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Mr Zoran TEGELTIJA

Chairman of the Council of Ministers of Bosnia and Herzegovina

Mr Selmo CIKOTIĆ

Minister for Security of Bosnia and Herzegovina

Strasbourg, 7 December 2020

Dear Chairman, dear Minister,

Following up on my letter of May 2018 to the Minister for Human Rights and Refugees and the Minister for Security of Bosnia and Herzegovina and my visit to Bosnia and Herzegovina in December 2019, I would like to draw your attention to a number of issues relating to migration and asylum in Bosnia and Herzegovina, which I believe should be addressed as a matter of urgency. While challenges relating to the continuing arrival of refugees and migrants in Bosnia and Herzegovina have been compounded in recent months by the COVID-19 pandemic, I believe that they can be met in a human rights-compliant way by tackling some structural shortcomings in the treatment of migrants and asylum seekers and by improving co-operation between different levels of authority in Bosnia and Herzegovina.

Reception and treatment of refugees and migrants

It is reported that, in October 2020, 6770 asylum seekers and migrants were accommodated in reception facilities in the Federation of Bosnia and Herzegovina. The number of those sleeping rough or in abandoned buildings in the Canton of Una-Sana and elsewhere in the country was estimated to be between 2000 and 3500.

I am very concerned that, one year after the closure of the Vučjak camp in December 2019, which followed my visit to Bosnia and Herzegovina, another humanitarian crisis is unfolding in Una-Sana. There have been many reports by international organisations and NGOs working in the field about seriously substandard living conditions in the Lipa emergency tent camp, including lack of electricity and running water, as well as overcrowding, following the transfer there of migrants from the Bira temporary reception centre and its subsequent closure. The closure of the Bira centre and the Una-Sana authorities' ban on new admissions to the Miral temporary reception centre have also had serious humanitarian consequences for hundreds of migrants and asylum seekers, including families with children, who have been left without accommodation, food and medical care. The restriction on migrants' movement imposed by the cantonal authorities have further exacerbated the difficult situation of the most vulnerable groups, especially unaccompanied migrant children, pregnant women and elderly persons.

Against this background, the authorities of Bosnia and Herzegovina must ensure as a matter of urgency that basic needs such as adequate accommodation and access to health care, food, water and clothing are met regardless of the legal status of the persons involved, or whether they are considered to be in transit or intend to stay in the country. Clearly, for migration to be properly managed – and creating adequate reception conditions is an integral part of this – it is essential that both the Federation of Bosnia and Herzegovina, Republika Srpska and the Brčko District, as well as all cantons in the Federation of Bosnia and Herzegovina, share the responsibility for hosting migrants and asylum seekers more evenly. Migrants and asylum seekers are currently only accommodated in reception facilities in some parts of the Federation of Bosnia and Herzegovina, and this needs to change. My understanding is that funding is available to create new reception facilities. I am certain you will agree that the Council of Ministers of Bosnia and Herzegovina has an important role to play in ensuring that all levels of authority in the country take on their fair share of responsibility for this.

I am also aware of allegations that excessive force was used by local police during evictions of migrants from squats in Una-Sana, and during transfers from the Bira camp to the Lipa camp. There have also been reports of local vigilante groups attacking migrants and destroying their personal property in various parts of the country. These actions have occurred in the context of anti-migrant rhetoric spread by politicians and media outlets, portraying migrants as criminals, terrorists and serious health risks. While migrants who commit a criminal offence in Bosnia and Herzegovina obviously need to be brought to justice, blaming all migrants for individual crimes only feeds anti-migrant sentiment and increases the risk of xenophobic violence. I call on politicians to refrain from stigmatising speech and generalisations about refugees and migrants and to counter vigilantism.

I am also concerned about reports of attacks and threats targeting human rights defenders who help migrants, including a smear campaign and death threats against Ms Zehida Bihorac. This case prompted a public condemnation by the UN Special Rapporteur on the situation of human rights defenders, Ms Mary Lawlor, and a call for the authorities to conduct a prompt, independent and impartial investigation into these attacks and bring those responsible to justice, all of which I support.

Access to asylum and individual procedures

According to the UN High Commissioner for Refugees (UNHCR), as of November 2020, the asylum procedure was pending in respect of 295 asylum seekers, while 400 persons were awaiting registration of their asylum claim with the Asylum Sector of the Ministry of Security.

I have received reports indicating that potential asylum seekers continue to face obstacles in their attempts to access the asylum procedure and obtain asylum decisions. Many migrants face difficulties in obtaining confirmation of their intention to seek asylum, which is indispensable for the registration of an asylum claim. Moreover, asylum decisions can take a long time. According to the UNHCR, the average length of time required for asylum decisions rendered last October was 313 days, and this figure does not take account of the time asylum-seekers had to wait to register their claims, which can take months depending on their location in the country. The lack of access to registration in Una-Sana, which I noted last year, still seems to apply, and this may be accounted for in particular by the fact that there are reportedly no Asylum Sector officials in reception centres in this canton or in Sarajevo. I have also received reports that, owing to the lack of interpreters for languages spoken by migrants and asylum seekers, many migrants do not understand the steps they need to take to receive international protection once they have obtained confirmation of their intention to seek asylum. The authorities of Bosnia and Herzegovina need to address these shortcomings in the asylum system in close co-operation with the UNHCR and other international organisations and NGOs working in the field of migration.

I have taken note of your government's intention to step up returns of migrants following the bilateral agreements signed recently by Bosnia and Herzegovina with several countries of origin. I would like to stress that, under its non-*refoulement* obligations, Bosnia and Herzegovina must ensure that all persons who wish to seek international protection in the country have the possibility of doing so. All asylum claims need to be considered on their own merits under fair and efficient asylum procedures taking into account individual circumstances and up-to-date country of origin information. While waiting for their claims to be processed, asylum seekers need to have access to support and services which enable them to live in dignity. Any expulsion proceedings should comply with Bosnia and Herzegovina's other obligations under the European Convention on Human Rights, including the duty to uphold the prohibition of collective expulsions, provide adequate procedural safeguards and respect the right to liberty of the persons concerned.

The situation of unaccompanied migrant children

Reportedly, as of November 2020, 480 unaccompanied migrant children were accommodated in reception centres in the country. The authorities appear to be facing a number of challenges where it comes to respecting these children's best interests, including matters relating to their identification as unaccompanied minors, age assessment, accommodation and access to international protection. Due to these problems and the systemic shortage of adequate accommodation, many unaccompanied migrant children live in dire conditions, often together with unrelated adults and households, which may put their well-being at risk. Reports have indicated that most unaccompanied or separated migrant children do not have a legal guardian appointed by the authorities. For example, in November, this was

the case for the 130 unaccompanied migrant children accommodated in the Ušivak temporary reception centre near Sarajevo. The centres' lack of capacity to provide social welfare and adequate training on legal guardianship of migrant children are also issues that need to be addressed urgently by the authorities in this context. I call on the authorities of Bosnia and Herzegovina to act swiftly to create adequate conditions for the effective protection of unaccompanied migrant children in line with relevant Council of Europe and international standards.

Lastly, I am concerned that access to mainstream education is not provided for all migrant children uniformly throughout the country. I have been informed that refugee and asylum-seeking children accommodated in the refugee reception centre in Salakovac near Mostar, and those accommodated in the Ušivak reception centre, have not been enrolled in mainstream education. I would appreciate more information on access to education for refugee and migrant children, and on the authorities' plans to address the reported shortcomings in this regard.

I look forward to your reply and to continuing our constructive dialogue.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Dunja Mijatović', with a large, stylized initial 'D'.

Dunja Mijatović