

ANNUAL 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

June 2021 – June 2022

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CONTENTS

1. INTRODUCTION.....	1
2. CONTROL ACTIVITIES OF THE MECHANISM	6
2.1. ANALYSIS OF PRIMARY DATA SOURCES	7
2.2. ANALYSIS OF SECONDARY DATA SOURCES	13
3. OTHER ACTIVITIES.....	17
4. FINDINGS OF THE MECHANISM.....	20
4.1. EFFECTIVENESS OF THE LEGAL FRAMEWORK.....	20
4.2. RULES OF PROCEDURE OF THE MINISTRY OF THE INTERIOR, CHALLENGES IN PROCEDURAL PRACTICES OF POLICE OFFICERS, ESTABLISHED IRREGULARITIES AND GOOD PRACTICE EXAMPLES	22
4.3. DIFFICULTIES FACED BY IRREGULAR MIGRANTS.....	27
5. RECOMMENDATIONS.....	35
ANNEXES	52
LIST OF GRAPHS	52
LIST OF PICTURES.....	52
LIST OF TABLES	52
LIST OF USED SOURCES.....	53

1. INTRODUCTION

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 (hereinafter: the Mechanism) was established by the "Cooperation Agreement to implement an Independent mechanism of monitoring the actions of police officers of the Ministry of the Interior in the area of illegal migration and international protection" of 8 June 2021 (hereinafter: the Agreement, Annex 1) which was signed by the Ministry of the Interior of the Republic of Croatia (hereinafter: the Mol) on one side and the Croatian Academy of Medical Sciences (hereinafter: CAMS), Croatian Academy of Legal Sciences (hereinafter: CALS), Centre for Cultural Dialogue (hereinafter: CCD), Croatian Red Cross (hereinafter: CRC) and prof. dr. sc. Iris Goldner Lang on the other side. The Agreement determines the purpose and basic terms, activity providers, types of activities (see Chapter 2), their implementation locations, structure and funding of the Mechanism. The implementation period of the Agreement is one year (with the possibility of extension). Within that period, the Mechanism will implement 20 observations (announced and unannounced) of actions taken by police officers. The Mechanism consists of the Coordination Board (5 members, one each from CAMS, CALS, CCD and CRC and prof. dr. sc. Iris Goldner Lang), which independently from the Mol (whose officers are not present in the Board meetings) decides on the implementation of activities of direct activity providers (8 members, two each from CAMS, CALS, CCD and CRC) who, based on the decision of the Coordination Board implement observations in the field (police stations, border crossing points, green border, reception centres for aliens, etc.).

Prof. dr. sc. Davor Derenčinović (CALS) was the Head of the Coordination Board for the first six months of the duration of the Agreement. As of 18 January 2022, due to his appointment as a judge of the European Court of Human Rights in Strasbourg, he was replaced by Robert Markt, univ. spec. oec. (CRC). The members of the Coordination Board are doc. dr. sc. Krunoslav Capak, dr. med. (CAMS), mr. sc. Nermin Botonjić (CCD), prim. Josip Jelić, dr. med. (Croatian Red Cross, as of 18 January 2022, he has been performing the activities of the direct provider) and prof. dr. sc. Iris Goldner Lang and prof. dr. sc. Anna Maria Getoš Kalac (as of 18 January 2022). Direct activity providers are prof. dr. sc. Nadan Rustemović, dr. med. and prof. dr. sc. Mario Starešinić, dr. med. (CAMS), prof. dr. sc. Davorin Lapaš and assist. prof. dr. sc. Damir Primorac (CALS), Samir Ilijazi, mag. iur., Mr Admir Muhić (CCD), Robert Markt, univ. spec. oec. (as of 18 January 2022 prim. Josip Jelić, dr. med.) and Mr Branislav Tomić (CRC). The logistical support for the work of the Mechanism is provided by the Mol which, in accordance with the Agreement, appointed a contact officer in order to ensure the uninterrupted and timely exchange of information as well as the facilitation of other activities which enable the implementation of monitoring and other Mechanism activities.

The broader national and European socio-political, geopolitical, geostrategic, security, human, legal, but also media context¹, in which the Mechanism was created and established is very important, especially in the context of rushed/premature and unfounded criticism of individual civil society organisations at the expense of its establishment, the expertise of its members and the independence of its actions.² However, even more important in that context is the fact that, at the time when the Mechanism was established, nowhere else in Europe had a comparable *specialised* mechanism of (civil) monitoring of actions of the police in the area of irregular migration been established, although the new Pact on Migration and Asylum foresees the establishment of such mechanisms in all Member States of the European Union (hereinafter:

EU).³ In that sense, there are no European examples according to which the Mechanism could have been established, nor could the guidelines and/or recommendations of best practice have been elaborated which the Mechanism could have used when implementing its activities. Nevertheless, there are European examples as well as expert studies of best practice of *general* (civil) mechanisms for monitoring police actions on the basis of which the Mechanism was established and it initiated operational activities quickly after its establishment.⁴

Police Oversight Body: An organisation with a defined statutory responsibility for oversight of aspects of policing. There is no standard form for any such organisation but it should have the necessary independence to carry out its duties and should aspire to have the characteristics described in the principles.⁷

Precisely because of the previously mentioned criticism and possible doubts concerning the independence and functionality of the Mechanism, basic terms relevant for its functioning are summarised and clarified below as well as the key principles of operation, which are fully in accordance with all key principles of operation of a police oversight body stated in the so-called *Police Oversight Principles*⁵ in the area in which they are responsible for their tasks and competences, as well as the powers of the Mechanism (see note next to table 1).⁶

The above-mentioned definition of police oversight body contains 3 key elements. (1) Firstly, it is an organisation, which is legally responsible for the monitoring of certain aspects of police work (e.g. actions taken by police officers of the MoI in the area of illegal migration and international protection). (2) Secondly, there is no standardised organisational form of such a supervisory body - the independence of its actions is crucial. (3) Thirdly, such an organisation should aspire to achieve the principles stated below, although it does not necessarily have to fully achieve all of them.

Table 1 Key principles of operation of a police oversight body

Key principles: Operation of a police oversight body ⁸		IMM	Agreement
1.	The body should be sufficiently separated from the hierarchy of the police that are subject to its remit.	✓	Art. 8
2.	It should be governed and controlled by persons who are not current serving police officers.	✓	Art. 8
3.	It should in general have the power and competence to, at its own discretion, address the general public and the media about aspects of its work.	✓	Art. 8, IMM practice
4.	To perform its functions effectively it should be provided with adequate finance and resources, and should be funded by the state.	✓*	Art. 9
5.	Its mandate shall be clearly set out in a constitutional, legislative or other formal text, specifying its composition, its powers and its sphere of competence.	✓	Agreement
6.	Its investigators must be provided with the full range of police powers to enable them to conduct fair, independent and effective investigations, in particular the power to obtain all the information necessary to conduct an effective investigation.	✓**	Art. 3(3), Art. 4, Art. 5, Art. 6 and Art. 7
7.	Police oversight bodies and the police should proactively ensure that members of the general public are made aware of the role and functioning of the oversight body, and their right to make a complaint.	✓**	IMM practice

8.	The police oversight body shall have adequate powers to carry out its functions and where necessary should have the powers to investigate, to require an investigation or to supervise or monitor the investigation of:	✓	
(i)	serious incidents resulting from the actions of police officers;	✓	
(ii)	the use of lethal force by police officers or law enforcement officials and deaths in custody;	✓	
(iii)	allegations that police officers or law enforcement officials have used torture or cruel, inhuman or degrading treatment or punishment; or	✓	
(iv)	allegations or complaints about the misconduct of police officers or law enforcement officials.	✓	

Note: *The Mechanism is adequately financed and it has the appropriate resources, whereby the condition of state financing is met because, although EU funds are used to finance the Mechanism, they are also indirectly controlled by the Mol, which would therefore represent indirect state financing; **The Mechanism functions within the framework of its legally determined task and competence. It is equipped precisely with the powers which allow it the implementation of unbiased, independent and effective monitoring, whereby it is important to keep in mind that the Mechanism is neither a 'complaint' nor 'internal affairs' supervisory body, since such bodies already exist in the Republic of Croatia (State Attorney's Office, Ombudsman, Internal Control of Mol); ***The Mechanism meets the stated condition, whereby it is necessary to point out again that the Mechanism is neither a 'complaint', nor 'internal affairs' supervisory body.

Having in mind that the above-mentioned key principles of operation refer to *general* police supervisory mechanisms (primarily *complaint* and *internal affairs* supervisory bodies), it is necessary to understand them, as well as other key principles which govern⁹ the Mechanism within the context of the following:

- a) lack of comparable mechanisms,
- b) *specificity* of the purpose and objective of precisely a *civil* monitoring mechanism in the *area of irregular migration* (which are neither *complaint* nor *internal affairs* purposes/objectives) as well as
- c) legal competence and powers of *existing state and civil mechanisms for monitoring the police in Croatia*.

In that sense, the request for full range of police powers should be connected with adequate powers to carry out its functions and it is necessary to value the accomplishment of both key principles of the Mechanism as a *civil* monitoring mechanism in a *specific area* of irregular migration, as well as one stakeholder in the entire *general* system of police monitoring in Croatia whose competences and powers do not overlap, but are rather complementary to the competences and powers of other bodies (Mol, State Attorney's Office, Office of the Ombudswoman, etc.)¹⁰. The Mechanism is therefore a body of limited competence, whereby precisely the competences of other stakeholders in the general system of police monitoring condition the competence of the Mechanism. The focus of the work of the Mechanism lies in its field-administrative actions in which the analysis of primary and secondary data sources is combined (see below under 2).

Simultaneously with conducting the activities defined by the Agreement, in 12 months of its existence, the Mechanism also performed the tasks of defining the processes and actions, established the internal rules of procedure and communication channels etc.

The Mechanism is not a static and one-time or even final answer to all challenges of civil monitoring of the police in the area of irregular migration in Croatia. Its establishment is the start

of an unbiased, independent and expert dialogue with the MoI, which is not led with the exclusive objective of detecting and processing individual illegal actions of police officers, but rather with the purpose of determining normative, institutional, systematic, operational, technical as well as human factors, which contribute or even cause such illegal actions. It is clear that leading such a dialogue must conform to the requirements of dynamics and adaptability and it should have the potential of longevity, which also opens the possibility for the evaluation of proposed and implemented measures as well as their timely corrections (*evidence-based policy*). In that sense, the Mechanism implements its mandate in accordance with the Agreement and positive regulations of the Republic of Croatia and it is guided in its work by the vision of a direct, unbiased, independent and expert dialogue with the MoI, in which a broad circle of stakeholders is indirectly involved through the Advisory Board, as well as the public from which the Mechanism receives certain information and to which it transparently communicates the findings of its work.

The internal document "Protocol on procedure 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" (hereinafter: the Protocol, Annex 2) defines the basic rules of procedure, procedures for convening and holding meetings, types of observations and methods of conducting observations, the minimum number of direct providers per observation is established as well as the obligation to compile reports. Throughout the duration of the Agreement, the members of the Mechanism conducted internal consultations at a number of formal and informal meetings. The exchange of information and views contributed to a better knowledge of the substance and greater efficiency of the Mechanism.

Communication between the Mechanism and the Ministry of the Interior throughout the duration of the Agreement can be rated as excellent. During the observations, the direct providers did not record any cases of refusal to provide information and insight into the requested files, inadmissibility of entry of direct providers into the premises of the police station (hereinafter: PS), i.e. border police stations (hereinafter BPS) and reception centres, reluctant or slow transport of direct providers to the green border or any other form of misconduct / obstruction by police officers during observations.

The Mechanism communicated with the interested public in line with the Protocol and replied in writing to all enquiries that were sent via letters or emails to official email addresses of the members of the Mechanism. However, the communication established by the Mechanism throughout the duration of the Agreement was difficult due to the lack of defined official contacts of the Mechanism itself.

The Mechanism published its First Semiannual Report for the period June – December 2021 on 10 December 2021, which symbolically coincided with the Human Rights Day and its simultaneous publication on the websites of the CALS, CAMS, CCD and CRC. The Report was presented to the public by HINA, the Croatian news agency on the same day.

After the Mechanism published the First Semiannual Report with 14 recommendations to improve the actions of the police and enhance the asylum system in the Republic of Croatia, the Ministry of the Interior also drafted and submitted to the Mechanism comments to the recommendations. These comments, colloquially called "Action Plan" (Annex 6) included "activities for recommendation implementation" and "recommendations fulfilment". The said document was the matter of discussion at the workshop "Discussion on the results of the monitoring mechanism and border control activities" organised by the Ministry of the Interior on

5 May 2022 under EMAS – emergency assistance – project “Reinforcement of border control activities at the external border section of Croatia due to increased migratory pressure” to which the members of the Mechanism were invited.

The Mechanism fully achieved the purpose of its existence by establishing processes in which:

- a) systematic and individual deficiencies / irregularities are detected, and
- b) the list of recommendations is drafted which the Ministry of the Interior addresses and commits to implement them by the Action Plan.

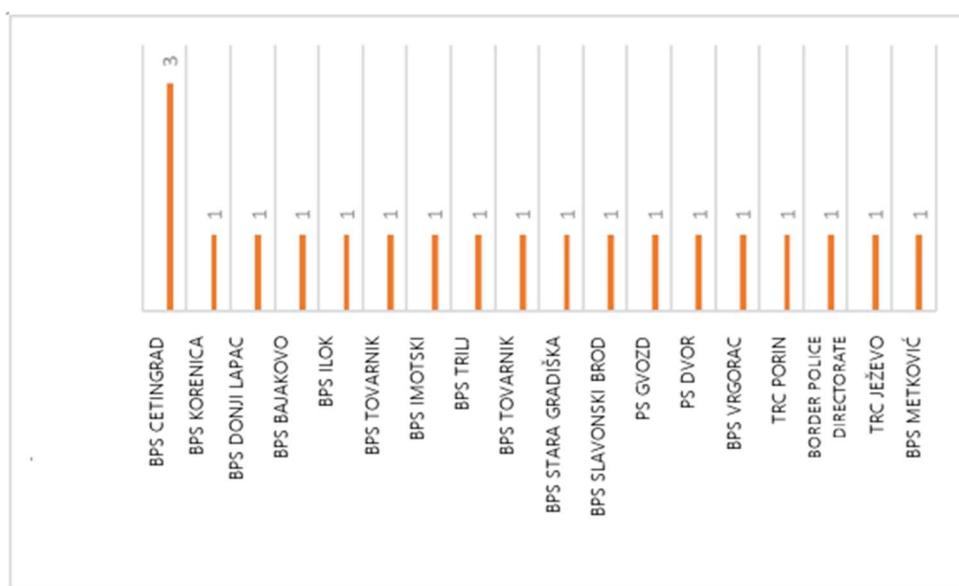
By drafting the Action Plan, in which the Ministry of the Interior addressed the recommendations of the Mechanism and committed to implement them, the MoI demonstrated that it fully respects the relevance of the Mechanism.

The Mechanism considers that the establishment of independent mechanism of monitoring the actions of police officers in all EU Member States based on legally binding rules of the EU would contribute to the enhancement of the asylum system in Member States and a more successful protection of fundamental rights as well as helped align standards when treating irregular migrants and using the same legal tools when treating migrants. It would also contribute to a more efficient prevention of asylum system abuse in the area of the entire EU, enhancement of police work and exchange of best practice in the work of monitoring mechanisms of Member States.

The Annual Report of the Mechanism for the period between June 2021 and June 2022 was agreed with the members of the Mechanism and presented to the public on 1 July 2022 in the same manner as the First Semiannual Report, by simultaneously publishing it on the websites of the participating components of the Mechanism: CALS, CAMS, CCD and CRC.

2. CONTROL ACTIVITIES OF THE MECHANISM

The monitoring activities of the mechanism, as well as the manner and location of their implementation are defined by the Agreement. The activities of the Mechanism which are implemented at the border with Bosnia and Herzegovina, Montenegro and Serbia (border police stations) and in reception centres for aliens, include the observing of actions taken by police officers towards migrants and applicants for international protection in enforcing the regulations governing state border control and the provision of international protection, 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 as well as insight into the activities of the General Police Directorate regarding the alleged illegal treatment of the stated categories of persons. Monitoring activities of the Mechanism are also implemented at the green border. Although the Agreement defines those visits as "announced", in practice the Mechanism also implemented unannounced observations at the green border with the consent of the MoI (see below under 2.1).



Graph 1: Overview of observations in PS/BPS, reception centres and Border Police Directorate from June 2021 to June 2022

The work methodology of the Mechanism is based on two different groups of actions (analysis of primary and analysis of secondary data sources) and depending on the type and source of data, type of procedure and the specificity of individual actions, but also on the observed phenomena, it uses the following methods: *in vivo* observation, semi-structured interview, normative analysis, statistical analysis and case studies. The groups of Mechanism activities are the following:

- 2.1. analysis of primary data sources based on the implementation of:
 - 2.1.a. observations (announced and unannounced) and
 - 2.1.b. interviews with persons (irregular migrants, police officers, other persons who have direct knowledge of possible illegal actions of police officers),
- 2.2. analysis of secondary data sources (files and complaints, statistical data, normative framework, rules and practices of actions taken by police officers etc.).

When sampling cases/observations/files/complaints, the key selection criteria of the Mechanism are vulnerability of a person/group, urgency of action, scale/level of potential illegality and geographically unified distribution in correlation with the incidence and prevalence of irregular migration.

2.1. ANALYSIS OF PRIMARY DATA SOURCES

The fundamental activity of the Mechanism in relation to the analysis of primary data sources is realised through observations of police actions (hereinafter: observations). In accordance with the Agreement, direct activity providers conducted a total of 20 observations in one year. The observations were implemented on the basis of the provisions of the Agreement, the Protocol (internal document) and *ad hoc* agreed guidelines. An individual report form was made for the needs of the observations. Direct activity providers submit it to the Head and members of the Coordination Board as soon as possible after completing an observation.

In line with the arrangements of the Coordination Board and direct providers, the individual report form has been supplemented and modified several times according to the specific needs of individual observations.

The decision on implementing observations was adopted by the Coordination Board on the basis of submitted statistical reports which are submitted each month by a representative of the Mol to the Mechanism. These reports contain information on all irregular migrants and applicants for international protection per police administration, i.e. border police stations (hereinafter: BPS). Besides on the basis of statistical reports, the Coordination Board adopts decisions also on the basis of other available information sources. For example, four observations have been implemented on the basis of secondary sources (media reports, information received by non-governmental organisations) on the actions taken by police officers towards irregular migrants. The first out of the four observations was conducted in the Reception Centre for Applicants for International Protection in Zagreb regarding the media reports by a mother of two underage children concerning irregular actions of the Croatian police. The second (unannounced) observation was conducted within the short timeframe by visiting the field and locations where illegal actions of police officers towards irregular migrants have been determined which were documented in a report by RTL Television which was broadcast on 6 October 2021. Besides an on-site visit, in that particular case an emergency meeting was held in the General Police Directorate with the Head of the Border Police Directorate, Mr Zoran Ničeno. The speed and appropriateness of the response of the Mechanism is confirmed by the fact that these activities were carried out even before the Mol confirmed that the persons in the recording were riot police officers against whom disciplinary procedures were initiated and who were suspended from duty. The importance of the timely reaction of the Mechanism was confirmed for the media by both the highest-ranking officials of the Mol, as well as the Commissioner of the European Commission for Home Affairs, Ms Ylva Johansson.¹¹

Third (unannounced) observation in BPS Bajakovo was initiated by posts published on Index web portal concerning the so-called instruction on the conduct of police officers towards migrants in situations in which media presence is suspected, which was drafted by Deputy of the Head of BPS Bajakovo for internal purposes of BPS Bajakovo (according to the comment of the Mol). The importance of this issue for the work of the Mechanism can be seen in the fact that, due to the allegations at the stated portal, an emergency meeting was held on 9 March 2022 at the Border Police Directorate of the Ministry of the Interior of the Republic of Croatia, in which an

official statement of the Mol was requested regarding the allegations of Index (Annex 4: Minutes of the meeting held at the Mol; Annex 5: Order of the General Police Director, Mr Nikola Milina, to all PS and BPS of 14 October 2021).

The fourth observation conducted in BPS Gvozd (unannounced) was also initiated by using secondary sources, more precisely the information received by the Centre for Peace Studies, a civil society organisation (email of Antonija Pindulić of the Centre for Peace Studies sent to the official email address of the Croatian Red Cross on 14 April 2022 delivering to the Mechanism the information on the alleged illegal expulsion of a migrant family from the Republic of Croatia to Bosnia and Herzegovina in the area of Glinica, i.e. Đurđin jarak).

In addition to the stated sources of information on the basis of which the Mechanism acts, the representative of the Mol informs the Head of the Coordination Board in real time about the encountered irregular migrants, their transport to the competent BPS and the conducted procedure. The Head forwards this information without delay to the members of the Coordination Board and a decision on possible observations is made on the basis of carried out consultations. Three observations (BPS Cetingrad, BPS Slavonski Brod / Reception Centre for Applicants for International Protection in Zagreb "Porin" and BPS Gvozd) were carried out urgently in order to achieve the best possible results of observation and verification of allegations collected from primary and secondary sources.

While conducting observations, direct activity providers determined whether fundamental human rights guaranteed by the Convention for the Protection of Human Rights and Fundamental Freedoms¹² and the Convention and Protocol Relating to the Status of Refugees, which has a central role for the international protection of refugees and is based on Article 14 of the Universal Declaration of Human Rights¹³, have been respected in relation to irregular migrants and applicants for international protection. When observing the actions of police officers, they determined whether they acted in accordance with the Police Duties and Powers Act, the Act on International and Temporary Protection and the Aliens Act. Recognizing the purpose of Article 4 of the Convention for the Protection of Human Rights and Fundamental Freedoms of Protocol No. 4 (which is to prevent states from expelling aliens before individually examining their personal circumstances and whether the aliens had the opportunity to apply for asylum, and to allow them to present their arguments against expulsion), competent police officers were asked how they interact with irregular migrants when encountering them in the territory of the Republic of Croatia. Thus, during the observations, it was determined whether migrants are allowed to apply for international protection, whether they have the right to an interpreter, the possibility of using forms in their language in order to inform migrants of their rights and obligations, the right to free legal aid and the right to medical assistance (especially concerning vulnerable groups of persons). Observations also included an inspection of the premises where migrants are detained, inspections of vehicles in which they are transported, as well as visits to the green border, while files, applications for international protection and lists of persons which provide free legal aid were inspected in police stations.

Upon arrival to the location of an observation, direct activity providers equipped with official accreditations and noticeable vests introduced and identified themselves using the application form of individual border police stations of the Mol.



Picture 1 Vests of direct activity providers of the Mechanism

Direct activity providers then conducted an interview with the authorised persons of the BPS, gained insight into the files of individual cases, checked the accommodation capacities and performed an on-site visit of the border area. In the event that there were persons in the BPS who had been encountered while attempting to enter the Republic of Croatia illegally, direct activity providers interviewed them with the help of an interpreter. Police officers were questioned in detail about procedure rules in situations when they encounter irregular migrants, whereby special attention was given to vulnerable groups.



Picture 2: Direct activity providers in an unannounced observation at BPS Imotski

Direct activity providers interview migrants and asylum applicants only with their consent, taking into account the protection and confidentiality of personal data, especially when it comes to vulnerable groups and/or sensitive topics of conversation and/or traumatic events.



Picture 3: In line with the Agreement, direct activity providers conducted observations at the green border announcing it to the Ministry of the Interior



Picture 4 Direct activity providers in announced border control found police treating 9 Afghan citizens, three of whom were underage children and a pregnant woman

The observations conducted within the framework of the Mechanism were announced and unannounced. Concerning unannounced observations at border crossing points / police stations / police administrations of the Republic of Croatia with Bosnia and Herzegovina, Montenegro and the Republic of Serbia, as well as in reception centres for aliens, the Mechanism applied two models of action. According to the first model, the observation was carried out on the basis of the decision of the Coordination Board without informing the representatives of the Mol that the observation would be carried out as well as where and when it would be carried out. Based on the decision of the Coordination Board, the selected direct activity providers conducted an on-site visit after preparatory consultations. They arrived at the selected border police station in their own personal vehicles without prior notice, where they would begin the observation procedure, which included all of the above-mentioned actions. According to the second model, the Head of the Coordination Board informed the representative of the Mol that the Mechanism would conduct an observation, but did not specify when and where. In this sense, the observations conducted in this way were *de facto* also unannounced because the Mol did not know when and where the observations would be conducted. The majority of the total number of observations (20 observations) that the Mechanism conducted were unannounced.

Table 2: Number of Mechanism observations

Total number of observations defined by the Agreement	Announced observations	Unannounced observations
20	3	17

While conducting 20 observations, out of which 3 were announced and 17 unannounced, direct activity providers visited the green border on five occasions as part of observations of border police stations accompanied by police officers in the areas of BPS Donji Lapac, PS Dvor, BPS Stara Gradiška, BPS Trilj and BPS Korenica.

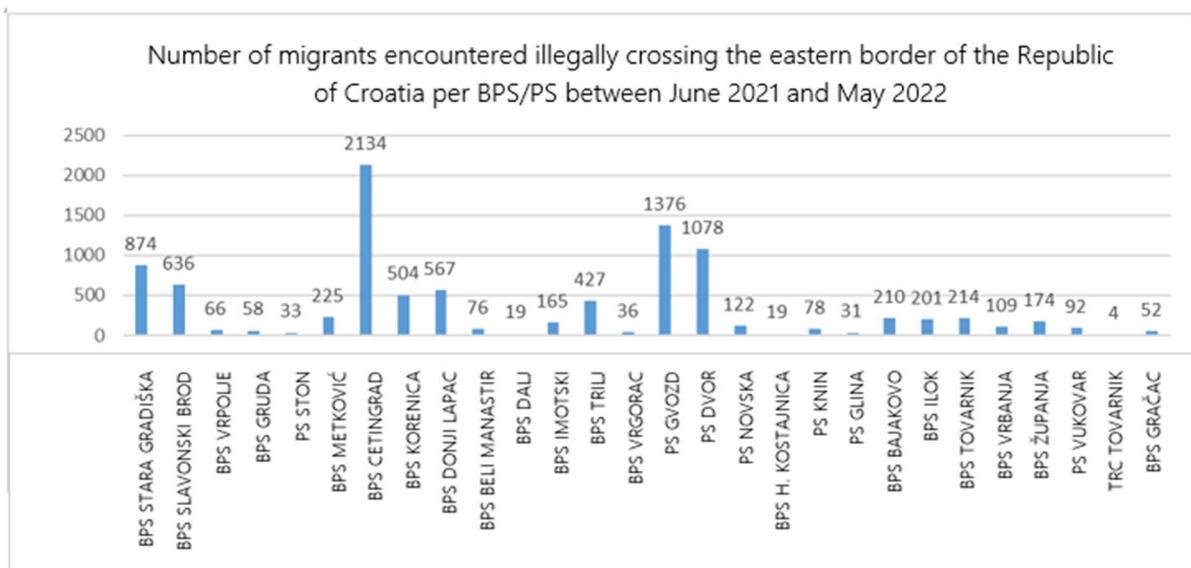
When sampling cases/locations of observations, the Mechanism was guided by the key selection criteria of the size/number and the degree of vulnerability of persons/groups of migrants, estimated urgency of the observation, assessment of the scale/severity of potential illegalities and geographically unified distribution of conducted observations in correlation with incidence and prevalence of irregular migrations in individual locations.

In addition to aggregate statistical data and reports of the Mol, the Mechanism also based the sampling of cases/locations of observations on daily notifications of the Mol on persons encountered as irregular migrants (location, number of people in the group, presence of vulnerable persons in the group, origin of group members, etc.) also making sure that observations in BPSs and PSs cover the entire eastern border of the Republic of Croatia.



Picture 5: Observation locations in the Republic of Croatia

After the observation, direct activity providers compiled a report on the individual observation as soon as possible, which was discussed at the earliest forthcoming meeting of the Coordination Board, which adopted the report. Individual reports of direct activity providers are not available to the public; however, the Coordination Board publishes the Semiannual and Annual reports. Exceptionally, when there is special interest of the public, the Mechanism issues a press release immediately after the implemented observation, as was the case with the announcement of 8 October 2021 concerning the report broadcast on RTL Television in the programme "Potraga" on 6 October 2021. This announcement informed the public about the urgent implementation of an unannounced observation in connection with the incidents documented in the above-mentioned broadcast. In addition to this information, the Mechanism expressed in a statement its "*regret that the recording was not published much earlier and submitted to the relevant state bodies, primarily the State Attorney's Office of the Republic of Croatia, as it would have certainly contributed to a much earlier clarification of the event and the collection of evidence, protection of migrants and the initiation of appropriate proceedings against those who are responsible, as well as the prevention of possible comparable incidents, which are warned against in the broadcast.*"



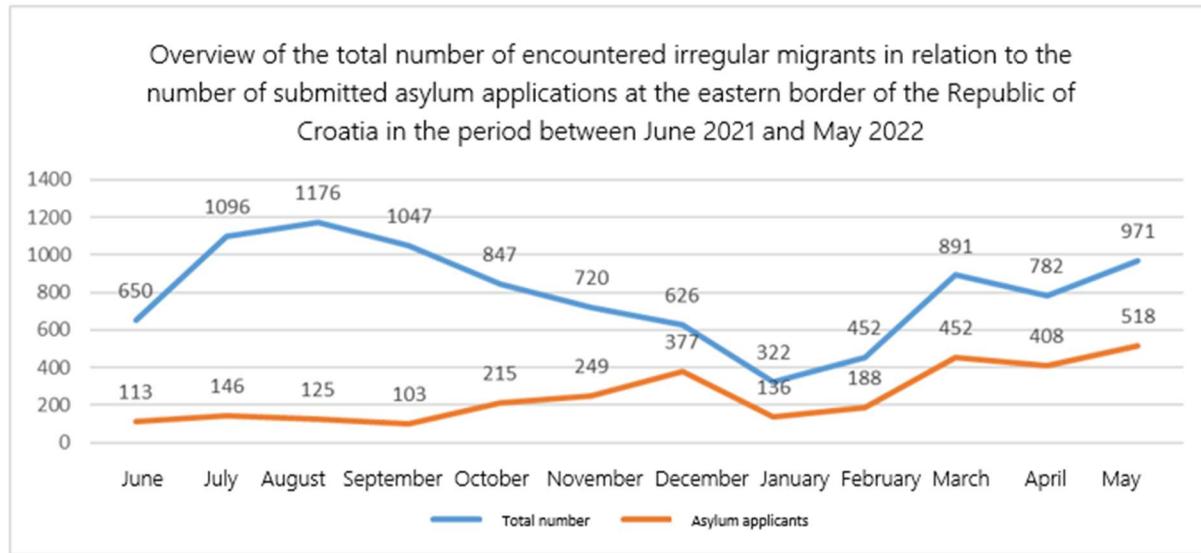
Graph 2: Number of migrants encountered illegally crossing the eastern border of the Republic of Croatia per BPS/PS between June 2021 and June 2022

Observations are very important but not the only monitoring power and activity of the Mechanism. The findings of field observations primarily serve to verify and determine the possible gap between the normatively envisaged and institutionally conceived rules of conduct of police officers with everyday practice in the field. Accordingly, the observations complement the overall methodology of the Mechanism and are a valuable source of knowledge, but it would be wrong to conclude that they are the only source of knowledge in the work of the Mechanism. The finding of the Mechanism on the wrong interpretation of the MoI concerning the moment and location of encountering irregular migrants in the territory of the Republic of Croatia can serve as an illustrative example, which according to circumstances, guarantees or not the right to apply for asylum, i.e. international protection (see more below). This is one of the key findings of the Mechanism, which is not the result of observation, but of an impartial and expert dialogue with the MoI. Finally, the above-mentioned finding of the Mechanism also clarifies the causes, and thus indicates solutions to the issue of irregular actions arising from such a wrong interpretation.

2.2. ANALYSIS OF SECONDARY DATA SOURCES

The work methodology of the Mechanism, in addition to primary data sources (observations), also includes the analysis of secondary data sources. The findings of the Mechanism are based on knowledge gained through the analysis of files and complaints¹⁴, statistical data, relevant normative framework, rules and practices of the conduct of police officers and other persons involved in receiving and/or providing assistance to irregular migrants, media reports, reports of relevant stakeholders, etc.¹⁵ It is important to emphasize that the Mechanism does not act on the basis of complaints because it does not have the properties of the so-called *complaint-based mechanism*. In this way, possible conflicts of competence with other responsible bodies that are established and which act, *inter alia*, on the basis of received complaints (e.g. Office of the Ombudswoman) are avoided. However, the Mechanism can also forward the received complaints to the competent state bodies.

The analysis of secondary data sources also includes the use of monthly statistical reports submitted on a monthly basis by a representative of the MoI to the Mechanism. These reports contain information on all irregular migrants and applicants for international protection per police administration, i.e. border police stations, country of origin, sex, etc. In addition, the MoI provides real-time notifications to the Mechanism about ongoing actions taken towards irregular migrants. According to the MoI data submitted to the Mechanism, in the period from 1 June 2021 to 31 May 2022, the police recorded a total of 9,580 persons encountered while illegally crossing the state border at the eastern border of the Republic of Croatia (object of observations of the Mechanism defined by the Agreement).

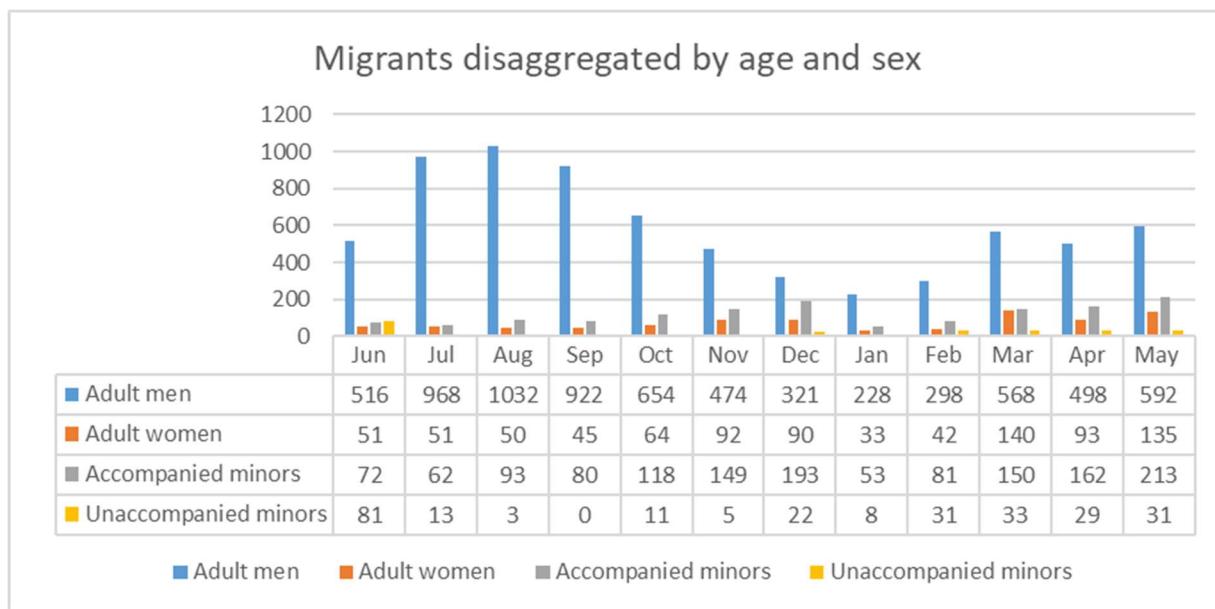


Graph 3: Recorded number of irregular migrants and submitted asylum applications per month

Table 3: Share of asylum applicants in the total number of irregular migrations

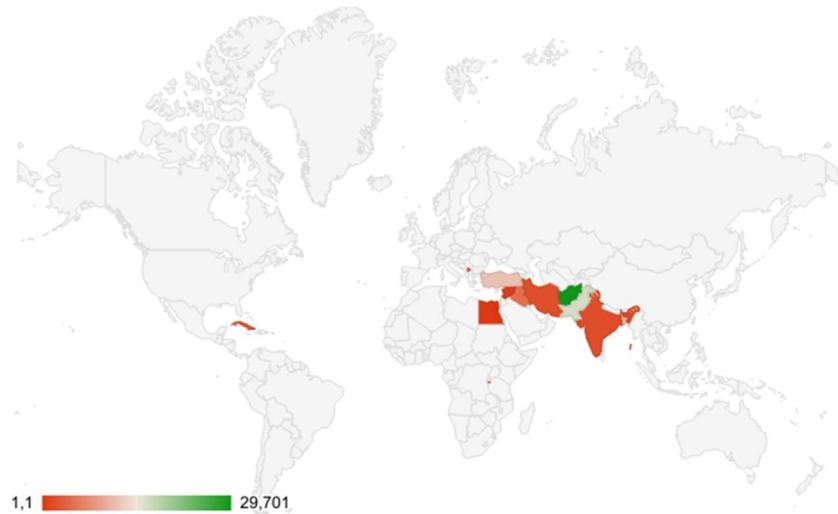
	June	July	August	September	October	November	December	January	February	March	April	May	total
Total number	650	1096	1176	1047	847	720	626	322	452	891	782	971	9580
Asylum applicants	113	146	125	103	215	249	377	136	188	452	408	518	3030
Share percentage	17,38	13,32	10,62	9,83	25,38	34,58	60,22	42,23	41,59	50,72	53,17	53,34	31,62

Table 3 indicates the recorded number of irregular migrants per month in the period from June 2021 to May 2022 and the number of submitted asylum applications per month in the same period. Until November 2021, a low rate of submitted asylum applications is noticeable in relation to the number of migrants and it goes from 10 % in August to a little over 17 % in June. From October 2021, an increasing trend of submitting asylum applications was recorded and the peak percentage was reached in December 2021. After December, the number of applications never dropped below 40 % out of the total number of recorded irregular migrants. The highest number of asylum applications was recorded in May 2022 – 518 applications, i.e. 53 %. In the observed period and area covered by this analysis, 3,030 asylum applications were recorded, which represents 31.62 % of the total number of recorded irregular migrants in the observed period and area.



Graph 4: Migrants disaggregated by age and sex

Graph 4 indicates that mostly adult men were encountered in illegal border crossing.



Picture 6: Countries from which the largest number of irregular migrants come to the Republic of Croatia

Picture 6 shows the countries from which the largest number of irregular migrants come to the Republic of Croatia (Afghanistan, Pakistan, Turkey, Bangladesh).

Afghanistan	29,70
Bangladesh	11,88
Egypt	1,10
India	2,80
Iraq	5,52
Iran	2,89
Pakistan	17,10
Syria	15,80
Turkey	12,44
Kosovo	4,40
Cuba	3,14
Burundi	1,05
Other	6,40
Total	100,00

Table 4 indicates the proportion of irregular migrants disaggregated by their country of origin. Along with the countries stated in the table, irregular migrants in the past year arrived from the countries such as: Albania, Ethiopia, Sudan, Palestine, Russia, Guinea, Cameroon, Cuba, Libya, Nepal, Algeria, Serbia, Georgia, Morocco, Myanmar, Somalia, Mali, Tunisia, Sri Lanka, Congo, Guinea Bissau, Western Sahara, Bosnia and Herzegovina, North Macedonia, Spain, Italy, Lebanon, Kirgizstan, Burkina Faso, Eritrea, Israel, Gambia, Uganda, Sierra Leone, Jordan, Bolivia and others. The total proportion of irregular migrants from the stated countries is 6.4 %.

**Table 4: Irregular migrants
disaggregated by countries**

3. OTHER ACTIVITIES

A constitutive meeting of the Coordination Board was held soon after the Agreement was signed on 8 June 2021, in which the Head of the Board was elected (prof. dr. sc. Davor Derenčinović). The Coordination Board held seven official meetings and a series of ad hoc unofficial meetings by using videoconference tools.

On 16 September 2021, on the premises of the General Police Directorate, the Head of the Board met with the members of the Committee of the US Department of Homeland Security in relation to the decision on the abolition of visas for Croatian nationals. On that occasion, he presented the functioning of the Mechanism and answered a series of questions regarding the independence of the Mechanism, its methodology, relation and cooperation with the MoI etc.

At the invitation of the Advisory Board which held its constitutive meeting on 17 September 2021, the Head of the Coordination Board briefly presented the activities of the Mechanism and announced the adoption of the First Semiannual Report at the end of November, i.e. at the beginning of December 2021. Operationalisation of the Mechanism, importance of its independence in theory and in practice as well as the expertise of its members were assessed positively in the meeting in which participated the representatives of the Directorate-General for Migration and Home Affairs (DG HOME), Office of the United Nations High Commissioner for Refugees (UNHCR), Office of the Ombudswoman, Office of the Ombudswoman for Children, European Union Agency for Fundamental Rights (FRA), European Border and Coast Guard Agency (FRONTEX) and European Union Agency for Asylum (EASO). The importance of the corresponding funding of the Mechanism's activities was also emphasised as well as the avoidance of duplication, i.e. overlapping of competence with the existing institutions for human rights protection (e.g. Office of the Ombudswoman).

On 1 October 2021, the Head of the Coordination Board participated in the webinar "*Migration and asylum: Council of Europe standards and channels for practical cooperation*" which was jointly organised by the Council of Europe and the Ministry of the Interior of the Republic of Croatia.

On 29 October 2021, the members of the Mechanism, prof. dr. sc. Davor Derenčinović, prof. dr. sc. Iris Goldner Lang, mr. sc. Nermin Botonjić and Robert Markt, univ. spec. oec. participated in the work of the Schengen Scrutiny Working Group of the European Parliament's Civil Liberties, Justice and Home Affairs (LIBE) Committee in Brussels in which they presented the establishment and functioning of the Mechanism and participated in the discussion with the members of the European Parliament, the representative of the European Commission (DG HOME), the Ombudswoman and the invited members of Croatian and international non-governmental organisations (Centre for Peace Studies, Danish Refugee Council, Border Violence Monitoring Network).

On 21 December 2021, the First Semiannual Report of the Mechanism was presented to and discussed with the Advisory Board. Following the Report, on 15 June 2022, the Advisory Board provided the Mechanism with a written review of the content of the Report with a number of constructive comments and valuable recommendations. Most of the recommendations were implemented by the Mechanism during the second half of its mandate, some issues were discussed, while certain proposals could not be considered given the written review of the Advisory Board was sent only after the expiration of the Mechanism's mandate and after the final

draft of the final report had already been prepared. However, given the importance of the role and expertise of the Advisory Board and the content of its recommendations, the Mechanism included in its recommendations an analysis and implementation of the Advisory Board's recommendations in the forthcoming term with a proposal for more frequent communication between the Advisory Board and Coordination Board.

The Mechanism replied in writing to the enquiries from the request of the Ombudswoman, mr.sc. Tena Šimonović Einwalter of 27 December 2021 and the Ombudswoman for Children, Helenca Pirnat Dragičević of 3 February 2022 and submitted the First Semiannual Report.

As part of the so-called "fact finding mission", the member of the European Parliament, Ms Cornelia Ernst requested a meeting with the members of the Mechanism and it was held on 18 January 2022 in Zagreb.

On 15 February 2022, a work meeting with the FRONTEX representative (Ada Paprocka, monitor for border crossing points of South East Europe) was held in Zagreb. In the meeting, the members of the Mechanism introduced their activities and objectives and presented the preliminary findings stated in the First Semiannual Report to FRONTEX. FRONTEX presented the details of its mandate, role and activities that it carries out to the members of the Mechanism and expressed its readiness to offer support to the Mechanism in the form of sharing experience and good practice examples.

On 7 April 2022, a work meeting was held in Zagreb between the members of the Mechanism and the representatives of the International Committee of the Red Cross (ICRC, Jessica Chillemi, in charge of monitoring migration in South East Europe, Alain Scolan, regional armed and security forces delegate, Aurelie Gautier, regional protection coordinator, Neda Dojčinović, regional legal advisor and Slobodan Ćitaković, assistant regional armed and security forces delegate). The purpose was to enhance the Mechanism by using the best international practice. The following topics were covered in the said work meeting:

1. "Challenges of border control in a situation of mixed migratory movements to Member States of the European Union"
2. "Cooperation with third countries and access to international protection"
3. "Protection of children in the context of migration"

ICRC representatives emphasised that it is impressive how the members of the Mechanism, persons of different professions and experience, organised and started to conduct the activities in a very short amount of time, and they praised the content of the First Semiannual Report.

On 5 May 2022, a workshop of the Ministry of the Interior and the members of the Mechanism was held regarding the following topic: "Discussion on the results of the monitoring mechanism and border control activities" under EMAS – emergency assistance – project "Reinforcement of border control activities at the external border section of Croatia due to increased migratory pressure". Head of the Border Police Directorate, Mr Zoran Ničeno, contact officer for communication of the MoI with the Mechanism, Mr Zvonimir Vrbljanin, and heads of BPSs that were objects of the observations of the Mechanism were present on behalf of the Ministry of the Interior. The recommendations from the First Semiannual Report, the need to update the Action Plan and proposals for enhancing the work of the Mechanism were discussed.

On 4 May 2022, Deputy Prime Minister and Minister of the Interior dr.sc. Davor Božinović sent Robert Markt, Head of the Coordination Board, recommendations drafted by the

organisation Centre for Peace Studies (CPS), with the request for the Mechanism to consider the given recommendations and provide feedback and comments. The recommendations mostly refer to the regulation and enhancement of the status of asylum seekers and persons who have been granted international and temporary protection, which was mostly solved for displaced persons from Ukraine. The Mechanism submitted feedback and comments to the given recommendations to the Ministry of the Interior.

4. FINDINGS OF THE MECHANISM

Findings of the Mechanism are divided into several categories:

- a) effectiveness of the legal framework,
- b) rules of procedure of the Mol, challenges in procedural practices of police officers, established irregularities and good practice
- c) difficulties faced by irregular migrants
- d) medical care and documentation.

When assessing and interpreting preliminary findings, it should be taken into account that they are the result of the fact that the Republic of Croatia has an extremely long land border with countries to which monitoring activities of the Mechanism refer and that there are no artificial physical obstacles for entering the state territory (a wall, wire etc.).

The specificity is also the configuration of the border terrain as well as a lot of mine-suspected areas. The findings of the Mechanism are the result of the set number of direct activity providers and observations as well as the fact that the powers of the Mechanism do not include the right to unannounced visits to the green border and access to the Information System of the Mol. This indicates the importance of revising the existing human and professional resources within the system. Related to this, the Mechanism gives certain recommendations listed below under 5 which are aimed at improving the protection and security of the state border while ensuring the maximum respect of the rights of irregular migrants and applicants for international protection.

4.1. EFFECTIVENESS OF THE LEGAL FRAMEWORK

- **Identification and identity of irregular migrants**

The identity of irregular migrants is determined based on their statement. Persons who applied for international protection are issued a card for applicants for international protection in line with the Act on International and Temporary Protection. The Republic of Croatia does not issue a "refugee card" and the like to irregular migrants. Thus, for the duration of stay and movement of asylum seekers in the territory of the Republic of Croatia, their identification is based on their statement. Therefore, one of the key challenges regarding the effectiveness of the legal framework is identification and issue of irregular migrants' and asylum seekers identities, as the persons encountered in most cases do not have any personal documents which allow for their identification. Persons often give false information about themselves thus creating fake identities which is demonstrated by the detected inconsistencies in the statements which are the basis for determining identities and other relevant facts. This certainly raises the question of the credibility of identity statements.

- **EURODAC**

Insufficient cooperation between border police stations was noticed both in the Republic of Croatia and especially with the neighbouring countries as regards the exchange of information (e.g. in the form of fingerprint databases and other data relevant for identification) regarding persons who do not express the intention to initiate the procedure of applying for international protection in the Republic of Croatia who are served the decision with the instruction to leave the territory of the Republic of Croatia on their own. The problem is that only the data of persons applying for international protection are entered into EURODAC, but not of other

migrants encountered having irregular status.

- **Execution of decisions on return, difficulties in identifying migrants and prevention of repeated illegal migration (recidivism)**

If a migrant does not apply for international protection, a decision on return is issued in line with Article 184 of the Aliens Act determining the time limit for voluntary departure.

The issue arises when a migrant does not comply with the decision on return but stays in the territory of the Republic of Croatia. In such situations, forcible removals are conducted (Article 203 of the Aliens Act) with police escort. However, if a migrant lost or destroyed the decision on return, then it is extremely difficult to remove them from the Republic of Croatia due to the impossibility to establish their identity. Furthermore, difficulties in identifying and separating repeated illegal migration (recidivism) from primary illegal migration have been established.

- **Short stay and outflow of applicants for asylum/international protection**

According to the collected primary data, the majority of migrants "continue their journey" towards the countries of Western Europe, while approximately 80% of persons who applied for international protection and are therefore accommodated in the Reception Centre for Applicants for International Protection in Zagreb abandon the Reception Centre and their proceedings are suspended. On the other hand, the secondary sources of data (see 2.2.) indicate that the departure of migrants is somewhat lower, so it is difficult to realistically estimate the number of departures. It is a fact that the departures from the reception centres present a problem and in most cases, the stated persons continue their illegal journey towards the countries of Western Europe. In principle, these persons apply for international protection in other EU Member States under other identities. In those cases, the administrative procedure for granting international protection in the Republic of Croatia is suspended.

According to the data collected during observations, at the time of reception, more than 90% of migrants (according to their statements given to the Mol) had not had any documents nor material resources to continue their journey. Likewise, according to the collected information, applicants for international protection and persons granted international protection in the Republic of Croatia reside legally and their return to third countries is not legally possible. It is known that the Republic of Croatia is a transit country and for the purpose of continuing their transfer towards the countries of their destination avoid applying for international protection in the Republic of Croatia, i.e. they abuse the system of international protection thus generating secondary migration within the EU. Based on the statements of police officers obtained during observations, the Republic of Croatia has never returned an applicant for international protection or a person granted international protection to third countries and it was established that for the duration of the Agreement, EU Member States conducted Dublin transfers to the Republic of Croatia.

- **Record-keeping and managing cases**

Record-keeping and managing cases are undisputed in terms of legislation and compliance with European standards; however, there are deficiencies in terms of implementation. The results of the monitoring indicate that there are multiple files in the same case which is why case files should be consolidated for more effective monitoring. During the monitoring, it was established that the Aliens Sector and the border police keep separate files relating to the same person which is problematic for a number of reasons and can ultimately endanger the rights of the person in question as well as the fairness and accuracy of the procedure. Therefore, case files of the Aliens Sector and the border police should be consolidated. Individual case files should be consolidated for every person, i.e. records from all services in

which irregular migrant(s) were the subject of proceedings.

4.2. RULES OF PROCEDURE OF THE MINISTRY OF THE INTERIOR, CHALLENGES IN PROCEDURAL PRACTICES OF POLICE OFFICERS, ESTABLISHED IRREGULARITIES AND GOOD PRACTICE EXAMPLES

- **Combating the abuse of international protection system and crime related to migration and trafficking in human beings**

Considering great differences between visa regimes of the Republic of Croatia and countries bordering it to the east and southeast, visa-free entry of citizens from numerous migratory countries is enabled to these countries. A part of persons who legally entered the area of the countries neighbouring the Republic of Croatia continue their journey towards west without any identification documents, i.e. as irregular migrants, by using the human smuggling network.

Furthermore, among the challenges that police officers are faced with in practice are frequent cases of attempts at abusing the existing systems of international protection. The attempts of abusing the systems of international protection by using documents such as "a return decision" ordering an irregular migrant to leave the Republic of Croatia within 7 days without further control of whether that person really left the Republic of Croatia and at which border crossing point, are very often connected to the "instructions" offered by human smugglers to irregular migrants in the exchange for the payment of a fee. On the other hand, irregular migrants are often aware of their illegal actions and if they have the financial means, they seek and easily accept this type of "instruction", i.e. the services of human smugglers.

Human smugglers in the Republic of Croatia are often foreign nationals. They do not operate on their own, but are a part of organised structures operating in the area of the entire EU.

- **Insufficient capacities and workload of police officers**

- Police officers have been handling migration crisis for years and they are under great pressure considering the fact that they need to protect the border while being the first to endure the pressure of troubles faced by irregular migrants. The ad hoc lack of personnel in the border police system was detected which is why riot police units were deployed as relief forces. Based on the finding of the Mechanism, during 2021 and 2022, 6,876 members of the riot police were deployed for border surveillance. Their deployment was "mobile" and they rotated around BPSs every ten days. In stated cases, the riot police members were deployed for the purpose of occasional strengthening of border police capacities.

On the one hand, the overburdening of the existing border police personnel would be reduced by adequate staffing as well as increased technical equipping of the border police system which would most likely prevent possible irregularities of actions taken by 'external' units deployed as relief forces.

- The Mechanism established that the MoI does not keep separate records of negative experience of police officers in working with migrants. When interviewing the members of the border police, the Mechanism established that, though rarely, the members of the border police are attacked by migrants, but more often by "smugglers" (attacks by "clubs",

attacks on police vehicles etc.). Perpetrators are mostly unknown and beyond the jurisdiction of the Republic of Croatia as they mostly act from the territory of Bosnia and Herzegovina, which significantly complicates the evidentiary procedure.

- Police officers face different cultural relations in the migrant population. For example, a different culture of raising and treating children or a different approach to child healthcare within the migrant population shows an obvious discrepancy with domestic culture/approach and creates great challenges in the everyday practice of police officers requiring their additional work engagement (making sure that children left unattended do not hurt themselves etc.).

- **Training of the border and riot police**

- The Mechanism paid special attention to the topic of training police officers in the last observation which was announced and carried out at the Border Police Directorate. For the duration of the Mechanism (from June 2021 to June 2022), 411 border police members and 518 riot police members underwent the training "Protection of human rights in the treatment of migrants". After the training is completed, a written exam is conducted for both categories of students.
- The trainings of "multipliers / trainers" cover 30 hours of classes organised with the participation of maximum 20 candidates per group. The situation is the same for members of the border police, but their training lasts for two working days.
- Among others, the trainings were held by FRA, UNHCR, International Organisation for Migration (IOM), ICRC, Croatian Law Centre (CLC) and CRC.
- The recommendation of the Mechanism, given the current development of the curriculum, is to increase the number of class hours of otherwise well-designed thematic units (e.g. human rights of migrants and refugees, access to the asylum system, protection of vulnerable groups of migrants and asylum seekers, accountability of police officers, treatment of applicants for international protection, including the so-called phase of detection when "encountered in illegal crossing of the state border", so-called screening including reception and registration of migrants or refugees, until the return phase of those who do not want to apply for asylum or international protection in the Republic of Croatia) and introduce more interactive content and workshops when discussing current events (e.g. pushbacks and deterrence, profiling of vulnerable people, triage of acute, chronic diseases and injuries, etc.).

- **Irregularities established in the actions of police officers**

- Based on Article 5 of the Agreement establishing the Mechanism, the powers and tasks of the Mechanism were the following:
 - Observing the 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. In line with Article 4 of the Agreement, the said observations were conducted at the border (border crossing points / police stations / police administrations) of the Republic of Croatia.
 - Announced visits to the green border.

- 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 and into the reports of the General Police Directorate regarding the alleged illegal treatment of irregular migrants and applicants for international protection.
- Based on observations, irregularities regarding the right to seek asylum and access to the asylum procedure were not established in border police stations. Based on documentation inspection and interviews of police officers, the Mechanism established that in case of arrivals to official border crossing points, rules on the right to asylum, in line with Article 14 of the Schengen Borders Code,¹⁶ are applied to persons who are not eligible for entering the Republic of Croatia. Furthermore, in police stations, the violation of the principle of non-refoulement, guaranteed by Article 78 of the Treaty on the Functioning of the European Union (TFEU)¹⁷ and Article 19(2) of the Charter of Fundamental Rights of the European Union¹⁸ and in line with Article 4 of the Schengen Borders Code ordering the actions on Member States borders in line with the Charter, the Geneva Convention and the principle of non-refoulement, was not established. Observations in border police stations established that, in line with Article 6 of the Directive 2013/32 on common procedures for granting and withdrawing international protection, and with the EURODAC Regulation, applications for international protection are received and registered, i.e. applicants are notified of where and how they can apply¹⁹. During interviews conducted in PSs / BPSs, police officers said that the same possibility of applying for asylum is applied to irregular migrants encountered elsewhere in the territory of the Republic of Croatia.
- Since the powers of the Mechanism did not include unannounced visits to the green border nor gaining insight into the Information System of the Mol (Article 7 of the Agreement), the Mechanism could not observe the actions at the green border of the Republic of Croatia, except during announced visits to the green border conducted in the presence of authorized officers of the Mol and in line with their instructions (Article 6 of the Agreement). Based on the insight into documentation and interviews in border police stations and announced observations of the green border - apart from the cases stated below regarding mine fields and the event shown on RTL - cases of forcible return of irregular migrants were not established which would lead to the violation of Article 4 of Protocol No 4 of the Convention prohibiting collective expulsions implying the absence of "a reasonable and objective examination of the particular case of each individual alien of the group" (paragraph 195 of the judgment in Case *N.D. and N.T. v. Spain*)²⁰. In this regard, the Mechanism warns of the importance of respecting the principle of non-refoulement and the existence of a real possibility for a person to arrive to an official border crossing point and apply for international protection there, especially in the light of the judgment of the European Court of Human Rights in Case *M.H. and others v. Croatia* (paragraph 303)²¹. In that context, the Mechanism emphasizes that its powers of observation were related exclusively to border crossing points / border police stations in the territory of the Republic of Croatia, without the ability to observe the conduct of police officers and events in the neighbouring countries.
- According to the information obtained by the Mol, the measures applied by police officers in the Republic of Croatia do not deter persons from arriving at official border crossing points, but from approaching the green border, and persons deterred are not located in the territory of the Republic of Croatia. Here, the Mol emphasises that vulnerable persons

are profiled and offered assistance and protection, if necessary. The Mechanism emphasises that the measures implemented by police officers must not violate the principle of non-refoulement²². Furthermore, it accentuates that it is important for a person to have a genuine and effective access to means of legal entry, especially border procedures in line with the judgment in Case *N.D. and N.T. v. Spain* (paragraph 201).

- Based on the information obtained by the Mol, the Mechanism established that police officers in mine-suspected areas, in isolated cases conduct illicit deterrence. By monitoring, the Mechanism established that the police conducts permissible deterrence in line with Article 13 of the Schengen Borders Code, although they are not registered, as well as illicit deterrence in mine-suspected areas in isolated cases. Such conduct is at issue for multiple reasons and particularly for the following three: (1) Firstly, illicit deterrence occurring upon entering the state territory of the Republic of Croatia prevents individuals from lodging applications for asylum in these cases and can jeopardize their right to apply for international protection if they are unable to lodge the application for asylum somewhere else. The purpose of permissible deterrence under Article 13 of the Schengen Borders Code (prevention and discouragement) should be to refer refugees to legal procedure for entering the receiving state which, according to international law, facilitates their position later in the procedure of granting asylum and provides them with a larger scope of rights as the so-called "legally present refugees" (the so-called "*de iure* refugees"). This must in no way lead to the violation of rights to apply for asylum by enabling real and effective access to means of legal entry, particularly to border procedures and the violation of the non-refoulement principle which must in no way be violated on the basis of the standards of European and international law as well as the judgements of the Court of Justice of the European Union and the European Court of Human Rights. Respecting this principle obliges the state not only in situations which occur in the state territory, but also in extraterritorial situations falling under the jurisdiction and effective control of that state. (2) Secondly, the implementation of deterrence disables the registration of irregular migrants who cannot express their intention for asylum/international protection which makes it impossible to determine where they had entered the European Union and whether they previously lodged an application for asylum in order to enable the application of the Dublin Regulation and EURODAC Regulation. (3) Thirdly, considering that, in the case of any dispute, the burden of proof regarding the permissibility of deterrence is on the state, an omission in registering permissible deterrence makes it difficult and even impossible to determine whether the deterrence in that concrete situation was permissible or not.
- The mechanism established that the Mol misinterprets relevant regulations in situations when irregular migrants know that police officers do not conduct physical control of mine-suspected areas, take full advantage of that circumstance by crossing the state border in these dangerous/(potentially) mined locations and upon crossing and being encountered by police officers claim that they entered the Croatian territory and apply for asylum. However, the interpretation of the border police is that these persons did not in fact enter the Croatian territory as the stated areas are not "under the actual control of the Republic of Croatia", but that they are deterred from crossing/entering in a way that they are returned in harmless locations without determining whether they are indeed refugees protected from refoulement from the moment they come under the jurisdiction of the Republic of Croatia, let alone on its territory, which is definitely the case here.
- By conducting unannounced monitoring and analysing other primary and secondary data

sources relating to the video recording broadcast on RTL television on 6 October 2021, the Mechanism established that the members of the riot police acted illicitly by returning irregular migrants from the Republic of Croatia to Bosnia and Herzegovina outside the scope of permitted national and international law, which was also confirmed by the Mol. On the basis of this case, disciplinary proceedings as well as criminal proceedings have been initiated against police officers before the competent state's attorney office.

- The Internal Control Department of the Mol monitors the actions of the border and riot police regarding possible violations of rights of refugees and migrants irregularly entering the Republic of Croatia. The Mechanism emphasises that all violations in the actions of the border and riot police need to be sanctioned in line with the rules of disciplinary and criminal procedure in the Republic of Croatia. For the duration of the Mechanism (from June 2021 to June 2022), based on claims from various sources (requests of the Ombudswoman, Ombudswoman for Children, Office for the Prevention of Corruption and Organized Crime (USKOK), State Attorney's Office, media, individual complaints, non-governmental organisations etc.), thirty-five cases were initiated in the Internal Control Department of the Mol, fifteen of which were finalised and in seven of them sanctions were imposed. Three out of the said seven sanctions refer to police officers from the RTL report. They were sanctioned due to improper conduct and abuse of power.

- **Vehicle fleet and equipment of police officers**

- Reports of providers of the Independent Mechanism in the period from 1 January 2022 to 8 June 2022 included the issues of technical work conditions of the border police, capacities and quality of transporting persons encountered in attempts to illegally cross the state border / persons applying for asylum.
- The Mechanism welcomes the decision of the Mol that the transport of minors is carried out in unmarked vehicles of the Ministry of the Interior (Mol), while other persons encountered illegally crossing the border are transported in marked vehicles of the Mol. Furthermore, during the observations, the Mechanism established that there is a need for additional vehicles to meet the needs of transport of irregular migrants and persons who expressed the intention to apply for asylum in order to gain the freedom of movement across the state, as they are referred to reception centres using public intercity transport. When interviewing police officers, the Mechanism established that there are numerous cases in which migrants who expressed the intention to apply for asylum and took public transport towards a reception centre, never made it there. It is assumed that they continued their journey towards the countries of Western Europe on their own or with the help of smugglers which represents an abuse of the asylum system. These situations emphasise the need to further invest into means of transportation.
- The Mechanism conducted an observation at the National Coordination Centre in Zagreb (Department of the National Coordination Centre and Risk Analysis, Border Police Directorate) and considers that using additional devices for monitoring the work of police officers strengthens the transparency of the border police work. In line with the results of observations, the Mechanism established that the system currently has 28 stationary cameras with the maximum radius of 28-30 km and 24 mobile cameras with the radius of approximately 5 km. In addition, 2,150 "motion detecting" cameras are available in line with the risk analysis. The need to further invest into technological enhancement of the system is noticeable.

- **Examples of good practice**
 - During the monitoring, it was established that police officers mostly treat migrants in accordance with regulations by respecting the highest standards (e.g. taking into account the diet of migrants with regard to religious regulations, assisting vulnerable groups of migrants, pregnant women, unaccompanied minors etc.).
 - As examples of good practice, the cooperation of the border police and the following healthcare institutions should be particularly cited: emergency medical services, hospitals, regular COVID-19 testing and reviews of medical records when necessary, as well as the cooperation with nursing homes (e.g. in the case of accommodating a migrant in "Srećko Badurina" Nursing Home in Ogulin at the initiative of employees of BPS Cetingrad).
 - Police officers act in order to protect the national security and public order as well as fundamental rights of migrants guaranteed by European and international law. When treating migrants, police officers must respect fundamental principles from which we single out the principles of non-discrimination, prohibition of punishment and non-refoulement. It is important to emphasise Article 32 of the Convention and the Protocol relating to the Status of Refugees according to which the Contracting State will not forcibly remove a refugee lawfully staying in its territory, unless national security or public order is compromised. Such refugees can be forcibly removed only after a decision that is in accordance with the law is issued. In order to properly treat migrants and protect their guaranteed rights, upon conducting observations at police stations, the Mechanism was informed that police officers are familiarised with fundamental human rights at the beginning of their training. There are also new trainings of border police multipliers who are taught on the protection of human rights. The Mechanism was also informed of the training of the members of the special police assisting the border police. Upon observations, both announced and unannounced, it can be concluded that police officers are familiarised with fundamental rights of migrants. Above all, this refers to the right to lodge the application for international protection using prescribed forms in languages that applicants understand, the right to an interpreter, the right to free legal assistance and especially the right to medical assistance which we were convinced of by inspecting the available files kept in police stations. Police stations subject to observations had forms available in at least 10 languages.

4.3. DIFFICULTIES FACED BY IRREGULAR MIGRANTS

- **Criminal victimisation**

Migrants are exposed to human traffickers/smugglers from both sides of the border, some of whom are foreign nationals (e.g. a British national encountered and prosecuted by competent national authorities). Migrants are subjected to abuse by smugglers and "agents" who guarantee their border crossing. Likewise, illegal conduct of Croatian police officers towards migrants were registered (e.g. use of force) aimed at their forcible return beyond the limits allowed by positive regulations and international law. Interviewing the persons encountered in illegal crossing of the border of the Republic of Croatia, direct activity providers noticed that in most cases these are persons without any documents transferred by "agents" (smugglers, including third-country nationals) for a large sums of money across the border from Bosnia and Herzegovina to a certain location in the Republic of Croatia where their connection for transport to their final destination in the countries of Western Europe should wait for them.

Irregular migrants are left in uninhabited, hard-to-reach, cold and damp places, without food and water which reflects on their health and the "connection" does not arrive. In such cases, irregular migrants contact international or Croatian organisations whose contact information they have in order to receive protection. In observed cases, irregular migrants stated that they had been faced with unfulfilled promises of "agents", illegal use of force, seizure of documents, money and mobile phones while on their way from Bosnia and Herzegovina to the Republic of Croatia in order to pass towards the countries of their final destination (because "the connection" had not arrived). When describing the cases of illegal use of force, irregular migrants stated that force had been used by persons in dark uniforms without insignia, wearing balaclavas and equipped with batons.

- **Migration-related trauma**
 - Years of travel and general exhaustion that often require medical assistance.
 - Different relations of cultural nature.
 - The problem faced by migrants when travelling from their country of origin to their desired destination is multi-layered. These are migrants who start their journey out of different motives, coming from different backgrounds from Afghanistan to Maghreb, of different ages, from new-born babies to the elderly and the infirm. The migrant flow gradually narrows towards the Mediterranean Sea where migrants mix, almost regularly "lose" all personal documents and are often "organized" by illegal helpers to travel towards Western Europe in heterogeneous groups. After a long and exhausting journey, we meet them at our border pressured by many problems: (1) exhaustion and relapse of chronic illness especially in the elderly population and women and children; (2) disorientation in time and space (whether they were lost or misled by the "organizers" of the trip); (3) language barrier; (4) status of migrants encountered illegally crossing the border limiting further options regarding the migrant status (asylum, passage to a third country, return to the country they came from...).
- **(Potential) self-victimisation and endangering vulnerable persons**
 - Exposure to danger due to attempts to cross the border even in mine-suspected areas, issue of endangering vulnerable groups (children, pregnant women, ill persons, the elderly).
- **Reception/accommodation**
 - One of the greater issues migrants face is the fact that police stations still do not have adequate rooms for the temporary accommodation of migrants. Due to a large number of migrants, it is currently not possible to ensure an adequate room in some stations for migrants to spend a certain amount of time until their identification is completed. The room needs to meet the conditions stipulated in Article 13(2) of the Ordinance on the treatment of third-country nationals. If an application for international protection is lodged, such persons are referred to the Reception Centre for Applicants for International Protection which the members of the Mechanism visited and which has adequate conditions for the accommodation of migrants.
 - In transit reception centres (Transit Reception Centre for Aliens in Trilj, Transit Reception Centre for Aliens in Tovarnik) as well as in reception centres (reception centres for applicants for international protection in Zagreb and Kutina, Reception Centre for Aliens in Ježevica), humane conditions of stay are ensured for applicants for international protection while

respecting their specific dietary needs, cultural and religion needs. They can also play sports and take part in various educational activities, courses, workshops etc.

4.4. MEDICAL CARE AND DOCUMENTATION

This part of the Report includes medical supervision of the use of the right to health care, functioning of applying the legislation governing this field as well as insight into the health status of migrants, i.e. aliens, who do not have Croatian citizenship and enter the Republic of Croatia (sometimes) illegally.

The initial part of the Report provides definitions and the legal framework and the most important provisions of laws and bylaws governing the field of providing health care to migrants, followed by a more detailed overview of the scope of health care by categories of migrants, health care costs during this project and a review of mortality of migrants on the territory of the Republic of Croatia.

- Rights of persons who do not have Croatian citizenship and legal framework for providing health care

The right to health care of aliens for which the Republic of Croatia provides funds in the state budget is exercised in accordance with the provisions of the *Act on Compulsory Health Insurance and Health Care of Aliens in the Republic of Croatia* (OG 13/80, 15/18, 26/21 and 46/22 - hereinafter referred to as the Act) and related ordinances. This Act regulates compulsory health insurance and health care of aliens in the Republic of Croatia, the scope of rights from compulsory health insurance, rights and obligations of holders of compulsory health insurance, scope of rights to health care, other rights and obligations of aliens under this Act, conditions and manner in which health care for aliens is provided and financed in the Republic of Croatia along with rights and obligations of health care providers. Ordinances that further regulate the standards and scope of providing health care for aliens are the *Ordinance on health care standards of applicants for international protection and aliens under temporary protection* (OG 28/20) and the *Ordinance on the manner of providing health care to aliens residing illegally in the Republic of Croatia* (OG 116/18).

Standards of health care of applicants for international protection are stipulated in the *Ordinance on health care standards of applicants for international protection and aliens under temporary protection* (OG 28/20).

The manner of providing health care to aliens residing illegally in the Republic of Croatia who have been issued a return decision (migrant) is stipulated by the *Ordinance on the manner of providing health care to aliens residing illegally in the Republic of Croatia* (OG 116/18).

In the Republic of Croatia, the field and scope of providing health care to migrants is regulated by several laws and bylaws:

- Aliens Act (OG 133/20)
- Act on International and Temporary Protection (OG 70/15)
- Act on Compulsory Health Insurance and Health Care of Aliens in the Republic of Croatia (OG 13/80, 15/18, 26/21 and 46/22)

- Ordinance on health care standards of applicants for international protection and aliens under temporary protection (OG 28/20)

- **Rights and scope of health care according to categories of aliens**

Key provisions of the Act on Compulsory Health Insurance and Health Care of Aliens in the Republic of Croatia (OG 13/80, 15/18, 26/21 and 46/22 – hereinafter the Act), Ordinance on health care standards of applicants for international protection and aliens under temporary protection (NN 28/20) and Ordinance on the manner of providing health care to aliens residing illegally in the Republic of Croatia (OG 116/18, hereinafter the Ordinance) refer and apply to aliens in the Republic of Croatia in the following manner:

Article 19 of the Act stipulates that the following categories of persons have the right to health care at the expense of the state budget (Ministry of Health):

- applicants for international protection,
- asylum seekers,
- aliens under temporary protection,
- aliens under subsidiary protection, family members of asylum seekers and aliens under subsidiary protection if compulsory health insurance or health care are not provided on another basis,
- underage aliens – victims of human trafficking, underage aliens who are abandoned, victims of organized crime or left without parental protection, guardianship or unaccompanied for other reasons,
- aliens staying in the Republic of Croatia at the invitation of its state authorities,
- aliens who have contracted cholera, plague, viral haemorrhagic fevers, or typhoid fever and
- aliens who illegally reside in the Republic of Croatia and who have been issued a return decision.

- **Applicants for international protection**

Applicants for international protection have the right to emergency medical care and much-needed treatment for illness and serious mental disorders (Art. 20(1) of the Act).

Medical examination of applicants for international protection (basic medical examination for the detection of acute and chronic infectious diseases) must be carried out as soon as possible within the first five days of arrival at the Reception Centre for Applicants for International Protection / Asylum Seekers (Art. 3 of the Ordinance).

Applicants for international protection and aliens who need special reception and / or procedural guarantees, especially victims of torture, rape or other severe forms of psychological, physical or sexual violence, will be provided with appropriate health care (Art. 20(3) of the Act).

- **Scope and standards of health care of applicants for international protection**

Scope and standards of health care are stipulated by the Ordinance on health care standards of applicants for international protection and aliens under temporary protection (Article 6):

1. right to emergency medical care and much-needed treatment for illness and serious mental disorders in line with the medical indication including the following:

- maintenance of vital functions, stopping bleeding,
- prevention of sudden deterioration of health that could cause permanent damage to certain organs or vital functions,
- shock treatment,
- treating a condition with fever and preventing the spread of an infection that could lead to sepsis,
- treatment of poisoning,
- treatment of injuries and other damage requiring medical assistance,
- right to urgent and much-needed dental health care,
- treatment of chronic diseases and conditions, the delay of which would directly or subsequently cause disability, other permanent damage or death,
- treatment of serious mental disorders,
- treatment of infectious diseases.

2. right to medications from the basic list of medicines for emergency medical care and much-needed treatment of illness and serious mental disorders in accordance with the medical indication referred to in paragraph 1, item 1 of this Article.

Pursuant to Article 7 of the Ordinance, urgent and much-needed specialist-consultative and hospital health care according to the medical indication of a doctor is carried out in health institutions on the basis of a referral from a competent doctor or emergency medical service.

- o **Persons illegally residing in the Republic of Croatia and asylum seekers**

Aliens illegally residing in the Republic of Croatia have to undergo a compulsory medical examination within the first five days of arriving at the Reception Centre in order for their health status to be determined (Art. 5 of the Ordinance). During the first five days of stay at the Reception Centre, persons referred to in Article 1 of this Ordinance need to undergo a compulsory medical examination in order for their health status to be determined.

- o **Scope and standards of health care**

Persons found illegally crossing the state border or found illegally staying in the territory of the Republic of Croatia shall, if necessary, be provided with urgent and much-needed health care at the nearest health institution and private practice health providers in the public health service network.

Asylum applicants are provided with daily health care at the reception centre carried out by a doctor, i.e. a nurse.

The medical examination includes an examination of the whole body and determination of the physical status with the doctor's recommendations for further urgent and much-needed specialist-consultative examinations according to the medical indication.

The determined health status is entered in the form (described in the Ordinance).

A copy of the health status with data on the state of health shall be submitted to the reception centre for applicants for international protection if the person referred to in paragraph 1 of this Ordinance has submitted an application for international protection.

The costs of health care, including the costs of emergency transport to the appropriate health institution and medical care during transport, shall be borne personally by the person referred to in paragraph 1 of this Article immediately or at the latest before being discharged from treatment.

- **Vulnerable groups**

For the purposes of writing this Report, persons belonging to "vulnerable groups" include persons deprived of their legal capacity, children, unaccompanied children, the elderly and infirm, seriously ill persons, persons with disabilities, pregnant women, single parents with minor children, persons with mental disorders, victims of human trafficking, victims of torture, rape or other psychological, physical and sexual violence, such as victims of female genital mutilation.

- **Scope of health care of vulnerable groups**

Persons belonging to vulnerable groups of aliens who are found in the Republic of Croatia have the right to adequate health care stipulated by the Ordinance on health care standards of applicants for international protection and aliens under temporary protection (Article 9 of the Ordinance, OG 28/20).

Pregnant or parturient women exercise the right to health care regarding the monitoring of pregnancy and childbirth in the same scope as persons insured under compulsory health insurance.

Children up to 18 years of age have the right to complete health care in line with the regulation governing the right to health care under compulsory health insurance.

- **Health care providers**

Every year, the Ministry of Health concludes a contract with the Zagreb Centar Health Centre and the Kutina Health Centre for the provision of emergency medical care services in reception centres for applicants for international protection in Zagreb and Kutina, which includes the provision of diagnostic and therapeutic procedures necessary to eliminate imminent danger to life and health as well as immediate health care at the level of primary health care and much-needed specialist-consultative health care in such a way that one team of general / family medicine provides health care every working day.

In case of need for dental health care services in emergencies, women's health care services related to pregnancy and childbirth, preschool children's health care services and medical-biochemical laboratory services or radiological diagnostic services, these services will be performed at the Health Centre. In the case of much-needed specialist-consultative health care, an appropriate referral will be issued.

Necessary medicines are prescribed on special prescriptions in accordance with the above mentioned Ordinance.

Aliens found illegally in the Republic of Croatia are provided with daily health care in the Reception Centre for Aliens by a medical team on the basis of a contract between:

- Ministry of Health and the Health Centre of the Zagreb County - for the Reception Centre in Ježovo
- Ministry of Health and Health Centre Vukovar - for the Transit Reception Centre in Tovarnik
- Ministry of Health and the Health Centre of the Split-Dalmatia County for the Transit Reception Centre in Trilj (since January 2022)

According to the medical indication, specialist-consultative health care is performed in health institutions on the basis of a referral from a doctor at the reception centre or the emergency medical service.

The supply of medicines and medical supplies to aliens in the reception centre is provided by the Ministry of the Interior.

- **Health care costs for migrants at the expense of the budget of the Republic of Croatia**

Table 5: Total health-care costs in 2021 and the first four months of 2022

Type of health care	Period	
	2021	2022 January-April
Primary health care	1,385,946.61	822,686.57
Specialist-consultative health care	1,042,559.84	335,945.52
Inpatient care	1,060,953.47	274,974.76
Pharmacies	79,922.94	51,116.3
Total	3,569,382.86	1,484,718.48

- **Mortality of migrants**

In the data on deceased persons, there is no characteristic that identifies a person who could be safely called a migrant in the context of this Report. Migrants are mostly undocumented persons and their nationality is often unknown even at the time of death. Therefore, we provide the causes of death of persons who died in the Republic of Croatia whose citizenship was unknown from the time of death until the entry into official statistics. Given that there is no special system for monitoring and collecting statistics on the mortality of asylum seekers or other categories of aliens, we believe that the numbers shown in some part certainly also include persons of that status. At the moment, there are no precise data, therefore the Mechanism recommends the introduction of monitoring the mortality of persons from a group of aliens with the status of asylum seekers, i.e. persons who are aliens and who illegally resided in the Republic of Croatia. Despite the fact that there is currently no accurate monitoring of mortality, the data presented here can still serve as a rough estimate of migrant mortality and monitoring causes of death, which on the one hand provides some insight into health care needs and levels in which it was necessary to provide health care which go beyond the scope of providing emergency medical care.

Table 6: Mortality statistics (Source: Croatian Institute of Public Health)

Name	ICD-10 code	Year				
		2017	2018	2019	2020	Total
Neoplasms	C00-D48				1	1
Endocrine, nutritional and metabolic diseases	E00-E90				1	1
Mental, Behavioural and Neurodevelopmental disorders	F00-F99				2	2
Diseases of the nervous system	G00-G99	1			1	2
Diseases of the circulatory system	I00-I99		2	3	2	7
Diseases of the respiratory system	J00-J99				1	1
Symptoms, signs and abnormal clinical and laboratory findings, not elsewhere classified	R00-R99	26	18	11	9	64
Injury, poisoning and certain other consequences of external causes	S00-T98	10		3	7	20
Codes for special purposes (COVID-19)*	U00-U85				1	1
Total		37	20	17	25	99

* Data on irregular migrants who were determined to be COVID-positive upon illegally entering the Republic of Croatia: from June 2021 to May 2022, the police acted towards 66 COVID-positive migrants

5. RECOMMENDATIONS

Listed below are the recommendations of the Mechanism for which there are reasonable grounds to assume that by accepting and implementing them, the risk of illegal actions of police officers in the field of irregular migration and international protection would be significantly reduced based on the finding of the Mechanism within 12 months (6+6 months). In addition, accepting and implementing the recommendations would undoubtedly raise the work quality of the Mol in this challenging sector. In conclusion, by urgently implementing the said recommendations, the Mechanism could, in the following year, perform an efficiency assessment of the implemented measures aimed at corrections of the existing and determining new measures. Regardless of the moment and scope of the implementation of concrete measures based on the stated recommendations, it is necessary to design the corresponding evaluation instruments and procedures already during the development and before the implementation of individual measures.

Below are the recommendations divided into two separate parts.

The first part includes 14 recommendations (1-14) stated in the First Semiannual Report (Part 1). The stated recommendations are the result of the work of the Mechanism from 8 June to 31 December 2021 and conducted 8 observations. The Mol gave its comments to the stated recommendations on the basis of the Action Plan (Annex 6). The Mol commented on all 14 recommendations in the columns of the Action Plan "Activities for recommendation implementation" and "Recommendation fulfilment".

After conducting further 12 observations in the period from 1 January to 8 June 2022, the Mechanism supplemented the recommendations from the First Semiannual Report and drafted another 15 recommendations (Part 2). These recommendations are expected to be addressed in the new/supplemented Action Plan.

PART 1

- 1) Improve the manner of identifying irregular migrants, both applicants for asylum/international protection and those who do not apply for asylum/international protection, e.g. by using modern software tools for face recognition, which can be applied using smartphones. Launch an initiative in the future to form an EU base of biometric data in the field of irregular migration. Although this does not solve the challenges of establishing a real identity of irregular migrants without valid documents, it would allow a person thus registered to be 'linked' to the same identity throughout the entire migration journey.

Activities for recommendation implementation:

The standardised manner of identifying migrants is identical in all EU Member States (insight into documents, taking photographs and fingerprints, verification through embassies). The basic EU biometric database on migrants is EURODAC. However, EURODAC does not serve to establish identities with citizenship, but for determining which Member State is competent for the examination of applications for international protection. The Ministry of the Interior has available the national information system for determining identities based on biometric data, but due to technical reasons, that system cannot be used for migrant-related tasks. The exchange of data from the said system with other countries can be used under the assumption

that such a system has been established in the other country with which data are exchanged and that an agreement or some other legal document has been concluded to regulate this type of data exchange. In cases of third-country nationals from e.g. Afghanistan, Syria, Iraq, Iran, Pakistan etc., it is unknown whether they have such databases established in order for the Republic of Croatia to exchange data with them. Furthermore, the issue of finding a technical solution for establishing such a system on mobile phones of police officers and the protection of personal data remains. The working group for electronic biometric databases has been formed within the Ministry of the Interior. Its objective is to connect all biometric databases in the Republic of Croatia in order to implement the Act on Biometric Data Processing (Official Gazette, no. 127/2019) and the Ordinance on biometric data processing (OG 122/2020). The creation of technical assumptions for the implementation of these regulations, which is the creation of a unique national biometric database, would enable the identification and protection of natural persons from misuse of their personal data.

We will present in detail the set-up of the system to the representatives of the Mechanism and undertake possible enhancements in line with the conclusions.

Recommendation fulfilment:

In cooperation with the EU, the procedure to connect the Republic of Croatia to the application Readmission Case Management System (RCMS) Pakistan has been initiated. Using this application which will be installed at the Reception Centre for Aliens Ježevica, it will be possible to conduct the procedure of determining the identity of Pakistani nationals electronically. Currently, 8 MS use RCMS. Pakistani delegation will install the RCMS system in Ježevica in July 2022.

In addition, the Republic of Croatia has available the network of liaison officers (European Liaison Officers Network – EURLO) which are located in a great number of countries of origin of migrants (Afghanistan, Bangladesh, India, Congo, Egypt, Ethiopia, Gambia, Ghana, Côte d'Ivoire, Guinea, Kenya, Somalia, Nigeria, Uzbekistan, Tajikistan, Kyrgyzstan, Vietnam).

The activities to establish an electronic biometric database (national NABIS) are ongoing.

It was planned that on 27 April 2022 within the EMAS project, a workshop on the results of the Independent Monitoring Mechanism would be held in Zagreb, with the participation of representatives of the Mechanism, representatives of police administrations at the external border and representatives of the Border Police Directorate. At the workshop, the representatives of the Mechanism would be introduced to the system of determining the identity of migrants. The mentioned workshop was held on 5 May 2022 at the Diplomat Hotel in Zagreb. An unspecified number of aliens who express their intention for international protection in police stations do not report to reception centres for applicants for international protection within the period specified in the certificate of expressed intention issued by the police station. In order to establish control over reporting to the reception centre, the application in the Information System of the Mol will be upgraded, which will enable police stations to send an announcement to the reception centre and the reception centre will send feedback to the police station on reporting to the police station. Likewise, the document of standard operating procedures on the procedure regarding applicants for international protection will be updated, which will additionally regulate the submission of notifications on reporting to the reception centre.

- 2) Improve the cooperation of border police stations related to migrants in irregular crossing.**
Namely, if they do not express the intention to initiate the procedure of applying for

asylum/international protection in the Republic of Croatia, these persons are handed a decision upon completion of the administrative procedure on leaving the territory of the Republic of Croatia independently within 7 days, instead of being immediately handed over in agreement with the police of Bosnia and Herzegovina (as is the case if the police encounters them in the Republic of Croatia after the deadline expires). Their fingerprints are taken on that occasion, but they are allegedly not entered into the EURODAC system, so next time they can attempt to do the same in the area of another border police station since the exchange of information between various border police stations is insufficient in that sense.

Activities for recommendation implementation:

All border police stations exchange data on migrants found in their territories.

Fingerprints are taken and entered into EURODAC for migrants for whom return decisions are issued with a deadline for voluntary return. All fingerprints taken by a live scanner are automatically transferred to the EURODAC database.

In line with the Return Directive 2008/115, for irregular migrants, the deadline for voluntary departure from the European Economic Area (hereinafter: the EEA) first needs to be determined in the duration between 7 and 30 days and only after that can they be forcibly removed if they do not leave the EEA within that deadline. The return decision is a central institute of the Return Directive. All Member States had to incorporate it in their national legislation and have to issue it to migrants as the least restrictive measure due to irregular stay. This is the reason why issuing return decisions is completely lawful.

In principle, competent authorities of Bosnia and Herzegovina do not want to admit migrants who entered the Republic of Croatia illegally from Bosnia and Herzegovina unless a certificate of expressed intention for international protection in Bosnia and Herzegovina, which migrants usually discard and destroy, is enclosed as evidence.

The General Police Directorate will submit a notification to police administrations and police administrations on the migration route through the Republic of Croatia, reminding them of the need for better cooperation in establishing the identity of migrants previously treated by other police stations and police administrations, i.e. migrants who are applicants for international protection and aliens with a work permit or other residence permit.

Recommendation fulfilment:

Aliens cannot be returned immediately, as there are serious problems regarding readmission in Bosnia and Herzegovina and Serbia of aliens who are not their nationals.

Since the Republic of Croatia has the common border with Bosnia and Herzegovina which is the external border of the EU and across which the greatest number of irregular migrants enters the Republic of Croatia, readmission of the said aliens is of great importance. In 2020, around 29 000 actions due to illegal entry were registered and in Bosnia and Herzegovina only 290 persons were returned as part of readmission. In 2021, 17 000 actions due to illegal entry were registered and in Bosnia and Herzegovina only 380 persons were returned as part of readmission.

Considering the above mentioned, the number of efficient returns to Bosnia and Herzegovina is not satisfactory. The reason is that Bosnia and Herzegovina does not recognize records and notes containing statements of aliens and officials as evidence of illegal border crossing, but requires exclusively the documents issued by the authorities of Bosnia and Herzegovina (e.g. certificates of intention to apply for asylum in Bosnia and Herzegovina, entry stamps, cards of

asylum applicants, records of crossing the state border) which is very difficult to collect, because migrants destroy and throw away such evidence in order to make the return to Bosnia and Herzegovina difficult and impossible.

The number of rejected requests for readmission in summary proceedings has increased, although there was indisputable evidence that migrants resided in Bosnia and Herzegovina before illegal border crossing and entry into the Republic of Croatia (certificates of expressed intention to apply for asylum, border numbering of entry into Bosnia and Herzegovina, security and thermal-imaging camera footage etc.) or were encountered immediately after the illegal crossing of the border by mixed Croatian and Bosnian police patrols.

In the summary readmission procedure, Bosnia and Herzegovina does not respect the deadlines for acceptance (24 hours from receiving the request for return), but informs the Republic of Croatia that it will accept persons in a few days, so migrants must be placed in reception centres for aliens, which poses a risk for the possibility of return.

The Republic of Croatia notified the European Commission of these issues and raised the issue in the last meeting of the Joint Readmission Committee of the EU and Bosnia and Herzegovina held on 6 December 2021 and it is expected that the European Commission undertakes activities to address the problem.

Serbia has not respected the bilateral readmission agreement for a while, as it does not accept aliens from the migration wave in summary proceedings of which the Republic of Croatia notified the European Commission.

Serbia replied the European Commission that it did not accept migrants in summary proceedings because they did not enter the Republic of Croatia from Serbia but from another country, obviously implying Bosnia and Herzegovina.

Afterwards, the Republic of Croatia sent a reply to the European Commission stating that by verifying documentation delivered to Serbia along with the request for return in summary proceedings, it was determined that in no case did the documentation state or indicate that persons returning to Serbia entered from the territory of Bosnia and Herzegovina.

Due to the stated problems in implementing the bilateral readmission agreement, the Republic of Croatia requested Serbia to start implementing the EU Readmission Agreement with Serbia, without concluding an implementing protocol which was proposed by the European Commission. At the eighth meeting of the JRC, the European Commission suggested that accelerated procedure be applied in the future in line with the EU-Serbia Agreement which governs the procedure and means of evidence in detail, so that the conclusion of an implementing protocol is not a precondition to implement the Agreement. It suggested that the Republic of Croatia and Serbia notify each other on the authorities competent for the implementation of the Agreement which was done by the Republic of Croatia and it expects the response of Serbia.

The MoI will continue the activities regarding the improvement of readmission with Bosnia and Herzegovina and Serbia.

On 1 April 2022, the General Police Directorate sent a letter to all police administrations indicating the need for better cooperation of BPSs in establishing the identity of irregular migrants already processed by another PA, i.e. PS, and migrants treated by another PS and PA, i.e. migrants who are applicants for international protection and aliens with work permits or other residence permit. The letter states that, in order to enhance the operability, it is necessary to intensify the cooperation regarding information transfer especially on a daily basis and

between organisational units bordering territorially, with police officers of the OA Corridor and with headquarters.

- 3) Register all persons who enter the state territory of the Republic of Croatia irregularly. The problem also occurs in the implementation of decisions to leave the EEA for persons who have not applied for asylum/international protection. The fingerprints of these persons are not taken beforehand to be entered into EURODAC, but rather, they are only photographed. Since they do not have any documents in principle, such persons are impossible to identify when they try to illegally enter the Republic of Croatia again and "agents" (smugglers and/or human traffickers) could be among them scouting the terrain in this way. It is recommended to examine the possibility of taking fingerprints in border police stations (and not in reception centres) of all persons who attempt to illegally enter the Republic of Croatia irrespective of whether they applied for international protection/asylum or not.

Activities for recommendation implementation:

In line with the EURODAC Regulation, fingerprints must be taken from migrants who expressed the intention to apply for international protection (category 1) and migrants who have been found at the external border of the EU during or immediately after illegal entry and who are referred to voluntarily leave the EEA after having been issued a return decision (category 2).

Fingerprints of migrants found in the depth of the state territory must not be taken for EURODAC, apart from the following cases (category 3): a migrant is illegally staying, does not want to apply for international protection in the Republic of Croatia and claims to have applied for international protection in another Member State, but refuses to say in which one, opposes forcible removal claiming to be in danger or opposes forcible removal because they do not cooperate in the process of determining their identity.

In June 2017, the European Commission initiated proceedings against the Republic of Croatia for violation of EU law, because, in accordance with Article 14 of the EURODAC Regulation, the Republic of Croatia did not systematically take data on category 2 fingerprints and entered them into EURODAC. During the proceedings carried out, the Republic of Croatia proved that it correctly interpreted that Article 14 of the EURODAC Regulation applies only to migrants found at the external border of the EU and not to migrants found in the depth of the state territory. In July 2021, the European Commission closed this case.

The new EURODAC Regulation attached to the Pact on Migration and Asylum foresees taking fingerprints of all third-country nationals found in relation to illegal entry across the external border of the EU. Once the said Regulation is adopted, the Republic of Croatia will be able to take fingerprints for EURODAC from all migrants.

Recommendation fulfilment:

There is a problem of a visa-free system in Bosnia and Herzegovina and Serbia which causes mass illegal entries of migrants to the Republic of Croatia. This primarily refers to Cuban and Indian nationals, but also Iraqis and other nationals. Such aliens enter the neighbouring countries as tourists and attempt to illegally enter the Republic of Croatia immediately across the external border of the EU. Due to the lack of cooperation of the authorities of neighbouring countries, it is not possible to collect information and evidence of legal entry into neighbouring countries through airlines, which is necessary for effective return to those countries. In this regard, a system of thorough monitoring of these aliens will be established in order to inform

the European Commission to put pressure on the authorities of the neighbouring countries to cooperate in the process of collecting information on arrivals.

The Mol considers the recommendation fulfilled.

- 4) Improve international legal assistance as well as police cooperation with countries with which such a cooperation is possible and which are located on irregular migration routes and particularly with the neighbouring countries from which migrants cross to the Republic of Croatia from Bosnia and Herzegovina and use the diplomatic and consular network and other available sources of information in obtaining data on the identity of persons encountered irregularly crossing without challenging protected human rights and privacy of these persons.

Activities for recommendation implementation:

In order to protect personal data, Article 227 of the Aliens Act stipulates that personal data of irregular migrants may be delivered to the country to which they have to be forcibly removed or otherwise returned and to the country through which the third-country national has to transit during forcible removal and return. In line with that, the Ministry of the Interior may deliver personal data to a neighbouring country only if the migrant is returned to that country. The Ministry of the Interior exchanges migrant-related data with the neighbouring countries via contact points. The said contact points have been established to exchange data with Bosnia and Herzegovina (Nova Sela-Bljača), Serbia and Hungary (Bajakovo-Batrovci), Hungary (Mohač) and Slovenia, Hungary and Austria (Dolga Vas).

Recommendation fulfilment:

It was planned that on 27 April 2022 within the EMAS project, a workshop on the results of the Independent Monitoring Mechanism would be held in Zagreb, with the participation of representatives of the Mechanism, representatives of police administrations at the external border and representatives of the Border Police Directorate. At the workshop, the representatives of the Mechanism would be introduced to the system of international cooperation regarding illegal migration.

The mentioned workshop was held on 5 May 2022 at the Diplomat Hotel in Zagreb.

- 5) Pay particular attention in the procedure to various obligations under international law related to persons' status as *refugees* or *migrants*. As regards the first category, the obligation of non-refoulement is beyond doubt (apart from rare exceptions provided under international law) and is a part of general international customary law, while international migration law does not contain such an obligation. It is the country's obligation not to apply illicit deterrence irrespective of whether it concerns refugees or migrants.

Activities for recommendation implementation:

In accordance with Article 13 of the Schengen Borders Code, deterrence refers to migrants who attempt to illegally cross the external border of the EU, but who have not yet entered the Republic of Croatia. On the other hand, return measures are applied towards migrants illegally staying in the Republic of Croatia.

Although during deterrence at the border, the identity of migrants attempting to illegally enter is not ascertained because this is not possible, police officers use the profiling method to attempt to recognise migrants who are refugees and vulnerable groups and offer them assistance and protection.

FRA made guidelines for the border police, which were translated into all EU languages and printed in a pocket edition, which is also available in electronic form. The stated guidelines contain recommendations for the actions of the border police towards migrants in a summarised and clear manner as well as the clarification of admissible and inadmissible actions. These guidelines will be distributed to all police administrations and police stations with the instruction that their content be included into the regular training of the border police.

Recommendation fulfilment:

On 1 April 2022, the General Police Directorate sent a letter to all PAs delivering the guidance of the Fundamental Rights Agency "Border controls and fundamental rights at external land borders".

The guidance is intended for border police officers working on the surveillance of the EU external land border at the operational level, and its aim is to help them implement, in their daily work, the fundamental rights safeguards of the Schengen Borders Code.

The guidance is available for all police officers in the application of the National Border Management Information System.

The letter states that the guidance should be distributed to all police officers performing the tasks of the surveillance of the external land border and its content needs to be included in regular trainings of the border police. The Mol ordered 6,000 pocket editions of the said guidance from FRA so that police officers performing the tasks of the surveillance of the state border could have it on hand at all times.

In November 2021, the training for all riot police officers regarding the protection of fundamental rights when performing state border surveillance began. The trainings are conducted in all police administrations and so far, a half of the riot police have been trained. Furthermore, a special curriculum will be prepared for the training of the riot police performing state border surveillance. In this way, the insufficient training of the riot police performing state border surveillance would be completely eliminated, and at the same time their advantages over the border police would be used due to better physical preparation, organization and equipment in performing border surveillance in special conditions. Furthermore, the use of the riot police as relief forces in performing the tasks of state border surveillance enables greater flexibility in covering the state border.

- 6) **Record the GPS coordinates of movement of police patrols at the green border.** It is proposed for GPS coordinates to become an integral part of the report submitted after border control by border police patrols. Recording GPS data should be regulated so that tracking is automatically generated without creating further administrative burden for police officers. On the one hand, this will enable subsequent personal identification of all police officers if irregular migrants report improper/illegal conduct, while the measure would also have a preventive effect having in mind the awareness of police officers that they can be subsequently personally identified – both in terms of exculpatory absence and in terms of potentially incriminating presence at the scene.

Activities for recommendation implementation:

Police vehicles and radio-communication stations are equipped with GPS devices. Data on the position of patrols is visible within the framework of the Local Coordination Centre (LCC), Regional Coordination Centre (RCC) and the National Coordination Centre (NCC). Likewise, when starting their shift, police officers receive work orders which contain their duties and area

where they will carry out their duties. The establishment of the LCC, RCC and NCC was one of the recommendations of the Schengen evaluation procedure and the European Commission has confirmed that this recommendation has been met.

Recommendation fulfilment:

The Mol considers the recommendation fulfilled.

- 7) Draft and distribute internal written instructions ordering police officers to act on written instructions when performing state border surveillance in the field of irregular migration, while they are not obliged to follow verbal instructions deviating from or contradicting written instructions, but they need to immediately report this to the General Police Directorate and the Mechanism in writing. On the one hand, this prevents improper/illegal conduct of police officers following irregular/illegal verbal instructions/orders, while preventing managing police officers from issuing such instructions/orders. This also clearly defines the procedure and contact for reporting violations of such internal written instruction of the Mol, which guarantees timely internal and external (Mechanism) monitoring.

Activities for recommendation implementation:

Article 4 of the Act on Police Duties and Powers stipulates that police officers must refuse to execute an order or a command that obviously constitutes a criminal offence and they must immediately inform the next superior officer, senior state attorney, president of a court or head of another competent authority about the refusal to execute the order or command. All police officers are familiar with this obligation.

Since 2018, the General Police Directorate has sent multiple instructions to all police administrations and stations stating that illegal and 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 would be carried out and in all cases of complaints to illegal confiscation of property, the appropriate procedure for identifying and prosecuting possible perpetrators should be conducted.

During 2020 and 2021, every letter determining relief forces sent to police administrations every ten days specifically ordered strict control over treatment that needs to be in line with the highest standards of respect for human rights. Police officers dealing with this issue are educated on treatment in line with the highest standards of human rights protection and the curricula has been aligned with and approved by Frontex.

Dozens of meetings with managing police officers in police administrations and stations have also been held 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.

On 2 December 2021, the General Police Directorate sent a letter to police administrations and stations instructing police officers on the implementation of the recommendations of the CPT Committee (European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment), regarding the CPT's mandate in the part of treating foreign nationals.

Additional training in the area of fundamental rights is underway for police officers of the riot and border police regarding the performance of state border surveillance tasks. The issue of

distinguishing between permissible (deterrence) from impermissible actions at the border (collective expulsion, pushback) is included in the mentioned training.

Recommendation fulfilment:

On 14 April 2022, a workshop will be held in Zagreb under the EMAS project, organised by the Croatian Law Centre, for 20 border police officers – multipliers in the area of right to access the system of international protection. A topic of the workshop is also criminal, misdemeanour and disciplinary liability of police officers. The workshop was held according to plan.

On 21 April 2022, a workshop on raising the awareness of senior police management will be held in Zagreb under the EMAS project, with the participation of representatives of non-governmental organizations. At the workshop, participants will be introduced to the right of access to the system of international protection and the responsibilities of police officers. The workshop was held according to plan.

On 11 and 12 May 2022 in Karlovac, under the EMAS project, a training was held for multipliers in the field of identifying and meeting the needs of vulnerable groups of migrants in the Republic of Croatia. The training was conducted by IOM.

On 31 March and 1 April 2022 in Crikvenica, under the EMAS project, a training for multipliers was held on the topic of understanding cultural differences, vulnerable groups of migrants, prevention of occupational stress and burnout and providing first aid. The training was conducted by the Croatian Red Cross.

On 6 April 2022 in the Accommodation and Training Centre of the border police in Spačva, a training was held for border police officers on the topic of fundamental human rights and the use of police powers in the context of migration. The training was conducted by the International Committee of the Red Cross (ICRC).

The Mol considers the recommendation fulfilled.

- 8) Improve the system of tracking cases/files aimed at consolidating all information in one place and consolidating the files on applicants for asylum/international protection of the Aliens Sector and the border police.**

Activities for recommendation implementation:

The recommendation has already been implemented because standard operating procedures relating to applicants for international protection already foresee the delivery of records of receiving the intention for international protection to the International Protection Department of the Mol, so that consolidated case files are stored in the said Department. On the other hand, the International Protection Department must not submit their case files to anyone, given that Article 19(5) of the Act on International and Temporary Protection stipulates that data gathered during the procedure of granting international protection, particularly the fact that the application has been lodged, constitute officially unpublished data and may not be submitted to bodies not participating in the procedure.

Migrant-related data are stored in case files of police stations, police administrations and services of this Ministry, as well as in the records of the Information System of the Mol. Furthermore, data on treating migrants by the border police and services for treating applicants of international protection (International Protection Department and Department for Reception and Accommodation of Applicants of International Protection) are stored in the same records of the Information System of the Mol and are available to authorised officers of the said organisational units. Having this in mind, the Ministry will undertake activities to enter data on

treatment under the competence of the border police and services for treating applicants of international protection in a complete and accurate manner.

We will present in detail the set-up of the system to the representatives of the Mechanism and undertake possible enhancements in line with the conclusions.

Recommendation fulfilment:

The recommendation has been implemented.

It was planned that on 27 April 2022 within the EMAS project, a workshop on the results of the Independent Monitoring Mechanism would be held in Zagreb, with the participation of representatives of the Mechanism, representatives of police administrations at the external border and representatives of the Border Police Directorate. At the workshop, the representatives of the Mechanism would be introduced to the system of handling cases of treatments of migrants.

The mentioned workshop was held on 5 May 2022 at the Diplomat Hotel in Zagreb.

- 9) **Build a collection of good practice of the conduct of police officers in the sector of irregular migration.** The Mechanism was notified or was familiarised with the cases during the on-site visit in which the members of the border police saved migrants or organised transportation and medical assistance for them. Furthermore, positive examples include transporting migrants to the reception centre in unmarked police vans as well as continuous availability of interpreters into almost all languages used by migrants. Another example of good practice is the conduct of female police officers in BPS Slavonski Brod towards vulnerable groups – women and children and their transportation in unmarked vehicles to the Reception Centre for Applicants for International Protection in Zagreb.

Activities for recommendation implementation:

As regulations (ordinances) and instructions (SOPs, protocols) already contain the rules of police conduct towards migrants, it would be useful to incorporate the examples of good practice in the already existing regulations and instructions.

Regulations (ordinances) and instructions (SOPs, protocols) applied by police officers when treating migrants contain numerous rules on the basis of which treatments that could be considered good practice have become established in the practice of police officers (e.g. use of interpreters live and over the telephone, rescue and other assistance to migrants, presumption of the minor status for a person claiming to be a minor).

Moreover, when treating migrants, good practice has been established which is not based on the valid rules and instructions, but which proved to be the most appropriate in circumstances at the external border (e.g. informing migrants and taking their statements using standardised forms printed in foreign languages).

On 5 January 2022, the General Police Directorate sent an instruction to police administrations and police stations regarding the implementation of the recommendations of the CPT Committee, in the part concerning the transport of migrants in police vehicles (use of safety equipment, allowed number of persons, providing drinking water, not tying hands). The Ministry will undertake activities regarding the technical execution of the recommendation.

Recommendation fulfilment:

On 9 March 2022, the Republic of Croatia sent a project proposal to the European Commission under the thematic facility for asylum, migration and integration (AMIF). Under the project, in the period of two years, 58 vehicles for transporting 16 migrants and 3 standard buses for transporting 50 migrants would be procured.

Furthermore, 9 police officers would be trained for category D drivers and 234 police officers for category D1 drivers.

The project value is 6,800,000.00 EUR.

The Mol considers the recommendation fulfilled.

- 10) Request/use budgetary and/or EU funds to harmonise the quality of accommodation conditions in all border police stations because it was determined during the observation that accommodation capacities of certain border police stations do not meet the minimum standards.

Activities for recommendation implementation:

The preparation of the Plan for the development of capabilities of the border police until 2027 is in progress, based on the decision by FRONTEX, foreseeing the construction, i.e. increase in the number of accommodation capacities and the equipping of the all 26 police stations at the external border: 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. The recommendation will be fulfilled using project proposals in the coming period under the Multiannual Financial Framework (MFF).

Recommendation fulfilment:

On 9 March 2022, the Republic of Croatia sent a project proposal to the European Commission under the thematic facility for asylum, migration and integration (AMIF). Under the project, in the period of two years, 300 accommodation containers for 1,200 migrants would be procured. The containers would be installed in the area of Bjeliš near Slavonski Brod, in a location which the Mol leased from INA d.o.o.

Furthermore, the project would ensure the costs of accommodation and care of migrants and costs of leasing the land.

The project value is 60,049,912.00 EUR.

The preparation of the project for designing and equipping the premises for short-term detention of 49 migrants in BPS Cetingrad is underway.

Within the 2021-2027 Multiannual Financial Framework, i.e. the Integrated Border Management Fund, the instrument for financial support for border management and visa (BMVI) and the Asylum, Migration and Integration Fund (AMIF), the necessary upgrade in several police stations at the border will be considered in which there are already premises for short-term detention of migrants (Bajakovo, Slavonski Brod, Metković, Donji Srb, Dalj, Stara Gradiška and Vrgorac). In addition, the construction or upgrade of premises for short-term detention of migrants in all 26 police stations at the external border will be considered (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), as well as facilities for alternative to detention.

- 11) Create a handbook containing precise description of standard operating procedures and clear distinction of actions in state border surveillance which are allowed under national, European and international legislation and those that are not allowed and which violate human rights of migrants and applicants for international protection as well as ensure that all relevant employees of the Mol are familiar with the content of the handbook (uniformed police, border police, riot police).²³

Activities for recommendation implementation:

The Ministry of the Interior has already produced a large number of documents over the past several years, which were distributed to police officers to act accordingly. To be precise, these include the following: Standard operating procedures of border controls at border crossing points, Standard operating procedures regarding applicants for international protection, Protocol on the treatment of unaccompanied children, Concept of land border surveillance of the Republic of Croatia, Standard operating procedures for state border surveillance, Unified plan for the strengthened control of the external land border of the Republic of Croatia in the aim of combating illegal migration etc. All relevant documents are regularly updated and submitted to all police officers in relation to their line of work.

Besides that, FRA made guidelines for the border police, which were translated into all EU languages and printed in a pocket edition, which is also available in electronic form. The stated guidelines contain recommendations for the actions of the border police towards migrants in a summarised and clear manner as well as the clarification of admissible and inadmissible actions. These guidelines will be distributed to all police administrations and stations with the instruction that their content be included into the regular training of the border police.

Additional training in the area of fundamental rights is underway for police officers of the riot and border police regarding the performance of state border surveillance tasks. The issue of distinguishing between permissible (deterrence) from impermissible actions at the border (collective expulsion, pushback) is included in the mentioned training.

Recommendation fulfilment:

On 1 April 2022, the General Police Directorate sent a letter to all PAs delivering the guidance of the Fundamental Rights Agency "Border controls and fundamental rights at external land borders".

The guidance is intended for border police officers working on the surveillance of the EU external land border at the operational level, and its aim is to help them implement, in their daily work, the fundamental rights safeguards of the Schengen Borders Code.

The guidance is available for all police officers in the application of the National Border Management Information System.

The letter states that the guidance should be distributed to all police officers performing the tasks of the surveillance of the external land border and its content needs to be included in regular trainings of the border police. The Mol ordered 6,000 pocket editions of the said guidance from FRA so that police officers performing the tasks of the surveillance of the state border could have it on hand at all times.

On 14 April 2022, a workshop will be held in Zagreb under the EMAS project, organised by the Croatian Law Centre, for 20 border police officers – multipliers in the area of right to access the

system of international protection. A topic of the workshop is also criminal, misdemeanour and disciplinary liability of police officers. The workshop was held according to plan.

- 12) **Improve the source of information for irregular migrants** on e.g. the list of border crossing points in which migrants can apply for asylum in the Republic of Croatia, design a website in all languages with the instruction on how to apply for asylum in the Republic of Croatia and contact information, present the uniforms of the border police and other units performing border surveillance in a transparent manner (their appearance and insignia) and specify a contact for notifying/reporting in case of detecting persons moving in the border area in different uniforms.

Activities for recommendation implementation:

The Act on International and Temporary Protection (Article 33) stipulates that the intention for international protection can be expressed at all border crossing points, in police stations and police administrations, reception centres for aliens and reception centres for applicants for international protection.

Information for applicants for international protection can be found on a website on the portal of the Ministry of the Interior: <https://mup.gov.hr/pristup-informacijama-16/najcesca-pitanja-219/medjunarodna-zastita-287155/287155>. The said website could be expanded to contain additional questions and answers regarding the process of applying for international protection, including the information on places where intention can be expressed as well as the appearance of police uniforms.

All police stations and administrations have on-call services for reporting all events, incidents and irregularities. Contact information of these services is published on the portal of all police stations and administrations, namely their name, address, telephone, fax and email.

Recommendation fulfilment:

The recommendation has been fulfilled.

Under the AMIF thematic facility programme (Asylum, Migration and Integration Fund), a project proposal will be prepared regarding information and awareness raising campaigns on the risks of irregular migration in third countries of transit in the area of South East Europe (Bosnia and Herzegovina, Serbia, Macedonia, Montenegro, Kosovo and Albania). The project will be nominated in July 2022.

Namely, on the migration route passing through the Republic of Croatia, a large number of migrant deaths have been registered either by accident or in mutual conflicts of migrants, which is why it is necessary to conduct campaigns in the countries from which they come to the Republic of Croatia.

Table 7: Number of injured migrants due to accidents

Year	2015	2016	2017	2018	2019	2020	2021
Number of injured migrants	0	0	4	11	21	12	78

Table 8: Number of deceased migrants due to accidents

Year	2015	2016	2017	2018	2019	2020	2021
Number of deceased migrants	0	0	4	9	12	16	15

In seven cases the cause of death was drowning, in four cases a car accident, in one case a mine explosion, in one case pulmonary oedema, in one case hypothermia and malnutrition, and in one case inflammation of both lungs. During 2022 (until 12 April), we recorded seven deaths of migrants. In four cases, the cause of death was drowning, in one case a car accident, in one case hypothermia, while in one case, an autopsy has not yet been performed and the cause of death is unknown.

- 13) Adopt the practice according to which the Mol should urgently report to the Mechanism on the event and actions undertaken and planned in case of finding out about irregularities/incidents in the treatment of irregular migrants by police officers. This is a measure that would encourage the Mol to strengthen and accelerate the dialogue and enable it to make the most of the expertise of the Mechanism in such situations.

Activities for recommendation implementation:

The recommendation goes beyond the mandate of the Mechanism foreseen by the Agreement, but in practice, it is done exactly as described.

As of 22 August 2021, the Mol regularly informs the Mechanism of cases of treating migrants at the external border which are ongoing, as a proposal to observe the treatment by activity providers. These reports also include cases with elements of incidents (saving lives, providing assistance, vulnerable persons, families), but also cases where there is information about alleged illegal actions (the case of the recording published on RTL Television about the treatment in the area of Cetingrad Border Police Station).

The Mol will continue to report to the Mechanism all cases in which there is information about alleged illegal conduct.

Recommendation fulfilment:

From 8 June 2021 to 20 June 2022, 94 cases of police treatment of migrant groups at the external border were reported to the representatives of the Mechanism.

The Mol considers the recommendation fulfilled.

- 14) Analyse the expectations and needs of relevant stakeholders in consultation with the Advisory Board and the Mol in relation to the tasks of the Mechanism which clearly exceed its existing assigned tasks (including its powers as well as the organisation and functioning). Based on such an analysis that would be conducted in the second stage of work over the next six months, the Mechanism may prepare a proposal for the extension of the Mechanism in cooperation with the Mol as regards both its tasks and duration and the normative framework necessary for this.

Activities for recommendation implementation:

The recommendation refers to the activities, which should be conducted jointly by activity providers of the Mechanism, i.e. within the framework of the Coordination Board.

When fulfilling the recommendation, activity providers should bear in mind that the Mechanism needs to be in line with the Pact on Migration and Asylum, i.e. proposal for a Screening Regulation (Regulation introducing a screening of third country nationals at the external borders).

Recommendation fulfilment:

On 9 March 2022, a meeting with the representatives of the Mechanism was held on the premises of the Border Police Directorate discussing the activities of the Mechanism to date.

14.a Supplement to the recommendation after the entire period of work of the Mechanism defined by the Agreement

Analysis and implementation of the recommendations of the Advisory Board submitted to the Coordination Board on 15 June 2022 in the written review of the content of the First Semiannual Report.

PART 2

1. **On the basis of Article 10 of the Agreement, the possibility of extending the work of the Mechanism is foreseen.** We find it necessary for the purpose of monitoring and evaluating the implementation of the Action Plan and the application of the recommendations from the 2021-2022 Annual Report as well as for continuing the monitoring of actions of police officers in the area of illegal migration and international protection.
2. **The amendment of Article 5 of the Agreement is proposed** aimed at more relevant observations of monitoring police actions at the green border. Direct activity providers of the Mechanism should be enabled unannounced visits to the borders of the Republic of Croatia with Bosnia and Herzegovina, Montenegro and the Republic of Serbia.
3. **The amendment of Article 7 of the Agreement is proposed** in a way that under clearly defined protocols the members of the Mechanism are provided with a number of insights into the Information System of the MoI regarding topics and activities defined by the Agreement.
4. **Workshops of the Mechanism and the MoI**, on the topic of "Discussing the results of the monitoring mechanism and border control activities", need to be added to Article 5 of the Agreement as regular activities of the Mechanism and ensure financial funds for their implementation. It has been shown that the stated workshops need to be held after the publication of the semiannual and annual reports.
5. **Form a database of all open administrative asylum procedures** with biometric data of asylum applicants and in line with the rules on personal data protection. The stated data should be exchanged with the police forces of other EU Member States in order to disable the abuse of the system of international protection in certain Member States.
6. **Analyse the visa regimes of Bosnia and Herzegovina, Serbia** and compare these data with the statistics of illegal migration of the Ministry of the Interior. Based on the results of the analysis, initiate diplomatic activity towards the competent authorities of Bosnia and

Herzegovina and Serbia in order to point out the abuses of the visa system of these countries by irregular migrants, but also smugglers and initiate its changes.

7. Consider establishing an EU-wide database of convicted persons for human smuggling (cf. Croatian criminal legislation, Art. 326 of the Criminal Code) and trafficking in human beings, (cf. Croatian criminal legislation, Art. 106 of the Criminal Code) in order to harmonize and tighten penal policy in Member States for particularly serious forms and for recidivists.
8. Keep records of negative experiences of police officers in working with migrants in order to identify burnout early and prevent mistreatment and / or aggressive behaviour of police officers in working with migrants.
9. The practice of wearing cameras in official suits that record the conduct of police officers, which already exists in many countries, would contribute to greater transparency in the conduct of police officers, protect the system of the MoI from possible arbitrary illegal conduct of any individual and, ultimately, more easily lead to the clarification of each individual complaint.
10. Further increased investments are needed in technical enhancement of the system of border control, especially the National Coordination Centre.
11. In its observations, the Mechanism established that there is a need for additional vehicles in order to satisfy the needs of transporting irregular migrants from the green border to BPSs/PSs, but also of persons who expressed the intention to apply for international protection from BPSs/PSs to reception centres for applicants for international protection.
12. Amend the recommendation no. 2 "Improve the cooperation of border police stations related to migrants in irregular crossing" – the problem with issuing return decisions. Return decisions are issued to migrants encountered illegally staying in the Republic of Croatia who has not applied for asylum in the Republic of Croatia. The said decision is not registered in the MoI records. The decision also orders migrants to leave the Republic of Croatia in the following 7 days. This does not define the country to which they have to return, nor is the implementation of that measure monitored. It is necessary to achieve a more efficient monitoring of the execution of the said return decision measure by upgrading the Information System of the MoI and improvements of standard operating procedures.
13. In relation to a term very often used in public, "pushback", which denotes collective violent and unlawful expulsion, as part of trainings conducted by the MoI for the members of the border and riot police who come into contact with migrants while performing their tasks, interactive workshops regarding pushback should be organised with expert guidance and two-way communication, emphasising practical examples to clearly determine the differences between actions that are allowed and those that are not.
14. Medical recommendations for police actions in terms of efficient triage and improving the health of migrants:
 - a) Drafting the action procedure and applying the initial questionnaire on health status of encountered migrants and instructions on the use of that initial questionnaire applied by non-medical personnel during their first informative interview with migrants;
 - b) Drafting recommendations on triaging migrants in terms of identifying vulnerable groups (children, the elderly, pregnant women, the infirm etc.);
 - c) Drafting recommendations on treating migrants who are categorised as vulnerable:
 - I. Health problems – medical examination and processing at the nearest medical emergency unit

- II. Considering that the MoI keeps precise records of irregular migration (place of entry of irregular migrants, nationality, age and sex), we recommend introducing separate records of vulnerable groups (unaccompanied minors, pregnant women, chronically ill persons, disabled persons, the elderly etc.), in order to provide them with the necessary care and attention at an early stage of police processing and to send an early notification to the competent social and health care institutions and humanitarian organizations.
- d) Drafting recommendations for actions (of the police and other non-medical services) taken towards migrants in an epidemic:
 - I. Instructions on conducting basic counter-epidemic measures;
 - II. Triage;
 - III. If necessary, include local primary healthcare facilities in testing migrants after triage.
- e) Proposal of actions taken towards deceased migrants:
 - I. Special marking, reporting and monitoring of deadly migrants in the registry of deaths by coroners with special markings for the purpose of statistical monitoring;
 - II. Ensuring burials in accordance with the customs and culture of the deceased migrant.

15. Medical recommendations for better use of the existing healthcare system:

- a) Drafting the procedure of treating persons whose lives are in danger for the border police;
- b) Drafting guidelines for medical personnel regarding the obligation to report medical interventions to the central register of health services provided to asylum applicants and irregular migrants in the Republic of Croatia;
- c) Drafting guidelines for medical and administrative personnel regarding the obligation to report health care costs to the Croatian Health Insurance Fund (HZZO) and to the central register of financial costs of health care provided to asylum applicants and irregular migrants in the Republic of Croatia in order to plan financial resources from the budget of the Republic of Croatia;
- d) Drafting a semiannual report on provided health care protection to all asylum applicants and irregular migrants in the Republic of Croatia, which is delivered from the central register of health care services provided to migrants and central register of financial costs of health care provided to migrants.

ANNEXES

1. Cooperation Agreement to implement an Independent mechanism of monitoring the actions of police officers of the Ministry of the Interior in the area of illegal migration and international protection of 8 June 2021
2. Protocol on procedure 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
3. 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
4. Minutes of the meeting held at the Ministry of the Interior on 9 March 2022
5. Order of the General Police Director, Mr Nikola Milina, to all police stations and border police stations of 14 October 2021
6. Action Plan (Mol)
7. Advisory Board Semi-Annual Recommendations

LIST OF GRAPHS

Graph 1: Overview of observations in PS/BPS, reception centres and Border Police Directorate from June 2021 to June 2022	6
Graph 2: Number of migrants encountered illegally crossing the eastern border of the Republic of Croatia per BPS/PS between June 2021 and June 2022	13
Graph 3: Recorded number of irregular migrants and submitted asylum applications per month.....	14
Graph 4: Migrants disaggregated by age and sex.....	15

LIST OF PICTURES

Picture 1 Vests of direct activity providers of the Mechanism.....	9
Picture 2: Direct activity providers in an unannounced observation at BPS Imotski.....	9
Picture 3: In line with the Agreement, direct activity providers conducted observations at the green border announcing it to the Ministry of the Interior.....	10
Picture 4 Direct activity providers in announced border control found police treating 9 Afghan citizens, three of whom were underage children and a pregnant woman.....	10
Picture 5: Observation locations in the Republic of Croatia	12
Picture 6: Countries from which the largest number of irregular migrants come to the Republic of Croatia.....	15

LIST OF TABLES

Table 1 Key principles of operation of a police oversight body	2
Table 2: Number of Mechanism observations.....	11
Table 3: Share of asylum applicants in the total number of irregular migrations.....	14
Table 4: Irregular migrants disaggregated by countries.....	16
Table 5: Total health-care costs in 2021 and the first four months of 2022.....	33

Table 6: Mortality statistics (Source: Croatian Institute of Public Health).....	34
Table 7: Number of injured migrants due to accidents	47
Table 8: Number of deceased migrants due to accidents	48

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- ⁸ European Partners Against Corruption/European contact-point network against corruption (November 2011), Police Oversight Principles, p. 10, available at https://www.epac-eacn.org/fileadmin/Documents/Recommendations/Police_Oversight_Principles.pdf [22.11.2021].
- ⁹ European Partners Against Corruption/European contact-point network against corruption (November 2011), Police Oversight Principles, p. 11 and 12, available at https://www.epac-eacn.org/fileadmin/Documents/Recommendations/Police_Oversight_Principles.pdf [22.11.2021].
- ¹⁰ For example, see the Ombudsman's Report for 2021: Analysis of the Situation of Human Rights and Equality in Croatia, March 2022, especially Chapter 4.2 entitled "International Protection Applicants and Irregular Migrants" (pp. 173-182) and the section entitled "Monitoring mechanisms" (pp. 181-182) within this chapter, available at <https://www.ombudsman.hr/hr/download/izvjesce-pucke-pravobraniteljice-za-2021-godinu/?wpdmdl=13454&refresh=62a6fac1e401b1655110337> [15.6.2022].
- ¹¹ Violence against migrants: Commissioner Johansson satisfied by Croatian reaction: 'They took it seriously, the minister is shocked!' Johansson held meetings on Thursday evening with Minister Božinović and Greek Minister of Migration and Asylum Notis Mitarachi, HINA (8.10.2021), available at <https://www.jutarnji.hr/vjesti/svijet/povjerenica-johansson-zadovoljna-reakcijom-hrvatske-uzeli-su-to-iznimno-ozbiljno-ministar-je-sokiran-15108412> [22.11.2021].
- ¹² Convention for the Protection of Human Rights and Fundamental Freedoms, Rome, 4 November 1950
- ¹³ Convention Relating to the Status of Refugees of 28 July 1951 and the Protocol Relating to the Status of Refugees of 31 January 1967
- ¹⁴ The Mechanism has been given insight into the files regarding the received petitions on the alleged illegal treatment of irregular migrants and applicants for international protection as well as the reports of the General Police Directorate.

Moreover, it was made possible to interview police officers who participated in the selected file as well as petitioners if they are located in the area of the Republic of Croatia and if they agree to it. For example, when visiting Porin Reception Centre, an applicant for asylum was interviewed and in her statements, she complained about the work of police officers. Almost on a daily basis, activity providers of the Mechanism receive information on migrants encountered in the area of the Republic of Croatia which enables them to monitor their movement.

¹⁵ Accessing data depends on the finality of the case/file and confidentiality/classification of data.

¹⁶ Regulation (EU) 2016/399 of the European Parliament and of the Council of 9 March 2016 on a Union Code on the rules governing the movement of persons across borders (Schengen Borders Code), OJ L 77, 23 March 2016, pp. 1–52.

¹⁷ Treaty on the Functioning of the European Union (consolidated version) (2016) OJ C 202/1.

¹⁸ Charter of Fundamental Rights of the European Union (2016), SL C 202/1.

¹⁹ Directive 2013/32/EU of the European Parliament and of the Council of 26 June 2013 on common procedures for granting and withdrawing international protection (recast), OJ L 180, 29 June 2013, pp. 60–95; Regulation (EU) No 603/2013 of the European Parliament and of the Council of 26 June 2013 on the establishment of "Eurodac" for the comparison of fingerprints for the effective application of Regulation (EU) No 604/2013 establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person and on requests for the comparison with Eurodac data by Member States' law enforcement authorities and Europol for law enforcement purposes, and amending Regulation (EU) No 1077/2011 establishing a European Agency for the operational management of large-scale IT systems in the area of freedom, security and justice (recast), OJ L 180, 29 June 2013., pp. 1–30.

²⁰ *N.D. and N.T. v. Spain*, Application Nos. 8675/15 and 8697/15, 13 February 2020.

²¹ *M.H. and others v. Croatia*, Application Nos. 15670/18 and 43115/18, 18 November 2021.

²² In the context of the obligation to respect the principle of non-refoulement at borders, see the Fundamental Rights Agency (FRA) document "Fundamental rights of refugees, asylum applicants and migrants at the European borders", 27 March 2020, available at https://fra.europa.eu/sites/default/files/fra_uploads/fra-coe-2020-european-law-land-borders_en.pdf [15.6.2022].

²³ Cf. FRA (2020), Practical guidance: Border controls and fundamental rights at external land borders, available at https://fra.europa.eu/sites/default/files/fra_uploads/fra-2020-guidance-border-controls-and-fundamental-rights-pocket-edition_en.pdf [29.11.2021]