



## **Response**

### **of the Croatian Government to the report of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) on its ad hoc visit to Croatia**

**from 10 to 14 August 2020**

The Government of Croatia has requested the publication of this response. The CPT's report on the 2020 ad hoc visit to Croatia is set out in document CPT/Inf (2021) 29.

Strasbourg, 01 March 2022



**FULFILMENT OF RECOMMENDATIONS FROM THE CPT REPORT - THE 2020 AD  
HOC VISIT**

*11) The Committee trusts that the Croatian authorities will take the necessary steps to ensure that in future all law enforcement officials are made aware of the full scope of the CPT's mandate and that, henceforth, its delegations will be provided with the information necessary for the Committee to carry out its task. Having regard to Article 3 of the Convention, the CPT invites the Croatian authorities to inform it of the concrete measures that they intend to take to ensure that this is the case.*

**The recommendation has been fulfilled.**

On 2 December 2021, the General Police Directorate of the Ministry of the Interior sent a letter to police administrations and stations familiarising police officers once again with the CPT's mandate in the part regarding immigration administrative detention and other actions towards foreign nationals.

Since the purpose of the visit of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment of August 2020 was to verify the respect of the CPT standards in the part regarding immigration administrative detention and that all objections and recommendations in relation to identified deficiencies in that area had been fulfilled, we consider this recommendation to be fully implemented. To be precise, the CPT standards, apart from immigration administrative detention and other actions towards foreign nationals, include the areas of action which are under the competence of other state authorities which were not subject to the visit of August 2020 - police custody, prison services, psychiatric establishments, juveniles deprived of their liberty, women deprived of their liberty, the fight against the impunity of torturers, electrical discharge weapons etc. At the same time, the CPT's mandate has been included in the trainings of border police officers conducted every year in the part regarding immigration administrative detention and other actions towards foreign nationals.

\*\*\*

*14) The CPT wishes to emphasize that, irrespective of whether persons are “detained” (“zadržavanje”), “brought in” (“dovodjenje”), arrested” (“uhićenje”), or simply physically caught by the police and held against their will – including in a police van -, the reality of their situation is that they are deprived of their liberty and they must be accorded the fundamental safeguards against ill-treatment commensurate with that status (cf. further paragraphs 33 to 36). The CPT recommends that this be made unequivocally clear in the draft amendments to the Law on Foreigners which are currently under discussion in the Croatian Parliament.*

**The recommendation has been fulfilled.**

On 1 January 2021, the new Aliens Act entered into force (“Official Gazette”, no: 133/20) in which the restriction of the freedom of movement is stipulated by Article 211 which reads as follows:

*“(1) A third-country national may be arrested and detained for a maximum of 48 hours if this is necessary in order to establish his identity or if this is necessary in order to establish the circumstances of illegal border crossing or illegal stay and there is a risk of absconding of a third-country national.*

- (2) *If the identity or the circumstances of illegal border crossing or illegal stay cannot be established within the time limit referred to in paragraph 1 of this Article, and the restriction of the freedom of movement of a third-country national by his accommodation in a reception centre for aliens would not be purposeful due to the remoteness of the location, the third-country national may be detained for a maximum of another 24 hours if it is reasonably expected that the identity or the circumstances of illegal border crossing or illegal stay can be established within the said time limit.*
- (3) *When being arrested, a third-country national shall be notified of the reasons for the arrest, of the fact that he may designate a legal representative, of the fact that he may notify a family member or another person and that he may request that a diplomatic mission or a consular post of the country of his nationality be notified of the arrest, unless specified otherwise by an international treaty.*
- (4) *The time of detention of the third-country national referred to in paragraphs 1 and 2 of this Article shall run from the moment of his arrest pursuant to paragraphs 1 and 3 of this Article.*
- (5) *In case of detention of a minor unaccompanied third-country national, a social welfare centre and a diplomatic mission or a consular post of the country of his nationality shall be notified thereof.*
- (6) *A third-country national shall be released without delay once the reasons for his arrest and detention cease to exist and at the latest by the expiry of the time limit referred to in paragraphs 1 and 2 of this Article, unless a decision on the accommodation in the centre has been issued.*
- (7) *The Minister shall prescribe in an ordinance the technical conditions for the detention of third-country nationals referred to in paragraph 2 of this Article.”*

We would like to note that in the process of adopting the said Act, the Office of the Ombudswoman was consulted and a meeting with the representatives of the Office was held in which their proposals regarding Article 211 were fully adopted.

In relation to the provisions on restricting the freedom of movement referred to in the previous Aliens Act (Article 130), the proposal of the Office of the Ombudswoman was adopted and the reason for arrest is no longer the need to adopt a return decision and to execute forcible removal, but the need to identify and determine the circumstances of illegal stay, which is in line with the judgement C-329/11 made by the European Court in *Achughbabian* (point 31 related to the so-called initial police custody). Furthermore, the proposal to clearly lay down from when the detention time begins to run was also adopted.

Furthermore, we are of the opinion that just because a person was transported in a police vehicle or because of any other treatment of a person by the police it cannot be assumed that the freedom of movement of the person is restricted. The Croatian police often transports various categories of persons (Croatian and foreign nationals, migrants) in police vehicles and according to such a provision, for foreigners who are legally staying, the transport would also represent detention by the police - which is not true, nor is it really the case. Injured and pregnant migrants are transported to hospitals, migrants who expressed the intention to apply for international protection are transported to reception centres, unaccompanied minors are transported to initial medical examinations and in institutions for children, while migrants who were found on the streets or who registered with the police to express the intention for applying for international protection or for any other reason, are transported to a police station for identity verification and collecting information, which does not always imply that they have all been detained by the police “*against their own will*”. In addition, if it is necessary to assess the voluntary element of a migrant being transported or being treated in a different way, the police will assess it in each concrete case and take measures to formally restrict movement.

***19) The CPT calls upon the Croatian authorities to take vigorous steps to stamp out ill-treatment of foreign nationals deprived of their liberty by the police. Police officers should be given the clear and firm message that detained foreign nationals must be treated with respect, processed in accordance with law and be unequivocally reminded that any form of ill-treatment of detained persons – including psychological ill-treatment, threats of ill-treatment, demeaning and humiliating actions – as well as any tolerance of such ill-treatment by senior officers, is unlawful and will be punished accordingly.***

**The recommendation has been fulfilled.**

We would like to note that the Ministry of the Interior has zero tolerance for illegal use of coercive means towards any population, as well as zero tolerance for failure to prosecute any criminal offence or misdemeanour committed by police officers which we strongly condemn and do not support in any way.

On 17 January 2019 and 14 October 2021, the General Police Director sent letters to all police administrations and stations containing a clear instruction that excessive use of force and illegal confiscation of migrants' property by police officers would not be tolerated, that in every event of the use of coercive means the full prescribed procedure for determining the justification of the use and in all cases of complaints to the illegal confiscation of property, the appropriate procedure for identifying and prosecuting possible perpetrators would be carried out.

In addition, every letter, which is regularly submitted to police administrations every 10 days requesting referring police officers to police administrations affected by migratory pressure as relief forces, states that it is necessary to draw the attention of all Croatian police officers to treat all migrants found in the Croatian territory with extreme caution and human dignity, particularly towards children, women and the elderly.

Meetings with managing police officers in police administrations and stations are also regularly held (on 21 August 2018, 12 September 2018, 21 September 2018, 15 January 2019, 12 March 2020, 9 July 2020, 30 June 2021, December 2021 and January 2022) in which clear instructions were given to treat migrants with extreme caution and in compliance with human dignity, particularly towards children, women, the elderly and other vulnerable groups and that disproportionate, inappropriate and illegal use of force is forbidden.

\*\*\*

***21) The CPT urges the Croatian authorities to ensure that all persons present on their territory who wish to request asylum are able to do so.***

**The recommendation has been fulfilled.**

When treating migrants, the Croatian police respects their fundamental rights and dignity and enables them access to the system of international protection if such protection is necessary, in line with universal human rights instruments, regulations of the European Union and national legislation.

We consider that a large number of submitted applications for international protection and the number of migrants who have been granted international protection in the Republic of Croatia as well as the number of migrants who should be relocated according to the plan and those who have already been

relocated to the Republic of Croatia under the resettlement scheme illustrate the positions of this Ministry and the Republic of Croatia regarding the protection of refugees.

The data on the number of received intentions for international protection are the following:

2014 - 454  
2015 - 210  
2016 - 2234  
2017 - 1887  
2018 - 1068  
2019 - 1485  
2020 - 1655  
2021 - 3039

Furthermore, it should be taken into account that a majority of migrants do not intend to stay in the Republic of Croatia for a longer period of time because they perceive it as an exclusively transit country. Their only objective is to go to some EU Member States where they will apply for international protection. This is why migrants in general do not want to apply for international protection in the Republic of Croatia and do not want to give their fingerprints for Eurodac and not even those who have been granted international protection in the Republic of Croatia leave to other EU Member States after some time.

The fact is that the vast majority of migrants abuse the institute of international protection in order to illegally transit through the Republic of Croatia and go to other EU Member States for economic reasons.

In 2020, 1,655 applications for international protection were submitted in the Republic of Croatia, and on 31 December 2020, there were only 325 applicants for international protection in accommodation facilities in the Republic of Croatia, which is 19% of the number of submitted applications.

If we add 533 applicants for international protection who were in accommodation facilities on 31 December 2019 and who were also in accommodation in 2020 to the number of submitted applications in 2020 and compare their sum (2188) with the situation on 31 December 2020 (325), we come to the conclusion that 110% of applicants for international protection have fled.

Regarding the data for 2021, 3039 intentions for international protection were submitted and on 31 December 2021 only 373 applicants for international protection were located in the accommodation capacities of the Republic of Croatia which is 11.3% of the number of submitted applications.

In order to fully understand the abuse of the institute of international protection in the Republic of Croatia, it is necessary to certainly take into account data on requests for transfers to the Republic of Croatia in the Dublin procedure, as well as data on applicants returned to Croatia from other EU Member States within the framework of readmission.

\*\*\*

*22) The Committee recommends that the Croatian authorities take the necessary steps to introduce robust accountability and oversight mechanisms for all police operations related to the interception and diversion of migrants. More specifically, it recommends that the Croatian Police Directorate introduce a mandatory instruction on the detailed recording of every “interception” and “diversion” operation involving migrants, which at a minimum should include the time, precise location and a brief description of each intervention, the officers involved, the means used to “intercept” or “divert” migrants, their identification in line with Article 7 of the Schengen Borders Code, whether any means of restraint or use of force was applied, and the outcome of the intervention. The Committee also recommends that, in future, all “diversion” operations should be video recorded and the video footage preserved to facilitate the investigation of allegations of ill-treatment by police.*

**The recommendation has been fulfilled.**

The Republic of Croatia is the only Member State of the European Union, which established an independent mechanism of monitoring the actions of police officers towards migrants which was implemented as of 2008 in cooperation with UNHCR and the Croatian Law Centre.

Since 2012, the mechanism of monitoring the actions of police officers was implemented based on the Agreement signed between the Ministry of the Interior, UNHCR and the Croatian Law Centre. Based on the signed Agreement, the Protocol on the implementation of the monitoring mechanism was drafted in 2012, 2013, 2014, 2018 and 2019. The said monitoring mechanism was entirely independent and UNHCR and the Croatian Law Centre were responsible for its implementation. The mechanism was financed exclusively by UNHCR funds, which further ensured its independence.

Although the Ministry of the Interior initiated the continuation of the implementation of the independent monitoring mechanism activities in 2020 as well, due to continuous pressures and criticism of individual members of the European Parliament, individual institutions in the Republic of Croatia and civil society organisations regarding its partiality and lack of transparency, the implementation of the Protocol by UNHCR and the Croatian Law Centre was not continued.

Due to the above-mentioned reasons and in line with the proposal for the new Pact on Migration and Asylum which is still a matter of discussion in the Council of the EU, the Ministry of the Interior, in cooperation with the European Commission and national legal experts, drafted the legal basis for the establishment of the new Independent monitoring mechanism.

More precisely, on 8 June 2021, the Ministry of the Interior established the Independent mechanism of monitoring the actions of police officers by concluding a Cooperation Agreement signed by Deputy Prime Minister and Minister of the Interior dr. sc. Davor Božinović on behalf of the Ministry of the Interior, prof. dr. sc. Alemka Markotić on behalf of the Croatian Academy of Medical Sciences, prof. dr. sc. Davor Derenčinović on behalf of the Croatian Academy of Legal Sciences, Aziz ef. Hasanović on behalf of the Centre for Cultural Dialogue, Mr Robert Markt on behalf of the Croatian Red Cross and prof. dr. sc. Iris Goldner Lang as an independent expert.

The activities of the Independent monitoring mechanism are directly implemented by two representatives of each of the stated civil society organisations operating in the area of human rights protection as well as legal and medical sciences. The activities comprise 20 observations of actions of police officers towards irregular migrants and applicants for international protection in enforcing the regulations governing state border control and the provision of international protection, announced visits to the green border and gaining insight into the files of finally disposed cases on the

received petitions on the alleged illegal treatment of irregular migrants and applicants for international protection.

The Coordination Board has also been established under the Independent monitoring mechanism. Its role is to give expert advice, manage the Independent monitoring mechanism activities, draft the semiannual and final reports on the actions of police officers, whereas the summary of the final report will be published on the website of the Ministry of the Interior. The Coordination Board would consist of one representative of the civil society organisations with which the Ministry of the Interior concluded the Cooperation Agreement.

On 10 December 2021, the first Semiannual Report of the Independent mechanism of monitoring the actions of police officers of the Ministry of the Interior in the area of illegal migration and international protection<sup>1</sup> was published on the website of the activity providers. Hereby attached is the English version of the Report.

In addition to the Coordination Board, the Advisory Board has also been established under the Independent monitoring mechanism as an informal body whose role is to provide guidelines for possible necessary enhancements to this new monitoring mechanism. The representatives of the Coordination Board take part in the activities of the Advisory Board, in addition to the European Commission, European agencies (FRA, Frontex, EASO), international organisations (IOM and UNHCR), the Ombudswoman, the Ombudswoman for Children and the Ombudswoman for Gender Equality.

Regarding the recommendation for the Croatian police to record every “interception”, i.e. “diversion” of migrants (location, description of the action undertaken, names of officers involved, means used for these purposes etc.), we emphasise that migrants who are deterred from attempting to illegally enter the Republic of Croatia are located in the state territory of the neighbouring countries - Bosnia and Herzegovina and Serbia where the Croatian police has no jurisdiction. More precisely, deterrence measures are applied in open and inaccessible terrains (forests, mountains), by day and by night and in all weather conditions which is why it is not possible to obtain personal information from migrants, conduct official hearings etc. Although it is not possible to identify migrants when applying deterrence measures, police officers are obliged to profile (identify) migrants in need of assistance and protection and provide them with it, taking into account the circumstances of each individual case. We would like to point out that police officers are especially trained to recognize such persons.

After noticing the measures applied for deterrent purposes, in the majority of cases migrants give up on the attempt to illegally enter the Republic of Croatia and return to the depth of the territory of the neighbouring country in which they are located.

\*\*\*

---

<sup>1</sup> [https://www.pravo.unizg.hr/apzh/?@=8mut#news\\_16105](https://www.pravo.unizg.hr/apzh/?@=8mut#news_16105)



*23) The CPT recommends that steps be taken to ensure that every Croatian police officer wears a clearly visible number on his/her uniform at all times while on duty. Further, the wearing of balaclavas by members of the intervention police may exceptionally be justified in the context of high-risk operations. However, the routine wearing of balaclavas during interception and diversion operations of migrants should be seriously reconsidered. Finally, non-standard issue objects capable of being used for inflicting ill-treatment (such as wooden sticks and “fighting gloves” see paragraphs 16 and 26) should never be in the possession of Croatian police officers in the course of the above-mentioned operations.*

**The recommendation has been fulfilled.**

Police officers performing police duties in official uniforms can only wear official uniforms and equipment. In case of wearing a uniform and equipment which is not prescribed by regulations as an official uniform and equipment, disciplinary proceedings are launched against the police officer.

The exception is the obligation to wear a protective mask to protect the health of both the police officer and the person with whom he or she is in direct contact due to possible exposure to COVID-19.

Regarding the proper wearing of official police uniforms and equipment, on 5 January 2022, the General Police Directorate of the Ministry of the Interior sent another instruction to all police administrations and stations on the mandatory proper wearing of official uniforms and equipment.

\*\*\*

*24) The Committee trusts that in future its delegations as well as other independent monitoring bodies will be granted unimpeded access to this and any other such similar facilities holding information to which it is entitled to have.*

**The recommendation has been fulfilled.**

The Ministry of the Interior enables access to its facilities and data to institutions and organisations which conduct independent monitoring of police actions towards migrants at the national level in line with national regulations and agreements concluded with the stated organisations and in line with the mandate of international organisations and institutions.

\*\*\*

*25) The CPT recommends that the Croatian authorities take effective steps to ensure that all investigations into allegations of police ill-treatment strictly comply with the abovementioned criteria of independence and thoroughness.*

**The recommendation has been fulfilled.**

The system of internal control of the legality of work of police officers has been developed at the Ministry of the Interior on multiple levels, from police stations and administrations all the way to the Minister’s Office.

Therefore, all complaints about the work of police officers undergo multiple stages of verification, regardless of whether citizens filed them or irregularities have been noticed by managing officers in police stations or administrations.

In line with Article 5 of the Police Act (“Official Gazette”, no. 34/11, 130/12, 89/14, 151/14, 33/15, 66/19), a natural or legal person who considers that his or her rights or freedoms have been violated by the actions or omissions of a police officer in the exercise of police powers, has the right to file a complaint with the Ministry of the Interior (police administration or Ministry headquarters) within 30 days of learning of the violation. The complaint has to be understandable and contain the data based on which it is possible to conduct procedures. Based on the received complaint, the necessary checks will be carried out and the complainant will be notified of the facts determined and actions taken within 30 days. If the complainant is not satisfied with the response, he or she can file a complaint with the Internal Control Department of the Ministry of the Interior which will conduct further investigation and checks and also notify the complainant thereof. If the complainant is not satisfied with the response of the Internal Control Department either, he or she can file a complaint with the Complaints Commission at the Ministry of the Interior. The Complaints Commission consists of nine members proposed by civil society organisations, professional public organisations and non-governmental organisations. The Commission reports to the Committee on Human Rights and the Rights of National Minorities of the Croatian Parliament regarding its work.

For the purpose of strengthening the independence of the Internal Control Department of the Ministry of the Interior, a reorganisation of the Department was conducted so that 4 regional internal control sections were established in which 61 police officers were deployed to monitor and control the legality of procedures. The reorganisation and a higher level of independence of the Department and regional offices in relation to police administrations contributed to a faster flow of information and greater credibility of information.

Likewise, the General Police Director sends coordinators to police administrations and stations located at the external border of the Republic of Croatia to supervise and conduct interviews with police officers regarding the treatment of migrants in order to better understand legal regulations (national, European and international). Furthermore, when replacing persons sent as relief forces from police administrations and stations from the interior of the Republic of Croatia to police administrations and stations at the external border (replacement of police officers is done every ten days), police officers are given clear instructions in writing on their rights and obligations when treating migrants. In this way, information at national, regional and local levels are exchanged in a clear and swift manner.

Since the beginning of the migration crisis, complaints of alleged abuse of migrants, use of physical force and confiscation of their movable property have become more frequent. Information on the alleged illegal and improper treatment of migrants is obtained from various sources - complaints from civil society organizations, certain institutions in the Republic of Croatia, non-governmental organizations, articles in the media, etc. However, in almost all cases, such reports were received in neighbouring countries - most often in the Republic of Serbia and Bosnia and Herzegovina, from migrants who have repeatedly tried to enter the Republic of Croatia illegally, but were deterred by the Croatian police. Likewise, as a rule, the received information, i.e. complaints, do not contain enough data for appropriate action - they do not contain the name and surname or address of the applicant, place and time and a brief factual description of the violation of rights when applying police powers or allegations are general and not supported by concrete evidence.

Notwithstanding the above, the Ministry of the Interior pays special attention to verify all allegations in complaints or information, regardless of the complainant, and in some cases when the person against whom coercive means were used suffered serious bodily injuries or died, material damage occurred, firearms were used, etc., expert teams are formed at the level of the Police Directorate or regional Internal Control Sections.

During 2021, the Internal Control Department of the Ministry of the Interior processed 13 cases related to the treatment of migrants by police officers. The actions of the Internal Control Department relate to the preliminary collection of information on events and the collection of evidence of possible disciplinary responsibility of police officers, while other investigations are conducted by specialized services - the criminal police.

In connection with the above, disciplinary proceedings have been initiated against 6 police officers - against three for misconduct in the service or outside the service when the reputation of the police is severely damaged - proceedings are underway, while disciplinary proceedings against three police officers have been terminated for non-compliance, negligence, untimely or careless performance of official duties and fines were imposed on them.

Criminal investigations in cases from 2021, which have been completed so far (12 cases in total), have not established facts or evidence that would indicate suspicion of committing criminal offences or misdemeanours committed to the detriment of illegal migrants by police officers. However, two procedures are in progress and the decision of competent judicial authorities is pending.

In addition, in accordance with the provisions of the Criminal Procedure Act, any person (natural and legal) who has serious and certain knowledge about a crime and a perpetrator may report it to the police, i.e. file a criminal complaint (possible to file anonymous complaints as well) with the State Attorney's Office or police. The State Attorney's Office is independent judicial authority authorized and obliged to act against the perpetrators of criminal offences. Upon receiving the criminal report, the police are obliged to submit it to the State Attorney's Office, i.e. if the criminal report is submitted directly to the State Attorney's Office, the State Attorney's Office issues an order to the police to conduct criminal investigations. Investigations conducted by the State Attorney's Office on the basis of received criminal charges are classified information and this Ministry has no influence on them.

\*\*\*

***28) The CPT wishes to be informed of the actions taken by the Zagreb Municipal Prosecutor's Office to investigate the criminal complaint brought by the NGO Center for Peace in respect of these cases. Further, it would like to be informed of any actions taken by the Internal Control Department of the Police regarding these Cases.***

**The recommendation has been fulfilled.**

In both cases, police officers of the General Police Directorate conducted criminal investigations in line with Article 207 of the Criminal Procedure Act, and the Office for the Suppression of Corruption and Organized Crime (USKOK) was informed of the results of the investigation in a special report. Since the investigations conducted by the State Attorney's Office of the Republic of Croatia are confidential, we can only disclose information about the actions carried out by this Ministry.

The first case concerns allegations from an article published on 11 June 2020 on the Amnesty International portal entitled "Croatia: Fresh evidence of police abuse and torture of migrants and asylum seekers".

The article states that on the night between 26 and 27 May 2020, the Croatian police abused 16 citizens of Pakistan and Afghanistan near Plitvice Lakes. These findings allegedly came to light from conversations with 6 migrants from this group and from conversations with doctors and employees of non-governmental organizations in Bosnia and Herzegovina.

Out of all the locations in the Republic of Croatia, the article mentions only the area near Plitvice Lakes, so checks by the Ministry of the Interior were conducted primarily in the area of the Korenica Border Police Station where Plitvice Lakes are located. We would like to point out the illogicality in the article mentioning that migrants were treated in the hospital in Velika Kladuša, which is 60 km away from the Plitvice Lakes area and in Bosnia and Herzegovina, so it is not clear how people with multiple bone fractures, as stated in the article, managed to cross such a distance.

As part of the investigation, and given that the names and other data on persons from the Amnesty International article are not known, first all records of the Ministry containing data on conduct towards migrants were inspected on the basis of available indicators, such as approximate time and approximate location of events.

Then, the work orders and official reports of all police officers for 26 and 27 May 2020 were inspected. After that, individual interviews were conducted with assistant heads and police officers, as well as with all shift leaders who were on duty at the time. During these interviews, all the knowledge that could be related to the events mentioned in the article was gathered.

In the area of the Korenica Police Station, 2 events were recorded on the mentioned days when the police treated migrants. In the first case, 5 migrants expressed their intention for international protection, one pregnant migrant was provided with medical assistance and they were placed in the Reception Centre for Applicants for International Protection. In the second case, 5 migrants were served with return decisions with a deadline to leave the European Economic Area, during which a doctor was called for and determined that the migrants were in good health. There was no use of coercive measures; all migrants were photographed and referred to act independently on the decision to return.

Furthermore, the photographs of the alleged migrants were compared to the photographs published in the article of Amnesty International.

In any case, it was established that the Croatian police did not take any actions towards migrants who could be linked to the event referred to in the article of Amnesty International.

The second case involves a news article published on 12 May 2020 in *The Guardian* which states that Croatian police officers spray-painted the heads of migrants who attempted to illegally enter the Republic of Croatia with the aim of marking, humiliating and traumatising them, because their heads were painted in the sign of the cross, whereas the migrant population is predominantly Muslim.

Unfortunately, we have to conclude that this news article severely accusing the Croatian police also contains very little information that could be checked. The news article only states that the non-governmental organisation *No Name Kitchen*, which conducts its activities in the migrant camp in Velika Kladuša, provided the information that the alleged events happened on 6 and 7 May 2020, at the state border with Bosnia and Herzegovina. It mentions two groups of migrants; however, it does not state the number of persons in the group.

Having in mind the aforementioned, and due to the severity of the accusations against the Croatian police, investigations of the allegations were immediately conducted on the basis of available information.

First, all records of this Ministry containing data on the treatment of migrants were consulted according to the criteria of approximate time and location of events from the article because the article does not mention the personal data of participants in the event. Considering the fact that the information mentions the territory of Velika Kladuša, investigations were primarily conducted in the territory of PA karlovačka.

Then, the work orders and official reports of the police officers of PA karlovačka for the mentioned days were inspected, and after that interviews were conducted with police officers who treated migrants in PA karlovačka in order to gather all information that could be related to events from the article. These interviews included primarily assistant heads and shift leaders and all operations managers in police stations.

Likewise, the photos of migrants were compared with the photos which had been published in the news article and it was not established that the Croatian police took any actions against the persons mentioned in the news article.

Taking into consideration the aforementioned, we consider this to be another in a series of unfounded accusations, because the Croatian police consequently implements measures in order to protect the external border of the EU and it does not tolerate illegal entries into the Republic of Croatia. The Republic of Croatia is constantly under the pressure of different interest groups whose goal is to weaken the measures on the Croatian border.

The fabrication that migrants are marked in the sign of the cross because of their faith demonstrates absolute ignorance and a premeditated attack against the Republic of Croatia without any knowledge of the basic facts. It is known that the Republic of Croatia has excellent relations with the Muslim religious community which is greatly valued in Croatian society and which the worldwide public recognises as an exemplary cooperation between religious communities. We would also like to bring attention to the conference “Muslim Communities in Europe – Rights and Duties”, where it was pointed out that the Muslim community in Croatia has been promoting for years the idea that could serve as a model to address the issue of Muslim communities in Europe, but also of Christian minorities in the Muslim world. Also, the publication of such an article is especially worrisome and warrants scathing denunciation as it obviously incites religious intolerance.

We would like to note that the association *No Name Kitchen* was a ringleader in the attempt of a violent breakthrough of hundreds of migrants into the Republic of Croatia across the border with Serbia in December of 2018, which was prevented in coordination with the police of the Republic of Serbia. During their stay in migrant camps in Serbia, in the towns of Šid and Krnjača, their activists continuously transmitted false news on the actions taken by the Croatian police against migrants, including news on beatings and the murder of migrants.

*30) The Committee would like to receive information from the Croatian authorities on the status of any investigation initiated in relation to the disclosures in the anonymous letter received by the Croatian Ombudsman in 2019. The Committee also recommends that the Croatian authorities foster a culture of police officers reporting cases of violence committed by colleagues through appropriate channels. It would like to receive information about the reporting procedures and effective protection measures for whistle-blowers that are currently in place.*

**The recommendation has been fulfilled.**

This is an anonymous report of alleged police officers from Cetingrad Border Police Station, stating that the police allegedly do not allow migrants access to the asylum system in the Republic of Croatia and that they are illegally returning them to Bosnia and Herzegovina.

The anonymous report was received by the Ombudswoman in March 2019, and an article was published on the *Telegram* news portal about an alleged interview with police officers who authored the anonymous report.

The State Attorney's Office of the Republic of Croatia conducted an investigation into this case. Acting at the request of the Office for the Suppression of Corruption and Organized Crime (USKOK), regarding the criminal report of the Centre for Peace Studies against unknown perpetrators - police officers on suspicion of committing criminal offences "Abuse of office and authority" under Article 291 of the Criminal Code, "Torture and other cruel, inhuman or degrading treatment or punishment" under Article 104 of the Criminal Code and "Damage to another's property" under Article 235 of the Criminal Code, police officers of the General Police Directorate of the Ministry of the Interior conducted criminal investigations under Article 207 of the Criminal Procedure Act, to check the validity of the allegations from the anonymous application. During the investigation, data were gathered on the manner of acting of police officers when conducting border control and police tasks in relation to foreign nationals regarding the actions of police officers of Cetingrad Border Police Station. The allegations from the criminal charge were not confirmed in the investigation and USKOK was notified thereof in a special report.

Regarding the news article, we believe that it is an act of malicious undermining as the allegations from the news article demonstrate the ignorance of the manner of police conduct at the very least. The author of the article is unfamiliar with the manner of acting in PA zagrebačka in which the interviewed police officer has reportedly been employed for a long time in one of its police stations, because the tactics and methodology of action when transporting persons in PA zagrebačka is completely different from the one described in the article.

The article states that an anonymous police officer used a specialised official vehicle (police van) to personally transport migrants on several occasions from PA zagrebačka to police administrations on the border with Serbia and Bosnia and Herzegovina. That is the reason why it is obvious that this is a journalistic construction and fabrication which is not based on a real conversation with a police officer, but on the information collected from various sources, known only to *Telegram* newspaper.

Due to all of the above, we believe that the anonymous report was published exclusively to exert pressure on the Ministry of the Interior so that it would loosen the implementation of measures aimed at state border surveillance.

The protection of whistleblowers is governed by the Act on the Protection of Reporters of Irregularities (OG 17/19) which entered into force on 1 July 2019.

**31) The CPT recommends that the Croatian authorities restore the capacity of the NPM to carry out unimpeded monitoring work in all police establishments, which should include the possibility of undertaking unannounced visits and having access to all relevant information in paper or electronic format.**

**The recommendation has been fulfilled.**

Regarding the statements of the Ombudswoman that she is denied access to case files related to the treatment of migrants, our every response to the Ombudswoman emphasised that she has the right to obtain information necessary for performing her tasks to the extent and in the manner prescribed by regulations.

The letters of the Ombudswoman state that the Optional Protocol to the Convention against Torture (OPCAT) and the Act on the National Preventive Mechanism (ANPM) authorise the Ombudswoman to conduct **unannounced visits** to the authorities and institutions where persons deprived of their liberty are or may be located.

However, Article 5(1) of the ANPM contains a provision on unannounced visits stipulating that “*persons who participate in the performance of activities of the National Preventive Mechanism shall have the following powers: perform unannounced visits to bodies or institutions and inspect premises occupied by persons deprived of liberty*” and the crucial part, “*or potentially occupied by persons deprived of liberty*”, stipulated in Article 3 of the ANPM, is omitted at the end of the sentence.

As this provision is the only provision in the entire Act mentioning unannounced visits, we consider it to represent a *lex specialis* regarding unannounced visits and in relation to all other provisions of the ANPM and that an unannounced visit based on the ANPM is authorised only if foreign nationals whose freedom of movement is restricted are located in a police station.

Based on this single provision which is vague and ambiguous (Article 5(1) of the ANPM), unannounced visits have become a rule because the Ombudswoman did not announce any of her visits to police stations. In this way, she deliberately made it seem as if information were not given to her because, at the time of the visit to the police station, only police officers who do not have the requested information are most often on operational duty. Due to this, police officers for illegal migration from the headquarters of the police administration have to be called to find case files that the Ombudswoman wants to inspect immediately because the files are not in the information system and are not accessible immediately, which is another fact not mentioned by the Ombudswoman. On the contrary, she tries to imply that, considering she has indirect access to the information system (using requests), she does not obtain information which are not even in the information system (notes, certificates, orders...). In this way, a practice has been created according to which the exception as provided by law has become a rule.

As regards access to the information system of the MoI, the Ombudswoman was answered on several occasions that it is strictly under the personal authority of police officers in line with the *Instructions for assigning passwords and responses* issued by the IT Department of the MoI, police officers are not allowed to give their passwords and responses to other persons nor are they allowed to enable access to the system to other unauthorised persons. The violation of this instruction is considered to be a serious breach of official duty in line with the Police Act.

This is why the Ombudswoman has been requested to instruct her staff to act in accordance with legal provisions when conducting field visits to police stations and request data from the system to be

printed as stipulated in Article 24 of the Ombudsman Act. In relation to Article 5(5) of the ANPM, data will be provided as soon as possible, in writing.

In the meeting with the representatives of the Office of the Ombudswoman held on 10 July 2020, it was proposed that if the Ombudswoman considered that the Ministry of the Interior misunderstands the requirements of the ANPM and the Ombudsman Act, she could request an authentic interpretation of the disputed provisions from the competent body of the Croatian Parliament as well as initiate a procedure for amending the ANPM to determine more clearly the powers of the Ombudsman. However, this Ministry does not have information that this has been done to date.

\*\*\*

***35) The CPT calls upon the Croatian authorities to take the necessary steps to ensure that all migrants who are deprived of their liberty by the police are granted the rights of notification of custody, access to a lawyer and access to a doctor and are placed in a position to effectively exercise these rights as from the very outset of their deprivation of liberty (i.e. the time in which they are obliged to remain with the police). The CPT once again reiterates its recommendation that detained foreign nationals should be systematically and fully informed of their rights, their legal situation (including the grounds for their detention) and the procedure applicable to them as from the very outset of their deprivation of liberty, if necessary, with the assistance of a qualified interpreter. Further, all detained persons should be systematically provided with a copy of the leaflet setting out this information in a language they can understand. Sufficient funding should be made available to ensure that interpretation services are available when required (such as the use of phone interpretation services).***

The new Aliens Act (OG 133/20) entered into force on 1 January 2021, in which the restricting of the freedom of movement is stipulated in Article 211.

Paragraph 3 of the stated Article determines the rights of arrested persons in the following manner: *“When being arrested, a third-country national shall be notified of the reasons for the arrest, of the fact that he may designate a legal representative, of the fact that he may notify a family member or another person and that he may request that a diplomatic mission or a consular post of the country of his nationality be notified of the arrest, unless specified otherwise by an international treaty.”*

Likewise, paragraph 5 of the stated Article stipulates the following procedural guarantee concerning unaccompanied minors: *“In case of detention of a minor unaccompanied third-country national, a social welfare centre and a diplomatic mission or a consular post of the country of his nationality shall be notified thereof.”*

Concerning translation, we would like to point out that during the procedure, it is ensured that third-country nationals who are staying illegally understand the language in which the procedure is implemented.

During the decision-making procedure on the return of third-country nationals who do not understand the Croatian language, they are provided with interpretation into a language they understand and the return decision is translated at the request of the third-country national.

The Ministry of the Interior made a unified list of translators for foreign languages spoken by third-country nationals who are currently undergoing a return procedure, with contact information. The list was submitted to all police stations.



A third-country national who illegally entered the Republic of Croatia can be issued a decision on return and a decision on expulsion can also be submitted in a form.

The structure and content of the form of the decision on expulsion and the form of the decision on return is stipulated by the Ordinance on the treatment of third-country nationals. The forms are printed in the Croatian and English language and at least in five languages which are most frequently understood by third-country nationals who are staying illegally. The forms have so far been printed in the following languages: Albanian, Arabic, Bengali, English, Farsi, French, Hindi, Pashto, Russian, Somalian, Spanish, Turkish, Urdu.

A third-country national can be informed about the return procedure by receiving a written notice containing information on the return procedure in the language which the third-country national understands.

So far this Ministry has made the following written notices:

- notice on international protection,
- notice on return procedure,
- notice on the procedure of forcible removal,
- notice on the accommodation procedure in the reception centre for aliens.

The written notices have so far been translated in the following languages: Albanian, Arabic, Bengali, English, Farsi, French, Hindi, Pashto, Russian, Somalian, Spanish, Turkish, Urdu.

\*\*\*

***36) The Committee recommends that in respect of all migrants “intercepted” on the territory of Croatia and processed at police stations, the operational safeguards provided for in Article 130 paragraph 3 of the Law on Foreigners be made applicable as from the very outset of their deprivation of liberty.***

**The recommendation has been fulfilled.**

The new Aliens Act (OG 133/20) entered into force on 1 January 2021, in which the restricting of the freedom of movement is stipulated in Article 211.

The provisions of paragraph 4 of the stated Article clearly stipulate that the time of detention of third-country nationals runs from the moment of their arrest. Namely, when a person is detained, the formal act of arresting is very important with all of its procedural guarantees, precisely because it is a restriction of the freedom of movement guaranteed by the Constitution of the Republic of Croatia as the supreme legal act. The introduction of an element of free volition into that act on the part of the person being arrested, which is legally irrelevant regarding the arrest, would only cause different legal interpretations. This interpretation of the term detention is fully in accordance with criminal and misdemeanour legislation.

\*\*\*

*37) The CPT would like to receive confirmation that the call bells have been installed and the set up changed in order to provide access to natural light at the two cells at Cetingrad Border Police Station. Further, the call-button in cell no. 2 at Korenica Police Station should be repaired.*

**The recommendation has been fulfilled.**

Cetingrad Police Station has two rooms for detaining persons. There are foldable blinds on the outside of the built-in windows which can be opened from the outside and thus provide access to daylight. Moreover, in the hallway in front of the entrance doors to the detention room which make up a single room, there is a built-in window which can be opened to provide access to fresh air, since the entrance door as well as the front of each detention room is made up of metal bars.

Buttons for the alarm system are located outside each room and they are reachable. Although one button is located approximately 10 cm further away than it should be, it can also be reached outside of the cell in an emergency.

We would like to point out that all of the aforementioned was already in function during the time of the visit of CPT representatives in August 2020.

\*\*\*

*38) The CPT recommends that the garage at Korenica Police Station no longer be used for the detention of intercepted migrants and it wishes to receive confirmation that this is indeed the case. Further, the Committee recommends that the Police Directorate issue an instruction regulating the conditions of detention for large groups of "intercepted" migrants who need to be processed at a police station and allocate the necessary funding for the provisions of suitable premises where the migrants may be held during this period.*

**The recommendation has been fulfilled.**

During procedures with larger groups of persons in Korenica Border Police Station (2 April 2019 and 2 May 2019), due to unfavourable weather conditions, police officers emptied one garage space so that persons located in the open courtyard could seek shelter from the wind and cold for the duration of the criminal investigation, because the premises in the police station did not have enough capacity for larger groups of persons. This decision made by police officers was legal, logical and appropriate for the situation in Korenica Border Police Station.

The Ministry of the Interior is aware that the premises for persons deprived of liberty in individual police stations do not fully meet the prescribed standards. However, we are of the opinion that the possible accommodation in such premises should not be considered a degrading act because it refers to a short-term detention lasting up to 24 hours and the rooms are heated, the persons are given food as well as access to sanitation facilities. On the other hand, in police stations which have premises for detention which fully meet the prescribed standards, the accommodation of a larger groups of persons would make those persons feel anxious and inferior.

On 26 March 2020, the General Police Director sent instructions to all police administrations and stations concerning the recommendation of the Ombudswoman, that if an arrested alien needs to be detained at a police station in accordance with the Aliens Act for a period longer than 24 hours, the prolonged detention must be implemented at the nearest police station which has premises for detention for up to 72 hours.

The standards for detention premises within a police station where foreign nationals are detained in accordance with the Aliens Act are prescribed by the Ordinance on the treatment of third-country nationals (OG 68/18) and in larger police stations at the external border of the European Union, special premises were constructed and equipped in accordance with the stated Ordinance in which foreign nationals can be detained for up to 72 hours.

In accordance with its financial possibilities, the Ministry of the Interior invests significant efforts to make all premises for persons deprived of liberty in police stations to meet the prescribed standards. Multiple police stations at the external border have premises for short-term detentions of illegal migrants (Bajakovo, Slavonski Brod, Metković, Donji Srb, Stara Gradiška and Vrgorac). Considering the constant increase of illegal migrants, the main objectives in the period from 2021 to 2027 are the increase of accommodation capacities in police stations. Under the “Plan for the development of capabilities of the border police for the period of seven years”, the construction and equipping of accommodation capacities in 26 police stations at the external border is also foreseen (BPS Beli Manastir, BPS Dalj, BPS Bajakovo, BPS Tovarnik, BPS Ilok, PS Vukovar, BPS Vrbanja, BPS Županja, BPS Vrpolje, BPS Slavonski Brod, BPS Stara Gradiška, PS Novska, BPS Hrvatska Kostajnica, PS Dvor, PS Gvozd, BPS Cetingrad, BPS Korenica, BPS Donji Lapac, BPS Gračac, PS Knin, BPS Trilj, BPS Imotski, BPS Vrgorac, BPS Metković, PS Ston, BPS Gruda).

\*\*\*

*39) The CPT recommends that the Croatian authorities take the necessary steps to ensure that all police transportation vans are fitted with basic safety and security equipment, including safety belts, padded seating and head support, functioning artificial lighting and access to natural light (e.g. a glazed window). Further, they should not be used to transport more persons than their official capacity of eight persons and, for longer journeys, detained persons should be offered water. In addition, migrants as a principle should not have their hands cuffed in ziplocks during transportation unless an individual security assessment requires such a measure.*

**The recommendation has been fulfilled.**

On 5 January 2022, the General Police Directorate of the Ministry of the Interior sent a letter to all police administration and police stations informing and instructing police officers on the orderly manner of transporting migrants using police vehicles.

Likewise, we would like to point out that handcuffs can only be put on arrested persons, under the condition that all requirements are met for the use of means of restraint regulated by the Police Duties and Powers Act (OG 76/09, 92/14 and 70/19).

\*\*\*

*40) The CPT would like to receive additional information about the curricula of the specific training provided by the FRA, UNHCR and Croatian Legal Centre.*

**The recommendation has been fulfilled.**

The following seminars have been organised by the Croatian Red Cross:

- International humanitarian law,
- Service of finding and reconnecting families,

- Immediate procedures when rendering first aid,
- Understanding cultural differences,
- Vulnerable migrant groups,
- Prevention of professional stress and burn-out syndrome and
- Cultures and social situations in the countries of origin.

The seminars were held from 20 to 21 June 2019, from 9 to 11 June 2019, from 11 to 12 July 2019 and from 1 to 2 September 2020.

The following seminars have been organised by IOM:

- Migration related health risks,
- Rendering aid in non-urban conditions,
- Use of automated external defibrillators,
- CPR and application of automated external defibrillators and
- Dealing with vulnerable groups.

The seminars were held from 12 to 14 June 2019, from 26 to 28 June 2019 and from 7 to 8 September 2020.

The following seminars have been organised by the Croatian Law Centre:

- Human rights of migrants,
- Access to the asylum system,
- Protection of vulnerable migrant groups and asylum seekers,
- Responsibility of police officers and
- Treatment of applicants for international protection.

The seminars were held from 24 to 26 April 2019, from 8 to 10 May 2019 and from 14 to 15 September 2020.

The seminar organised by FRA was held on 25 February 2020 on the topic of “Training on the Schengen Borders Code (Reg. (EU) No. 2016/399), fundamental rights and access to international protection”.

The seminar covered the following issues:

- Access to territory in case of persons not complying with entry conditions under the Schengen Border Code (SBC), but wishing to apply for international protection at the border, or raising a risk of ill-treatment upon return (Including shared border crossing points & applications for international protection (SBC, Annex 6, 1.1.4), implementing border surveillance (Art. 13 SBC) and access to territory for those in need of international protection),
- Examples of the use of Art. 6(5) SBC in practice (Persons not fulfilling entry conditions may be authorised by Member States to enter on humanitarian grounds, on grounds of national interest, or because of international obligations),
- Procedures related to the refusal of entry and remedies (Art. 14 SBC) (Including removal under readmission agreements and applicable remedies),
- Use of the Schengen Information System (SIS) in practice: fundamental rights considerations (Whose data are stored in SIS, for how long, and under which conditions?),
- Free movement of persons enjoying international protection within the Schengen area (90 days rule in any other 180-day period and other conditions),
- case Study – applying the knowledge gained at the training).

Additionally, we would like to inform you that within the framework of two study programmes (Professional Programme of Criminal Investigation and Specialist Graduate Professional Programme of Criminal Investigation) at the Police College, the topic of fundamental human rights (including

violence against women, domestic abuse, hate crimes, hate speech, human trafficking, protection of the rights of migrants and asylum seekers) is covered in the following courses:

Professional Programme of Criminal Investigation:

- **“Introduction into the legal system and constitutional order of the Republic of Croatia”** - 1<sup>st</sup> year; topics: International standards of human rights; Significance of human rights for police work; European Court of Human Rights; Common provisions on constitutional freedoms and rights; Limitation of constitutional freedoms and rights; Personal, political freedoms and rights; Economic, social and cultural rights; Institutions which guarantee the implementation of human rights guaranteed by the Constitution: Ombudsman and Constitutional Court; Discrimination, central bodies for the suppression of discrimination;
- **“Substantive criminal law”** - 1<sup>st</sup> year; topics: Violence against women and rape, Domestic abuse, Hate crime and hate speech, Trafficking in human beings;
- **“Introduction into criminology”** - 1<sup>st</sup> year; topics: covers the topic of the deontology of crime and ethical principles, which portrays several recent examples from the practice of the European Court of Human Rights on irregular investigation methods (coerced statements etc.);
- **“Police authorities”** - 1<sup>st</sup> year; topic: covers human rights in general, but not thematically. Namely, every legal use of police authorities is *de facto* a legal infringement of human rights and freedoms and it stands in balance with the relation to the protection of human rights;
- **“Criminal investigation tactics”** - 1<sup>st</sup> year; topics: topics do not refer directly to the fundamental rights of citizens, but indirectly contribute to the protection of fundamental rights through proper tactics which contributes to lowering the possibility of convicting innocent citizens and effective protection of citizens from perpetrators;
- **“Criminology”** - 1<sup>st</sup> year; topic: covers the topic of hate crime and hate speech in an interdisciplinary manner. This course additionally analyses police practice in great detail through the decisions of the European Court of Human Rights in favour of and against the Republic of Croatia;
- **“Criminal psychology”** - 1<sup>st</sup> year; topic: the psychological concept of a hate crime;
- **“Criminal investigation methods of organised crime”** - 1<sup>st</sup> year; topic: trafficking in human beings;
- **“Security of European borders and migration”** - 2<sup>nd</sup> year; topic: Human rights in the context of protection of persons seeking asylum or persons who received subsidiary protection;
- **“Security system and national security of the Republic of Croatia”** - 2<sup>nd</sup> year; topics: Fundamental human rights in the context of national security and actions of the system of national security, Fundamental human rights in the context of the scope of work of intelligence-security institutions and their monitoring work;
- **“Crime involving children and minors”** - 3<sup>rd</sup> year; topic: Domestic abuse with focus on minors as perpetrators.

Specialist Graduate Professional Programme of Criminal Investigation

- **“Criminal investigation methods of complex forms of organised crime”** - 1<sup>st</sup> year; topic: trafficking in human beings;
- **“Migration and crime”** - 1<sup>st</sup> year; topic: Trafficking in human beings;
- **“Oversight of police works”** - 2<sup>nd</sup> year; topics: covers human rights in general, but not thematically. Oversight of police work ensures that the police applies police powers according to law, i.e. conducts police duties, thus directly protecting human rights;
- **“Applied victimology”** - 2<sup>nd</sup> year; topics: Rights of victims of crime and misdemeanours; Phenomenological features of victims; Children of victims of criminal activities;

- **“Protection of children and minors from criminal offences”** - 2<sup>nd</sup> year; topics: Domestic abuse with focus on children and minors as victims; Rights of children according to the Convention on the rights of children and other international standards; Protection of the rights of children in Croatian legislation; Rights of children who are victims of crime and misdemeanours; Factors which can influence the discrimination of children and prevention of discrimination; Children as victims of peer violence.

## **POLICE SCHOOL “JOSIP JOVIĆ”**

During 11 months of training for future police officers in the “Programme of adult education for the profession police officer”, the topic of fundamental human rights (including violence against women, domestic abuse, hate crime, trafficking in human beings, protection of the rights of migrants and asylum seekers) is covered by the following curriculum and programmes:

- **Constitution of the Republic of Croatia, European Union law and human rights** - the objective is to gain knowledge on fundamental rights and freedoms of man and citizen which are protected and affirmed by the Constitution of the Republic of Croatia as well as the knowledge on state structure of the Republic of Croatia and competencies of key state bodies. It is necessary to especially point out the protection of human rights within the context of applying police powers and police actions. The course also covers basic terms and institutions of the European Union as well as the manner of adopting decisions and their implementation into the legal system of the Republic of Croatia. Special attention is given to international sources which protect specific fundamental human rights and freedoms with special emphasis on the practice of the European Court of Human Rights and the violation of certain conventions which have been violated while implementing police actions. Special attention is given to the judgments in the cases of the European Court of Human Rights in which the Republic of Croatia was found responsible for violating the provisions from Article 3 and Article 14 of the European Convention for the Protection of Human Rights and Fundamental Freedoms, especially in the context of the specific case of *Đorđević v. Croatia*;
- **Police powers and their application** - the objective of the course is to enable the trainees to independently, responsibly and legally conduct the duties of a uniformed police officer in accordance with the rules of the police profession and police ethics, while respecting human rights and fundamental freedoms of citizens as well as the protection of other rights protected by the Constitution. The covered topics are as follows:
  - Discrimination (on any basis)
  - Rules of communication for police officers with people with disabilities,
  - Application of police powers towards vulnerable groups,
  - Hate crime (taking into consideration that the criminal act might have been committed also because of disability, nationality or ethnicity etc.) and hate speech
  - Application of police powers towards members of national minorities
  - Application of police powers towards the LGBTQ community;
- **Basic misdemeanour and criminal law** - the objective of the course is for trainees to gain fundamental knowledge about criminal material law, i.e. misdemeanour law and to build a system of values which will serve as their moral compass in future work. Special emphasis is put on the respect of fundamental human rights;
- **Basics of criminology and criminal investigation** - the objective of the course is to familiarise the trainees with the formal framework of criminal investigations of criminal acts, tactical,

technical and methodical content of conducting activities which help reveal criminal acts and their perpetrators. Special emphasis was put on the respect of fundamental human rights;

- **Psychology** - the objective of the course is to gain knowledge on the complexity of human relations and the significance and possibility of resolving conflict and stressful situations. The following topics are covered within the framework of this course:
  - social behaviour and group influence;
  - opinions, stereotypes and prejudice;
  - vulnerable groups and
  - hate crime.

Besides the previously mentioned trainings, the Ministry of the Interior continuously conducts trainings of police officers in the area of human rights protection. In that regard, trainings for riot police officers concerning fundamental rights have recently been held<sup>2</sup> for state border surveillance and the trainings will continue in the upcoming period for all police branches.

\*\*\*

***43) The CPT recommends that the Croatian authorities act to ensure that the 2018 Protocol is fully applied in respect of all UASM. Further, the CPT would like to be informed of the specific measures put in place to provide support to vulnerable migrants intercepted by the Croatian police.***

#### **The recommendation has been fulfilled.**

Concerning actions towards unaccompanied minors who are migrants and applicants for international protection, the Government of the Republic of Croatia adopted on 30 August 2018 the new Protocol on the treatment of unaccompanied children and the problems of taking action towards unaccompanied minors is also a topic of training police officers in police administration and stations, which are regularly organised by the Ministry of the Interior. Likewise, actions taken towards unaccompanied minors is one of the topics of the of the basic training course for border police officers.

In 2019, 4 seminars were organised by UNHCR for police officers and employees of social care centres on the topic of the Protocol on the treatment of unaccompanied children (5 November 2019, 19 November 2019, 26 November 2019 and 4 December 2019).

The protection of vulnerable persons is stipulated in Article 182 of the Aliens Act which states:

*“(1) When applying the measures for ensuring return, the best interest of the minor and the needs of other vulnerable persons shall be taken into account, as well as the family life and health of a third-country national who is subject to the relevant measures.*

*(2) Within the meaning of paragraph 1 of this Article, vulnerable persons shall mean minors, persons with disabilities, the elderly, pregnant women, members of single parent families with underage children, victims of human trafficking, victims of torture, rape or other forms of psychological, physical or sexual violence, such as victims of female genital mutilation and persons with mental disorders.*

---

<sup>2</sup> [Training of police officers of the riot police in the area of fundamental rights;](#)

[Training of riot police officers of PA ličko-senjska in the area of fundamental rights in state border surveillance;](#)

*(3) A third-country national shall be entitled to healthcare in the return procedure, in line with the legislation governing healthcare of aliens, as well as to schooling in line with the legislation governing schooling and education.*

*(4) Decisions related to return referred to in Article 196, paragraph 1 of this Act shall be issued on the basis of an individual assessment in accordance with the principle of proportionality.”*

In that sense, police officers are obligated to determine during each interaction with migrants, whether they are vulnerable persons and to provide such persons with appropriate help and protection if necessary.

Likewise, in accordance with the Aliens Act, vulnerable groups have a right to free legal aid in the return procedure in respect of free legal representation for appealing and representation before the competent court.

\*\*\*

***47) The CPT recommends that the Croatian authorities remind staff at Ježevo Reception Centre for Foreigners that any form of ill-treatment of detainees will be appropriately punished. Further, the Committee would like to receive information from the Croatian authorities on whether the custodial staff at Ježevo Reception Centre receives training on issues such as de-escalation techniques and cross-cultural communication skills.***

#### **The recommendation has been fulfilled.**

The Police Duties and Powers Act and the Ordinance on the manner of procedure of police officers (OG 89/10 and 76/15) stipulate that a police officer shall on every occasion submit report to the superior police officer regarding the conducted police activities and applied police powers.

Furthermore, the Ordinance on the manner of procedure of police officers stipulates that the police officer who applied means of coercion as well as the police officer who ordered the use of means of coercion are obligated to inform the operational dispatch office of the police station or the competent operational-communication centre and submit a written report to the responsible commanding officer of the organisational unit. In accordance with the stated Ordinance, the next level of control of actions while applying means of coercion consists of the General Police Director or person he authorises for this purpose ordering the inclusion of an expert team of police officers of the Ministry of the Interior formed for this purpose in the collection of notices on the use of means of coercion.

Likewise, the stated expert team must be formed in situations when after the use of means of coercion a person lost their life, suffered serious life-threatening physical injuries or if the use of means of coercion caused public disturbance, i.e. public protest of citizens.

Furthermore, in all cases where it was subsequently established that means of coercion have been applied according to a submitted complaint, all statements made by the person submitting the complaint are investigated and if necessary, if there was public disturbance or a public protest of citizens, an expert team can also be formed which will investigate all statements of the complaint.

While preparing and implementing the procedure for the assessment of the legality of the use of means of coercion, the citizen who was coerced has the possibility of submitting a complaint against the actions taken by police officers who applied means of coercion and these complaints are individually investigated and checked.



Likewise, each natural or legal person, in accordance with the provisions of the Police Act, who considers that their or another person's rights or freedom have been violated by actions or lack of action by police officers when applying police powers, has the right to submit a complaint to the Ministry of the Interior within 30 days of becoming aware of the violation.

Moreover, an investigation procedure of complaints submitted by means of the Ombudsman, Ombudsman for children or other competent bodies is conducted.

We would also like to point out that police officers have received a large number of instruction which emphasise the periodical implementation of seminars concerning the application of means of coercion, reporting and implementation of the procedure of legality and eligibility assessment, which must be implemented within 24 hours after receiving the written report according to the Ordinance on the manner of procedure of police officers, if there are no suspicious situations which must be checked.

Exceeded application of police powers, including means of coercion, constitute a breach of professional duty, as well as potentially a criminal offence and in these cases police officers are responsible for the violations which are characterised as illegal work or failure to undertake measures and activities which the officer is obligated to undertake in order to prevent illegalities.

\*\*\*

***48) With a view to reducing the carceral atmosphere at the Ježevo Reception Centre, the CPT recommends that the Croatian authorities remove the metal bars from the windows. Further, steps should be taken to provide each multiple-occupancy cell with a call bell system, a table and chairs and functioning artificial lighting and to offer a greater variety of food for dinner. Consideration should also be given to providing detainees with additional sets of clothing, especially underwear, and/or to increasing the frequency with which clothes can be laundered.***

Regarding the stated recommendation, the Ministry of the Interior would like to point out that these are not bars, but rather horizontal railing which is an integral part of the design of the building of the Reception Centre for Aliens in Ježevo. The project of constructing the building was financed under the IPA 2011 programme which was approved by the European Commission.

The stated horizontal railing serves for the protection of persons staying in the rooms from the sun and weather, while also preventing escape or accidents such as falling or jumping through the window, damage to the inventory, property etc.

In order to install bells into rooms as well as tables and chairs, we would like to point out that the rooms in which third-country nationals are staying are not locked, but always open so that foreign nationals can, at any point of their stay at the Centre, have uninterrupted and open access to sanitation facilities, showers and common rooms where they have tables and chairs. According to current experience, tables and chairs in sleeping rooms can be used as objects for assault or to causing injury to other foreign nationals, since they have been used in mutual confrontations as well as for the destruction of other property, equipment or the premises of the Centre.

All clothing of third-country nationals is washed when they are given accommodation and the replacement of assigned clothing, bedding and footwear is conducted once, i.e. twice or more times a week, depending on the need or use of sports fields and activities or because of some other personal or health reasons.

The food in the Centre is offered and served in accordance with the prescribed normative, nutritional values and religious beliefs. Dinner is served in accordance with the preferences of the majority of accommodated foreign nationals, whereby attention is given to the health status of foreign nationals and medical prescription orders regarding nutrition. All of the abovementioned is stipulated by the Ordinance on stay in the reception centre for aliens.

Moreover, the implementation of the project is currently in progress financed using financial resources of the Asylum, Migration and Integration Fund, aimed at equipping the rooms of foreign nationals with new furniture (closets for storing items and belongings of migrants, equipping the common rooms for the stay of foreign nationals and joint premises, new rooms for visitors and interviews etc.).

\*\*\*

*49) The Committee recommends that access to the outdoor exercise facilities be offered every day both morning and afternoon and form part of the daily schedule of activities and that a shelter against inclement weather be installed.*

**The recommendation has been fulfilled.**

In line with daily and weekly activities and depending on weather conditions, outdoor sports areas are available for persons at the Reception Centre in Ježevo as well as exercise equipment in the covered part of the Centre which the Committee representatives could see firsthand during their visit. In that sense, the schedule of daily activities may vary.

Furthermore, the project funded under the Asylum, Migration and Integration Fund is being implemented to cover the outer part of the Centre and part of the space near the outdoor playground in order to conduct sports activities in bad weather. In one part of the covered area, benches and tables will be set up and outdoor exercise equipment is foreseen to be installed in the other part.

\*\*\*

*50) The CPT recommends that the Croatian authorities put in place a purposeful programme of activities for detained persons at the Ježevo Reception Centre, taking into account the above remarks.*

**The recommendation has been fulfilled.**

A new schedule of daily activities has been made which enables persons from the Centre to be outside in the fresh air in the mornings as well. Depending on weather conditions and seasons, persons are allowed to go outside at least twice a day and in cases of families with children even more often, according to their wishes and needs.

In the living area, a TV has been set up and it is possible to play board games and sports activities indoors, exercise using exercise equipment and reading books.

Various activities and workshops, depending on the structure and wishes of persons, are conducted in cooperation with civil society organisations with which the Ministry of the Interior has concluded cooperation agreements.

Furthermore, bookcases have been set up in the living area. The books are available in English, German, Italian, Spanish, Russian, Turkish, Arabic, Urdu, Pashto and Farsi and the list is continuously updated.

The schedule of daily activities is the following:

- 7-8 AM waking up and hygiene,
- 8-9 AM breakfast and medication distribution,
- 9-9:30 AM inspection and cleaning of rooms, registering for interviews,
- 9:30-12 AM visits and interviews, outdoor and leisure activities,
- 12 AM - 1 PM lunch,
- 1-3 PM visits and leisure activities, afternoon rest,
- 3-6 PM outdoor and sport activities,
- 6-7 PM dinner,
- 7-10 PM leisure activities,
- 10 PM - 7 AM sleeping.

\*\*\*

**54) The CPT recommends that the Croatian authorities reinforce the health-care service at Ježevo Reception Centre by ensuring that:**

- **a person with a recognised nursing qualification is present on a daily basis. Such a person could in particular perform the initial medical screening of foreign nationals, receive requests from foreign nationals to see a doctor, ensure the provision and distribution of prescribed medicine to detained persons. Further, the medical examination of newly-admitted detainees should take place within 24 hours and the relevant provisions of the Rulebook be amended;**
- **medical screening upon admission and its relevant form includes aspects such as the recording of any signs of injury, together with any relevant statements of the detained person and the doctor's conclusions. Further, a dedicated register on injuries observed on detained persons during admission and detention should be put in place;**
- **all newly admitted foreign nationals are subject to screening for transmissible diseases (i.e. systematic TB screening and voluntary testing for HIV and hepatitis B and C) and the detection of any signs of mental and traumatic antecedents;**
- **adequate clinical psychological assistance is provided to detained persons;**
- **the confidentiality of medical examinations with detainees is fully respected and, in cases of detainees unable to converse in English, professional interpretation services be made available.**

**The recommendation has been fulfilled.**

Medical and every other health care service and supervision of third-country nationals is under the competence of the Ministry of Health which drafted the Ordinance on providing healthcare to foreigners illegally staying in the Republic of Croatia (OG 116/18).

Health and medical care of persons located at the Reception Centre in Ježevo is conducted by a general practitioner in the branch office of the Medical Centre Dugo Selo. Its working hours are from 8 to 12 AM every day.

As of 1 January 2021, a full-time nurse has been employed in the office who conducts a basic medical examination and triage immediately after a foreign national is accommodated in the Centre. A doctor comes to the office on Tuesdays and Thursdays and when called by the nurse. Emergency medical service also comes to the Centre when called.

If a person does not speak English, the interpretation during a basic medical examination and triage as well as during health checks is conducted over the telephone by interpreters with whom the Ministry of the Interior has concluded an agreement on interpretation. Furthermore, telephone

interpreting is also used when transporting persons to specialist examinations and during treatments in hospitals and specialised institutions. If necessary, the arrival of interpreters to hospitals and specialised institutions is organized.

Psychosocial assistance and protection is conducted in cooperation with the Croatian Red Cross whose psychologists and psychiatrists come to the Centre accompanied by interpreters twice a week and when called. They transfer foreign nationals to specialised institutions if specialist examinations are needed and with the authorisation of a doctor.

Due to the COVID-19 pandemic, persons are tested by a PCR test before accommodation at the Centre and by a BAT test during their stay at the Centre. In addition, all persons located at the Centre have the option to be vaccinated against COVID-19.

\*\*\*

*56) The CPT recommends that more formal and reliable systems should be put in place to ensure that all detained persons fully understand the reasons for their detention and the possibilities to challenge such a decision as well as any decisions on extending the period of detention.*

**The recommendation has been fulfilled.**

Already during the procedure at the police station, all foreign nationals are familiarised with all reasons of restricting their freedom of movement in a language they understand and with an interpreter present, as well as with the possibility of exercising the right to free legal aid in the return procedure.

Other information is also printed in forms and languages most often used or spoken by foreign nationals so that they are completely familiarised with the reasons of return and accommodation and a person is notified of every extension of accommodation with the help of an interpreter.

In addition, when accommodated at the Centre, all persons are handed an information leaflet printed in a language they understand informing them of their rights and obligations during the stay at the Centre.

\*\*\*

*57) The CPT recommends that the relevant legislation be amended so as to ensure that all persons held under aliens' legislation (i.e. under the Law on Foreigners and the LITP) have an effective right of access to a lawyer (including adequate interpretation) as from the very outset of their deprivation of liberty and at all stages of the proceedings.*

**The recommendation has been fulfilled.**

Free legal aid in return procedures is stipulated by the Aliens Act and elaborated in detail in the Ordinance on free legal aid in the return procedure.

In the return procedure, third-country nationals have the right to free legal aid including giving legal advice or assistance in drafting a lawsuit and representation before a competent court, with the help of an interpreter into a language they speak.

Third-country nationals are notified of the possibility of using free legal aid by receiving a form on free legal aid printed in a language they understand and a list of free legal aid providers from which they can choose and contact a lawyer offering free legal aid.

The forms on free legal aid have so far been printed in the following languages: Albanian, Arabic, Bengali, English, Farsi, French, Hindi, Pashto, Russian, Somalian, Spanish, Turkish, Urdu.

The right of a detainee to a lawyer is stipulated in Article 211(3) of the new Aliens Act (OG 133/20) in the following manner:

*“(3) When being arrested, a third-country national shall be notified of the reasons for the arrest, of the fact that he may designate a legal representative, of the fact that he may notify a family member or another person and that he may request that a diplomatic mission or a consular post of the country of his nationality be notified of the arrest, unless specified otherwise by an international treaty.”*

\*\*\*

**58) *The CPT recommends that staff working in the Centre no longer carry truncheons in detention areas.***

The Regulation on the appearance of uniforms of police officers of the Ministry of the Interior of the Republic of Croatia (OG 88/11, 129/11 and 100/13) stipulates that an integral part of a police uniform is also a set for carrying weapons and equipment. In that sense, police officers in charge for internal security of the Reception Centre in Ježevo carry a truncheon as a preventive measure to repel attacks on themselves and to prevent conflicts between accommodated foreigners. In recent years, there have been incidents of attempts to escape and jump over the fence, which were prevented by the use of physical force, and the truncheon as a means of coercion in such situations had a discouraging effect on foreigners. Its use is prescribed in cases where physical force does not guarantee success.

\*\*\*

**59) *The CPT would like to receive the comments of the Croatian authorities on whether there are any circumstances in which detainees may be denied access to the contact information in their mobile phones. The Committee recommends that the Croatian authorities allow foreign nationals detained at Ježevo Reception Centre to use the VoIP technologies on a free of-charge basis to communicate with the outside world.***

**The recommendation has been fulfilled.**

Mobile phones of foreign nationals accommodated in the Centre are considered as items suitable for escape or inflicting self-harm or injury to other foreign nationals, in line with the Ordinance on the treatment of third-country nationals.

Foreign nationals can always request to see their mobile phones and it is always allowed upon their requests, in line with the Ordinance on stay in the reception centre for aliens.

As regards the VoIP technology, we would like to note that this Ministry uses the said technology for central telephone exchange of the MoI. In addition, public telephone booths are available for foreign nationals accommodated in the Centre as well as the use of their own mobile phones.

\*\*\*

*60) The CPT recommends that an effective complaint system be introduced at Ježevo Reception Centre. This should include the installation of dedicated complaints boxes as well as a central register of complaints where the date, subject matter, processing and response should be recorded. Further, in order to strengthen the effectiveness of the system, detained persons who are dissatisfied with the response to their complaints should be able to appeal to a second instance body within the Ministry of the Interior.*

**The recommendation has been fulfilled.**

A complaint system has been implemented in the Reception Centre in Ježevo. A box for complaints and grievances has been set up in a prominent place near telephone booths. A register of complaints was established a long time ago and is located in the operations centre of the Ministry of the Interior.