Ombudsman Report for 2017*, available at:  
<https://www.ombudsman.hr/en/reports>

<sup>10</sup> Croatia, Ombudsperson's Office: <https://www.ombudsman.hr/hr/institucije-bez-reakcije-na-anonimnu-prituzbu-policijskog-sluzbenika-o-nezakonitim-postupanijima>

<sup>11</sup> State Attorney (<http://hr.n1info.com/Vijesti/a420446/DORH-prozvao-pucku-pravobraniteljicu-da-je-povrijedila-tajnost-postupka.html>), President of the Republic of Croatia (<http://hr.n1info.com/Vijesti/a419972/Predsjednica-hrvatskim-novinarima-Nemojte-se-povoditi-za-stranim-medijima.html>)

<sup>12</sup> <http://hr.n1info.com/Vijesti/a420670/Pucka-pravobraniteljica-DORH-u-lznijeli-smo-vlastita-saznanja-mogli-ste-i-vi.html>; <http://hr.n1info.com/Vijesti/a420282/HND-zgrozen-skandaloznim-izjavama-predsjednice-Republike.html>

<sup>13</sup> EctHR, *M.H. and others v. Croatia*, application no. 15670/18, available at:

<http://hudoc.echr.coe.int/eng?i=001-183485>

<sup>14</sup> See, for example: Glas Slavonije, *Utopila se dva migranta, prošle ih je godine devet smrtno stradalo u Hrvatskoj*, available at: <http://www.glas-slavonije.hr/391622/1/Utopila-se-dva-migranta-prosle-ih-je-godine-devet-smrtno-stradalo-u-Hrvatskoj> and Novi list, 'U bijegu su skakali u rijeku. Nitko nije izronio': Potresna ispovijest migranta o tragediji kod D. Rese, available at: <http://www.novolist.hr/index.php/Vijesti/Hrvatska/U-bijegu-su-skakali-u-rijeku.-Nitko-nije-izronio-Potresna-ispovijest-migranta-o-tragediji-kod-D.-Rese>

<sup>15</sup> FRA, *Periodic data collection on the migration situation in the EU - July 2018 Highlights*, p.6, available at: [https://fra.europa.eu/sites/default/files/fra\\_uploads/fra-2018-july-periodic-migration-report-highlights\\_en.pdf](https://fra.europa.eu/sites/default/files/fra_uploads/fra-2018-july-periodic-migration-report-highlights_en.pdf); also: <https://www.dw.com/hr/hrvatska-policija-pucala-na-krijum%C4%8Dare-izbjeglica-ranjeno-dvoje-djece/a-44023406>

<sup>16</sup> 2018, Centre for Peace Studies' press release, available at: <https://www.cms.hr/hr/azil-i-integracijske-politike/sabor-mora-oformiti-istravno-povjerenstvom-nad-mup-om>

<sup>17</sup> Ombudswoman of the Republic of Croatia, *Annual Ombudsman Report for 2018*, available at: <https://www.ombudsman.hr/en/reports>

<sup>18</sup> <https://www.sabor.hr/radna-tijela/odbori-i-povjerenstva/izvjesce-odbora-za-ljudska-prava-i-prava-nacionalnih-manjina-283>

<sup>19</sup> <https://www.ombudsman.hr/hr/o-zastiti-zvzdaca-treba-educirati-ne-samo-suce-nego-i-radnike-poslodavce-i-ovlastene-tuzitelje>

<sup>20</sup> Namely, physical pushbacks after irregular border crossings from neighbouring non-EU states, lack of an effective investigation by the MoI of allegations of police violence, obstruction of access to the international protection system, and non-transparent administrative procedures regarding return decisions.

<sup>21</sup> Croatia, Ombudsperson's Office: <https://www.ombudsman.hr/hr/pucka-pravobraniteljica-upozorila-mup-da-osigura-predstavnicima-npm-a-pristup-podacima-o-postupanju-prema-iregularnim-migrantima>;

<sup>22</sup> FRA, *Migration: Key fundamental rights concerns - Quarterly bulletin 2 2019*, p.5, available at: <https://fra.europa.eu/en/publication/2019/migration-overviews-may-2019>

<sup>23</sup> MDM-BE, *Nearing a point of no return? Mental health of asylum seekers in Croatia — February 2019*, available at: [https://medecinsdumonde.be/actualites-publications/publications/mental-health-of-asylum-seekers-in-croatia-nearing-a-point-of?fbclid=IwAR2x1TbfOArizZQczTZ3cda5YZGY90h8ASuRHcRHsz3FpJOUw\\_uAPiRKNl](https://medecinsdumonde.be/actualites-publications/publications/mental-health-of-asylum-seekers-in-croatia-nearing-a-point-of?fbclid=IwAR2x1TbfOArizZQczTZ3cda5YZGY90h8ASuRHcRHsz3FpJOUw_uAPiRKNl)

<sup>24</sup> HRHZ, *Human Rights in Croatia: Overview of 2018*, §313, available at [https://www.kucaljudskihprava.hr/wp-content/uploads/2019/06/KLJP\\_GI\\_eng\\_web1.pdf](https://www.kucaljudskihprava.hr/wp-content/uploads/2019/06/KLJP_GI_eng_web1.pdf).

<sup>25</sup> HRHZ, *Human Rights in Croatia: Overview of 2018*, §314, available at [https://www.kucaljudskihprava.hr/wp-content/uploads/2019/06/KLJP\\_GI\\_eng\\_web1.pdf](https://www.kucaljudskihprava.hr/wp-content/uploads/2019/06/KLJP_GI_eng_web1.pdf).

<sup>26</sup> HRHZ, *Human Rights in Croatia: Overview of 2018*, §315, available at [https://www.kucaljudskihprava.hr/wp-content/uploads/2019/06/KLJP\\_GI\\_eng\\_web1.pdf](https://www.kucaljudskihprava.hr/wp-content/uploads/2019/06/KLJP_GI_eng_web1.pdf).