

1531st meeting, 10-12 June 2025 (DH)

H46-14 M.H. and Others v. Croatia (Application No. 15670/18)

Supervision of the execution of the European Court's judgments

Reference document
CM/Notes/1531/H46-14

Decisions

The Deputies

1. recalled that this case concerns the collective expulsion in November 2017 of a family of Afghan asylum-seekers along the railway line at the Croatian border with Serbia and the lack of effective investigation into the death of one of the children who was hit by a train; the placement of the family following their entry to Croatia in March 2018 in the Tovarnik transit centre for two months and 14 days, where the prison-type conditions violated the rights of the minor children under Article 3; the failure to consider alternatives to detention and to exercise due diligence in the asylum proceedings or inform them of the reasons in a language they understood which gave rise to a violation of the applicants' right to liberty; and restrictions on their contact with their lawyer which hindered the effective exercise of their right of individual application to the European Court;

As regards individual measures

2. noted that the reopened criminal investigation into the circumstances leading to the death of the child, in which the applicants' lawyer was involved, has now concluded with a reasoned decision rejecting the criminal complaint; noting also that the applicants have initiated judicial review of that decision by filing a constitutional complaint before the Constitutional Court alleging ineffectiveness of the reopened investigation, invited the authorities to provide information on the outcome of the pending proceedings before the Constitutional Court;

As regards general measures

- Effectiveness of criminal investigations

3. noted with interest the extensive trainings and awareness-raising measures taken with a view to familiarising the police, prosecutors and judges with the Convention's standards; welcomed also recent examples of the Constitutional Court's case-law allowing judicial review of the effectiveness of investigations in similar cases; encouraged again the authorities to explore possible avenues of further action to ensure that prosecutorial investigations are conducted in a fully Convention-compliant manner, including through further training and awareness-raising measures;

- Prolonged placement of children in transit centres with prison-type elements

4. welcoming the by-law of the Ministry of Interior concerning the accommodation of migrants, which established an obligation for the competent authorities to ensure that children are accommodated in transit centres for the shortest possible period; noting further with satisfaction the available data which demonstrates that such placement is rarely used and lasts a maximum of 10 days; noting also improvements to the conditions and infrastructure of transit centres as well as the provision of daily activities for children; decided to close the examination of this issue;

- *Lawful detention*

5. noted with satisfaction the continued positive trend in the application of alternative measures to immigration detention, as well as extensive trainings and awareness-raising measures aimed at ensuring the requisite diligence of authorities in asylum proceedings and avoiding unlawful detention as well as examples of case-law of administrative courts conducting the regular *ex officio* judicial review of detention orders in line with the Convention;

6. invited the authorities to continue to provide examples of case-law of the administrative courts as well as the relevant statistical data about the use of detention and restriction of movement orders; invited also once again the authorities to provide information on the length of asylum proceedings before those courts and the Ministry of the Interior;

7. encouraged the authorities to make additional efforts to ensure that the content of all decisions, including restriction of movement orders, is provided in a language that migrants can understand;

- *Collective expulsion*

8. recalled the setting up of the independent monitoring mechanism as the first of its kind in all member States; welcomed the recent broadening of its competencies to also unannounced visits and to green borders which are the most used entry and exit points and the fact that most recommendations it has issued to date have been fully implemented by the authorities; encouraged the further enhancement of its work, including through more transparency by publicity on their new website and regular publication of the reports of its activities; invited once again the authorities to ensure the Convention-compliant treatment of migrants and that they provide individuals in a similar situation as the applicants with genuine and effective access to procedures for legal entry into Croatia in particular with a view to claiming protection under Article 3;

- *Right of individual application*

9. welcoming the legislative and by-law changes which introduced the obligation to provide adequate facilities in reception and transit centres for meetings and communication with legal advisors and representatives of civil society and the possibility for urgent visits of lawyers, as well as the development of the domestic remedy before the Constitutional Court for any allegations of hampered access of lawyers to their asylum-seeking clients; decided to close the examination of this issue;

10. invited the authorities to provide information on all the above issues by the end of March 2026 at the latest.