

FIRST SEMI-ANNUAL REPORT

**OF THE INDEPENDENT OVERSIGHT MECHANISM MONITORING
THE ACTIONS OF POLICE OFFICERS OF THE MINISTRY OF THE INTERIOR IN
THE FIELD OF IRREGULAR MIGRATION AND INTERNATIONAL PROTECTION**

June – December 2021

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Annex: Cooperation Agreement for the implementation of the Independent Oversight Mechanism monitoring the actions of police officers of the Ministry of the Interior in the field of irregular migration and international protection of 8 June 2021

1. INTRODUCTION

The Independent Oversight Mechanism monitoring the actions of police officers of the Ministry of the Interior in the field of irregular migration and international protection (hereinafter referred to as "Mechanism") was established by the Agreement of 8 June 2021 (hereinafter referred to as "Agreement") signed by the Ministry of the Interior of the Republic of Croatia (hereinafter referred to as "MOI") of the first part and the Croatian Academy of Medical Sciences (hereinafter referred to as "CAMS"), the Croatian Academy of Legal Sciences (hereinafter referred to as "CALs"), the Centre for Cultural Dialogue (hereinafter referred to as "CCD"), the Croatian Red Cross (hereinafter referred to as "CRC") and prof. dr. sc. Iris Goldner Lang of the other part. The Agreement defines the purpose and basic concepts, activity implementers, types of activities (see Chapter 2) and locations for their implementation, and the structure and financing of the Mechanism. The timeframe of the Agreement is one year (with the possibility of extension). Within that timeframe, the Mechanism will perform 20 observations (announced and unannounced) of police conduct. The Mechanism consists of a Coordinating Committee (5 members, one each from the CAMS, CALS, CCD and CRC as well as prof. dr. sc. Iris Goldner Lang), which independently of the MOI (whose officials are not present at the meetings of the Committee) decides on the implementation of activities, and the Immediate Implementers (8 members, 2 each from CAMS, CALS, CCD and CRC), who perform field observations (police stations, border crossing points, green borders, reception centres etc.) based on the decision of the Coordination Committee.

The Head of the Coordinating Committee is prof. dr. sc. Davor Derenčinović (CALs), while the other members include doc. dr. sc. Krunoslav Capak, MD (CAMS), mr. sc. Nermin Botonjić (CCD), prim. Josip Jelić, MD (CRC) and prof. dr. sc. Iris Goldner Lang. Immediate Implementers include prof. dr. sc. Nadan Rustemović, MD and prof. dr. sc. Mario Starešinić, MD (CAMS), prof. dr. sc. Davorin Lapaš, associate prof. dr. sc. Damir Primorac (CALs), Samir Ilijazi, mag. iur., Mr Admir Muhić (CCD), Mr Robert Markt and Mr Branislav Tomić (CRC). The logistical and administrative support for the work of the Mechanism is ensured by the MOI, which has appointed an officer in accordance with the Agreement to ensure the smooth and timely exchange of information and the performance of other tasks enabling the execution of supervisory and other activities of the Mechanism.

The broader domestic and European socio-political, geopolitical, geostrategic, security, human rights, but also media context¹ in which the process of designing and establishing the Mechanism is located is extremely important, especially in the context of rushed/premature and unfounded criticism by certain civil society organisations regarding its establishment, the expertise of its members and functional independence². Even more important in this context is the fact that nowhere in Europe exists a comparable *specialised* (civilian) police oversight mechanism in the field of irregular migration, even though the New Pact on Migration and Asylum provides for the establishment of such mechanisms in all Member States of the European Union (hereinafter referred to as "EU")³. In this sense, there are no European examples that could serve as models for establishing the Mechanism, which also means no guidelines and/or suggestions for best practices that could guide the actions of the Mechanism. However, there are European models as well as expert studies of best practices in

general (civilian) police oversight mechanisms, which served as a basis for the design of the Mechanism and its subsequent operations⁴.

Due to the aforementioned criticism and doubts about the Mechanism’s independence and functionality, the following offers a brief explanation of the basic concepts relevant to understanding its functioning and the key principles of operation, which fully comply with all the key principles of operation of a police oversight body outlined in the Police Oversight Principles⁵ to the extent that they are relevant to the tasks, responsibilities and powers of the Mechanism (for more information see the Note accompanying Table 1)⁶.

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

The above definition of a police oversight body includes three key elements: (1) the organisation has a statutory **responsibility for oversight of aspects of policing** (e.g. actions of MOI police officers in the field of irregular migrations and international protection); (2) there is no standard organisational form for any such oversight body – **independence in carrying out its duties is crucial**; (3) such an organisation **should aspire to achieve the principles listed below**, however, it is not strictly necessary to achieve all of them in full.

Table 1. Key principles for the operation of a police oversight body

Key principles: Operation of a police oversight body ⁸		IOM	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 IOM 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.	✓	The 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 p. 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.	✓***	IOM 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:	✓	Art. 3 p. 3, Art. 4, Art. 5, Art. 6 and Art. 7
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 has adequate resources, with the condition of state funding being met to the extent that, although the Mechanism is funded through EU funds, they are indirectly managed by the MOI, which would therefore represent indirect funding by the state; **Within the framework of its statutory task and competences, the mechanism is equipped with precisely those powers that enable it to conduct fair, independent and effective supervision, keeping in mind that the Mechanism is neither a 'complaint' nor an 'internal affairs' type of oversight body, given that such bodies already exist in the Republic of Croatia (State Attorney's Office, Ombudsperson, Internal Control Department of the MOI); ***The Mechanism meets this condition, however, it is important to note once again that the Mechanism is neither a 'complaint' or 'internal affairs' type of oversight body.

Having in mind that the aforementioned key principles of operation refer to *general* police oversight mechanisms (primarily 'complaints' and 'internal affairs'), it is necessary that these as well as other key principles⁹ be evaluated in the light of:

- a) the absence of comparable mechanisms;
- b) the *specific* purpose and objective of a *civilian* oversight mechanism *in the field of irregular migration* (which are not related to 'complaints' or 'internal affairs'); and
- c) statutory competencies and powers of the existing *state and civilian police oversight mechanisms in Croatia*.

In this regard, the requirement for the "full range of police powers" should be linked to "adequate powers to carry out its functions", while the realisation of both key principles for the operation of the Mechanism as a *civilian* oversight mechanism in the *specific* field of irregular migration and as one of the actors in the entire *general* police oversight system in Croatia whose competences and powers are not in competition, but are complementary to the competences and powers of other oversight bodies (MOI, State Attorney's Office, Ombudsperson etc.) should be evaluated. The Mechanism is therefore a body with limited competence, with the scope of its competence depending on the competences of other actors in the police oversight system. The operations of the Mechanism are focused on the field and administrative procedures with an analysis of both primary and secondary data sources (see Chapter 2).

The Mechanism is not a static, one-time or even final response to all the challenges of civilian police oversight in the field of irregular migration in Croatia. Its establishment is the beginning of an impartial, independent and expert dialogue with the Ministry of the Interior not guided by the explicit objective of identifying and processing individual unlawful police actions, but with the aim of determining the normative, institutional, systemic, operational, technical and ultimately human factors that contribute to or even cause such unlawful actions. It is clear that such a dialogue must be dynamic and adaptable while having long-term potential, which would ultimately open the possibility for the evaluation of proposed and implemented measures as well as their timely correction (i.e. evidence-based policy). In this regard, the Mechanism delivers on its mandate in accordance with the Agreement and the statutory regulations of the Republic of Croatia, and is guided in its operations by a direct,

impartial, independent and expert dialogue with the Ministry of the Interior, in which a wide range of stakeholders is indirectly involved via the Advisory Board, but also the public from which the Mechanism draws certain knowledge and to which it transparently communicates its findings.

2. MECHANISM OVERSIGHT ACTIVITIES

The supervisory activities of the Mechanism as well as the method and location of their implementation are defined by the Agreement. The activities of the Mechanism are carried out on the border with Bosnia and Herzegovina, Montenegro and Serbia (border police stations) as well as in reception centres. They include overseeing the treatment of migrants and applicants for international protection by police officers during the enforcement of regulations governing border control and international protection, access to the case files with final decisions on the submitted complaints on the alleged unlawful treatment of irregular migrants and applicants for international protection, and access to the activities and reports of the Police Directorate regarding the alleged unlawful treatment of the above categories of persons. Monitoring activities of the Mechanism also include the green border. Even though the Agreement describes these visits as “announced”, in practice, the Mechanism has also conducted unannounced observations on the green border with the consent of the MOI (see Chapter 2.1.).

The methodology of the Mechanism is based on two different sets of actions – analysis of primary and secondary sources. Depending on data type and source, the type of action and the specifics of individual activities as well as the observations, the Mechanism uses the following methods: *in vivo* observation, semi-structured interview, normative analysis, statistical analysis and case study. The two sets of actions include:

- 2.1. primary source analysis based on:
 - 2.1.a. observation (announced and unannounced)
 - 2.1.b. interviews (with irregular migrants, police officers and other persons with direct knowledge of possible unlawful actions of police officers)
- 2.2. secondary source analysis (case files and complaints, statistics, normative framework, rules and practices governing police conduct etc.)

When sourcing cases/observations/case files/complaints for sampling, the key selection criteria are the vulnerability of the person/group, the urgency of the case, the extent/severity of potential irregularities and the geographically uniform distribution correlated with the incidence and prevalence of irregular migrations.

2.1. Primary source analysis

The main activity of the Mechanism related to the analysis of primary sources involves observations of police actions (hereinafter referred to as “observations”). In accordance with the Agreement, the Immediate Implementers conduct a total of 20 observations in one year. Observations are conducted on the basis of the provisions of the Agreement, the Protocol of Procedure (internal document) and *ad hoc* agreed guidelines. A format for an individual report was designed for the purpose of conducting observations, which is to be submitted to the Head of the Coordinating Committee and its members as soon as possible following the observation.

The decision to conduct an observation is made by the Coordinating Committee on the basis of submitted statistical reports, submitted to the Mechanism by a representative of the MOI each month. These reports contain information on all irregular migrants and applicants for international protection by police department or border police station (hereinafter referred to as "BPS"). In addition to statistical reports, the Coordinating Committee makes decisions based on other available sources of information. For example, two observations were conducted on the basis of media reports on the police treatment of irregular migrants. Both observations were conducted at BPS Cetingrad. The first observation was also conducted at the "Porin" reception centre, with the other (unannounced) observation conducted as soon as possible during a filed visit to the locations where the unlawful treatment of irregular migrants by police officers had taken place as documented by RTL and broadcast on 6 October 2021. In addition to the field visit, the case involved an emergency meeting with the Head of the Border Police Directorate. The speed and appropriateness of the Mechanism's response is confirmed by the fact that these activities were carried out even before the MOI confirmed that the persons in the video were officers of the police tactical unit against whom disciplinary proceedings were initiated and who were suspended. The importance of the timely reaction of the Mechanism was conveyed to the media by both the highest officials of the MOI and the European Commissioner for Home Affairs, Ms Ylva Johansson¹⁰.

In addition to the listed sources providing the basis for the operations of the Mechanism, the representative of the MOI informs the Head of the Coordinating Committee in real time about the irregular migrants encountered and brought to the BPS as well as the actions taken. The Head of the Committee immediately forwards the information to the other members and a decision on further observation is made based on the discussion. One of the observations was conducted urgently (the **field report was prepared within hours** of receiving the information) at BPS Slavonski Brod and the "Porin" reception centre the following day.

During the observation, the Immediate Implementers determine whether the fundamental human rights guaranteed by the Convention for the Protection of Human Rights and Fundamental Freedoms as well as the Convention and Protocol Relating to the Status of Refugees, which are central to the international protection of refugees and are based on Article 14 of the Universal Declaration of Human Rights, have been respected in relation to irregular migrants and applicants for international protection. When monitoring the actions of police officers, it is determined whether they acted in accordance with the Police Powers and Duties Act and the Aliens Act. Taking into account the purpose of Article 4 Protocol No. 4 of the Convention for the Protection of Human Rights and Fundamental Freedoms, which is to prevent states being able to expel aliens without examining their personal circumstances, giving them the chance to apply for asylum and allowing them to present their arguments against expulsion, the competent police officers were questioned about the manner in which irregular migrants are treated at the time they were encountered in the territory of the Republic of Croatia. The observation determines whether migrants were provided with the opportunity **to apply for asylum or international protection, the guaranteed the right to an interpreter**, the possibility of using forms to express the intention of seeking international protection in their language, the right to free legal aid and the right to medical assistance

(especially in the case of vulnerable groups of persons). Furthermore, observations include the inspection of the rooms where migrants are being held and the vehicles used to transport them as well as visits to the green border. Observations at police stations include access to the case files and forms for requesting international protection as well as a list of persons offering free legal aid.

Upon arrival to the location of observation, Immediate Implementers with official credentials and visible vests identify themselves and fill out a form at the border police station. The Immediate Implementers then conduct an interview with the competent persons at the BPS, examine the individual case files and accommodation, and perform a tour of the border area. If persons encountered while trying to enter the Republic of Croatia are being held at the BPS, the Immediate Implementers conduct an interview with the assistance of an interpreter. Police officers are questioned in detail about the rules governing police conduct when encountering irregular migrants, with special attention being paid to vulnerable groups. The Immediate Implementers conduct interviews exclusively with the consent of the other person, taking into account personal data protection and confidentiality, especially in the case of vulnerable groups and/or sensitive topics and/or traumatic events.

Observations may be announced or unannounced. In the case of unannounced observations in the entire territory of the Republic of Croatia (including the so-called green border), the Mechanism applies two models of action. According to the first model, the observation is conducted on the basis of the decision of the Coordinating Committee without informing the MOI representative about the observation, as well as the time and location of the observation. Pursuant to the decision of the Coordinating Committee, the selected Immediate Implementers go into the field after preparatory consultations. They arrive in their own personal vehicle and without prior notice at the selected border police station, where they begin the observation in the manner mentioned above. According to the second model, the Head of the Coordinating Committee informs the MOI representative that the Mechanism is conducting an observation, but does not specify the time or location. In this regard, the observations from the second model are also *de facto* unannounced as the MOI is not familiar with the time and location of the observation. The first unannounced observations were conducted according to the second model since the Agreement establishes that observations on the so-called green border must be conducted in the presence of MOI employees for the purpose of protecting the Immediate Implementers in high-risk areas (e.g. minefields or mine suspected areas, possible encounters with smugglers, traffickers, poachers etc.). The last two observations were conducted according to the first model, which was successfully tested seeing as the Immediate Implementers were granted access to the so-called green border accompanied by police officers after their unannounced arrival at the BPS.

In the first six months of operation, the Mechanism conducted 8 observations, of which 2 were announced, 4 were unannounced observations according to the second model and 2 were unannounced observations according to the first model. When selecting cases/locations for observation, the key criteria included group size, vulnerability of the group/person, estimated urgency of supervision, estimated extent/severity of potential irregularities and the geographically uniform distribution of observations correlated with the incidence and

prevalence of irregular migrations at individual locations (observations included BPS Cetingrad, Slavonski Brod, Donji Lapac, Dvor, Stara Gradiška i Trilj). In addition to the aggregate statistical data and reports of the MOI, the Mechanism selected cases/locations for observation based on the daily notifications of the MOI on migrants encountered in an irregular situation (location, number of persons in the group, presence of vulnerable persons in the group, origin of the persons etc.).

Following the observation, the Immediate Implementers draft a report on the observation as soon as possible, which is then discussed and adopted at the next meeting of the Coordinating Committee. The individual reports of the Immediate Implementers are not available to the public, but the Coordinating Committee informs the public accordingly and in a timely manner about the content of the semi-annual and annual reports. Exceptionally, when there is special public interest, the Mechanism issues a press release immediately following the observation, as was the case with the communication of 8 October 2021 in response to a television segment aired on RTL as part of the programme "Potraga" on 6 October 2021. The communication informed the public of the urgent unannounced observation related to the incidents documented in the segment. As part of the communication, the Mechanism also expressed *"regret that the recording was not published sooner and delivered to the competent state authorities, primarily the State Attorney's Office, as it would certainly contribute to shedding more light on the incident and gathering evidence, protecting migrants, initiating appropriate proceedings against those responsible and preventing possible further incidents comparable to those aired in the segment"*.

Although conducting observations is an extremely important task of the Mechanism, it is not its only monitoring activity. The insights gained from the observations in the field primarily serve to verify and determine possible discrepancies between the normative and institutionally conceived rules governing police conduct and everyday practice in the field. Accordingly, the observations complement the overall methodology of the Mechanism and are a valuable source of information. However, they are not the only source informing the work of the Mechanism. One example is the Mechanism's finding on the misinterpretation by the MOI of the moment and location of encountering irregular migrants in the territory of the Republic of Croatia, which, depending on the circumstances, may or may not guarantee them the right to apply for asylum or international protection (discussed in more detail later in the text). It constitutes one of the key findings of the Mechanism and is not the result of observations, but of an impartial and expert dialogue with the MOI. Finally, this finding also clarifies the causes, consequently also pointing to the solutions to the issue of unlawful activities arising from such misinterpretations.

2.2. Secondary source analysis

In addition to the primary sources (observations), the methodology of the Mechanism also includes analysis of secondary sources. The Mechanism bases its findings on the insights gained from the analysis of case files and complaints¹¹, statistical data, the relevant normative framework, rules and practices governing police conduct and conduct of other persons involved in the reception of irregular migrants and/or providing assistance, media reports and reports of relevant stakeholders etc.¹² It is important to point out that the Mechanism does

not act on complaints as it does not operate as a complaint based mechanism, thus avoiding possible conflicts of jurisdiction with other competent bodies that are established and act, *inter alia*, on the basis of complaints received (e.g. the Office of the Ombudsperson). However, the Mechanism may forward any complaints it receives to the competent authorities.

A secondary source analysis also includes monthly statistical reports submitted by the MOI representative to the Mechanism. These reports contain information on all irregular migrants and applicants for international protection by police department or border police station, country of origin, gender etc. Furthermore, the MOI provides real-time notifications to the Mechanism about ongoing actions against irregular migrants. According to the data of the Ministry of the Interior submitted to the Mechanism on a regular basis, in the period from 29 July to 16 November 2021, the police conducted a total of 41 actions against persons found to be illegally crossing the state border. These included a total of 329 persons from 9 countries – Afghanistan, Iraq, Iran, Syria, Turkey, Cuba, Pakistan, India, Nepal. The largest number of irregular migrants included in police actions are from Afghanistan (more than 70%). Police actions and operations were carried out in the jurisdiction of 10 border police stations – Novska, Stara Gradiška, Trilj, Dvor, Gvozd, Glina, Slunj, Korenica, Cetingrad and Slavnoski Brod. The greatest number of police actions and operations carried out was at BPS Slavnoski Brod (119 persons or 36%) and BPS Cetingrad (84 persons or 25%).

In most cases (over 90%), irregular migrants expressed their intention to seek asylum/international protection. Two irregular migrants, despite their stated intentions, did not file an application. Fourteen persons who did not express the intention to apply for asylum/international protection were issued with a decision on expulsion. As at 20 November 2021, 245 asylum seekers/applicants for international protection who were in the process of applying for asylum/international protection remain at the reception centre (around 75%), while in the case of the other irregular migrants, the process was suspended pursuant to Article 39, paragraph 2, item 3 of the Act on International and Temporary Protection (Official Gazette 70/15, 127/17) because they had left the reception centre.

3. OTHER ACTIVITIES

Shortly after the signing of the Agreement on 8 June 2021, a constituent meeting of the Coordinating Committee was held at which Davor Derenčinović was elected as the Head of the Committee. So far, the Coordinating Committee has held three formal meetings and a series of *ad hoc* informal meetings via videoconference. The regulations governing the operations of the Mechanism (Protocol of Procedure) were adopted at the meetings of the Committee, and after the discussion and contribution of all members of the Mechanism, the text of the form for conducting direct observations was adopted.

On 16 September 2021, the Head of the Committee met with members of the US Department of Homeland Security in the premises of the Police Directorate regarding the decision on the abolition of visas for citizens of the Republic of Croatia. On that occasion, he familiarised the participants with the functioning of the Mechanism and answered a number of their questions regarding its independence, methodology, relationship and cooperation with the Ministry of Interior, etc.

At the invitation of the Advisory Board, which held its constituent session on September 17, 2021, the Head of the Committee briefly presented the activities of the Mechanism and announced the adoption of the first semi-annual report in late November and early December 2021. At a meeting attended by the representatives of DG Home, UNHCR, the Office of the Ombudsperson, the Office of the Ombudsperson for Children, FRA, FRONTEX and EASO, a positive rating was given to the Mechanism's operationalisation, its independence in theory and in practice as well as the expertise of its members. The importance of adequate financing of the Mechanism's activities was also highlighted, as well as avoiding the duplication or overlapping of competencies with existing human rights institutions (e.g. the Office of the Ombudsperson).

On 1 October 2021, the Head of the Committee had a presentation at the webinar "*Migration and asylum: Council of Europe standards and channels for practical cooperation*" organised jointly by the Council of Europe and the Ministry of the Interior of the Republic of Croatia.

On 29 October 2021, members of the Mechanism Davor Derenčinović, Iris Goldner Lang, Nermin Botonjić and Robert Markt participated in the work of the Working Group on Schengen Scrutiny of the Committee on Civil Liberties, Justice and Home Affairs of the European Parliament (LIBE) in Brussels, where they presented the establishment and operations of the Mechanism and participated in a discussion with members of the European Parliament, a representative of the European Commission (DG HOME), the Ombudsperson and invited members of Croatian and international NGOs (Centre for Peace Studies, Danish Refugee Council, Border Violence Monitoring Network).

4. PRELIMINARY FINDINGS

The preliminary findings of the Mechanism are divided into several categories: effectiveness of the legal framework, MOI rules governing police conduct, practical challenges in police actions and operations, established irregularities and good practices, and difficulties faced by irregular migrants. In assessing and interpreting the preliminary findings, it should be noted that they are the result of the fact that the Republic of Croatia has an extremely long land border with the countries included in the Mechanism's monitoring activities and that there are no artificial physical barriers to prevent entry into the territory of the Republic of Croatia (wall, wire etc.). The configuration of the terrain at the border area as well as several mine suspected areas also present specific challenges. Most of the Mechanism's preliminary findings are based on the fact that state border control predominantly relies on human surveillance. This points to the importance of reviewing existing human and professional capacities within the system. In this regard, the Mechanism makes certain recommendations, which are further elaborated in Chapter 5, with the purpose of improving the protection and security of the state border while respecting the rights of irregular migrants and applicants for international protection.

a. EFFECTIVENESS OF THE LEGAL FRAMEWORK

• Identification and identity of irregular migrants

The identity of irregular migrants is determined based on their statement. Even after being issued with a "refugee card", meaning for the duration of their stay and free movement within the Republic of Croatia, their identity is based on their statement, especially as the refugee card is not a form of ID.

Consequently, one of the key challenges to the effectiveness of the legal framework is the identification of irregular migrants, as in most cases the persons encountered do not have any personal documents which could be used to identify them. Often people provide false information creating false identities, revealed as such based on the inconsistencies in the statements made by irregular migrants, which are used as a basis for establishing their identity and other relevant facts. This certainly raises the question of the credibility of statements of identity.

• EURODAC and the exchange of information relevant for identification

Insufficient cooperation was found between police border stations, both in the Republic of Croatia and especially with neighbouring countries with regard to exchanging information (e.g. fingerprint databases and other information relevant for identification) on persons who did not express the intention of applying for asylum/international protection in the Republic of Croatia and who are issued with a decision instructing them to leave the territory of the Republic of Croatia. The problem in this case is that only the information on persons seeking asylum/international protection as well as those found to be illegally crossing the state border (persons who cannot be removed) is entered in EURODAC, but not for persons who have been returned.

- **Enforcement of Return Decisions, difficulties in establishing the identity of migrants and preventing the recurrence of irregular migration**

If a migrant does not apply for asylum/international protection, a Return Decision is issued in accordance with Article 184 of the Aliens Act, which sets a deadline for voluntary departure.

The problem arises when the migrant fails to comply with the Return Decision and remains on the territory of the Republic of Croatia. In such situations, the migrant is forcibly removed under police escort (Article 203 of the Aliens Act). However, if the migrant loses or destroys the Return Decision, due to the impossibility of establishing their identity, it is extremely difficult to remove them from the Republic of Croatia. Furthermore, difficulties were also established in identifying and distinguishing recurrent irregular migration from primary irregular migration.

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

According to the collected primary data, the majority of migrants “continue their journey” to Western European countries, while out of the persons who had initiated the asylum/international protection procedure and are afforded accommodation in “Porin”, around 80% never return to the reception centre and the proceedings are suspended. On the other hand, secondary sources (see Chapter 2.2.) point to a lower outflow, making it difficult to estimate the real outflow. The fact is that the outflow exists and presents a problem. In most cases, the persons mentioned above continue their irregular journey towards Western Europe. These persons usually seek international protection in other countries of the European Union under a different identity. In such cases, asylum proceedings in the Republic of Croatia are suspended. According to the data collected during observation, over 90% of migrants have no documents or material resources to continue their journey at the time of reception.

- **Record-keeping**

In terms of legislation, record-keeping follows European standards, however, there are some shortcomings in terms of implementation. The results of oversight reveal the existence of several files on the same case, which is why the consolidation of case files is recommended for increasing efficiency. It was also found that the Sector for Foreigners and the border police have separate files for the same person, which is problematic for a number of reasons, and can ultimately jeopardize the rights of that person as well as the regularity and fairness of conduct. The files of the Sector for Foreigners and the border police should be consolidated. Individual cases should be consolidated for each person, across all services that have any record of that person or where the irregular migrant was involved in proceedings.

b. MOI RULES GOVERNING POLICE CONDUCT, PRACTICAL CHALLENGES IN POLICE ACTIONS AND OPERATIONS, ESTABLISHED IRREGULARITIES AND GOOD PRACTICES

▪ **Combating human trafficking and migration-related crime**

Practical challenges faced by police officers include actions and operations towards migrants who might be armed, as well as smugglers and traffickers. Setting up an EU database on people convicted of 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) should be considered in order to unify and strengthen the EU criminal policy for particularly severe cases and repeat offenders.

▪ **Capacity and workload among police officers**

- Police officers have been dealing with the migrant crisis for years and are under a lot of pressure due to the fact that they have to guard the border and at the same time be the first to withstand the pressure of the troubles that irregular migrants face. Despite significantly strengthening the capacity of the border police, due to the continuous migratory pressure in some border police stations, the assistance of tactical units in areas under migratory pressure was determined. Adequate staffing as well as the continued provision of technical equipment to the border police system would reduce the work overload of existing staff and most likely prevent possible irregular actions and operations of “external” units providing assistance.
- The police are also faced with cultural differences when dealing with migrants. For example, differences in upbringing and relationships with children, or a different approach to medical treatment of children in migrant populations that are obviously different from the local culture, all of which presents great challenges in the everyday work of police officers and requires additional effort (ensuring that unaccompanied children not injure themselves etc.)

▪ **Established irregularities in police conduct**

- The Mechanism found that the police are carrying out permissible deterrence under Article 13 of the Schengen Borders Code, although they do not record their activities, and illicit deterrence in isolated cases in mine suspected areas. Such activities are controversial for several reasons, three in particular: (1) illicit deterrence performed upon entry into the territory of the Republic of Croatia in these cases prevents individuals from applying for asylum and may jeopardize their right to seek international protection if they do not have the opportunity to apply for asylum elsewhere. The purpose of allowing deterrence under Article 13 of the Schengen Borders Code (prevention and discouragement) should be to refer refugees to the lawful procedure for entering the receiving country, which, under international law, improves their position in the asylum procedure and gives them a greater scope of rights as so-called “lawfully present refugees” (“refugees *de iure*”). It must in no way infringe the right to apply for asylum by allowing real and effective access to the means of legal entry, especially border procedure, and violate the principle of non-refoulement, which may not be violated in any situation based on international and European law and judgments of the Court of Justice of the European Union and the European Court of Human Rights. Adherence to this principle obliges the state not only in situations that occur on its territory, but also in extraterritorial situations that fall under the jurisdiction and effective control of that state. (2) Deterrence prevents the

registration of irregular migrants who cannot express their intention to seek asylum/international protection, which makes it impossible to determine where they entered the European Union and whether they had previously applied for asylum, in order to enable the application of the Dublin Regulation and the EURODAC Regulation. (3) Considering that in the case of a possible dispute, the burden of proof in relation to the permissibility of deterrence is on the state, failure to register permissible deterrence makes it difficult and even impossible to determine whether a specific situation involved permissible or illicit deterrence.

- The Mechanism found that the MOI misinterprets relevant regulations in situations where irregular migrants know that police officers do not conduct physical surveillance of mine suspected areas, use this situation to cross the state border in these high-risk areas/(potential) minefields and when caught by police, point out that they are now on Croatian territory and are requesting asylum. However, the border police maintain that they did not in fact cross into Croatian territory since the area is not under the “effective jurisdiction of the Republic of Croatia”, and deters them from crossing the border/entering the territory by returning them to safe locations, without first determining if they are refugees protected by the non-refoulement principle from the moment they are under the jurisdiction of the Republic of Croatia, let alone its territory, which is undoubtedly the case here.
- By conducting an unannounced observation and analysis of other primary and secondary sources of information in connection to the recording aired on RTL on 6 October 2021, the Mechanism found that members of the police tactical unit acted unlawfully when returning irregular migrants from the Republic of Croatia to Bosnia and Herzegovina outside the scope allowed by national and international law, which was confirmed by the MOI. In this case, disciplinary proceedings were initiated against police officers as well as criminal proceedings before the competent state attorney's office.

▪ **Examples of good practice**

- During oversight, it was found that in the majority of cases police officers treated migrants in accordance with the regulations and respecting the highest standards (e.g. respecting religious dietary restrictions, assisting vulnerable migrant groups, pregnant women, unaccompanied minors etc.).
- Examples of good practice include the cooperation of border police with healthcare institutions: emergency medical services, hospitals, regular COVID testing, review of medical records as needed and even cooperation with care homes (e.g. placing migrants in the care home “Srećko Badurina” in Ogulin at the initiative of the staff at BPS Cetinjad).
- Police officers act with the purpose of protecting national security and public order as well as protecting the fundamental rights of migrants guaranteed by the conventions. In their treatment of migrants, police officers must comply with the fundamental principles, especially the principle of non-discrimination, non-refoulement and prohibition of punishment. It is important to highlight Article 32 of the Convention and the Protocol Relating to the Status of Refugees, according to which a Contracting State shall not forcibly expel a refugee lawfully residing in its territory unless national security

or public order is endangered. The forcible removal of such a refugee may be carried out only pursuant to a decision reached in accordance with the law. Regarding the proper treatment of migrants and the protection of their guaranteed rights in police stations, the Mechanism received information that police officers are acquainted with fundamental human rights at the beginning of their training. New training methods for border police multipliers include education in the field of human rights protection. The Mechanism was also informed of the training of special police forces assisting the border police. During observation, both announced and unannounced, the Mechanism was able to conclude that police officers are familiar with the fundamental rights of migrants. These primarily include the right to apply for international protection on the prescribed forms in a language understood by the applicant, the right to an interpreter, the right to free legal aid, and in particular the right to medical assistance, all of which were complied with when inspecting the available case files and records kept by police stations. The police stations subject to observation had forms in at least 10 different languages.

c. DIFFICULTIES FACED BY IRREGULAR MIGRANTS

• Criminal victimisation

Migrants are exposed to traffickers/smugglers on both sides of the border, some of whom are foreign nationals (e.g. a British national caught and processed by competent state authorities). Migrants are susceptible to abuse by smugglers and “agents” guaranteeing them passage. Additionally, unlawful treatment of migrants by Croatian police officers (e.g. use of force) with the aim of forced return outside the scope allowed by statutory regulations and international law was also determined. During interviews with persons caught illegally crossing the Croatian border, the Immediate Implementers noted that in most cases they had no documents and were supposed to be transferred by “agents” (people smugglers, including third-country nationals) from Bosnia and Herzegovina to a certain location in the territory of the Republic of Croatia, where they would be met by a contact to transport them to their final destination in the countries of Western Europe. Irregular migrants are left in uninhabited, hard-to-reach, cold and wet places, without food or water, which adversely affects their health, but the “contact” never shows. In cases such as these, irregular migrants contact international organisations or Croatian NGOs whose contacts are available to them order to obtain protection. In the cases observed, irregular migrants travelling from Bosnia and Herzegovina to Croatia reported facing disappointment from “agents” while trying to reach their final destinations (because the “contact” never arrived), illegal use of force, confiscation of documents, money and mobile phones. When describing the illegal use of force, irregular migrants reported that illegal force was used by persons in unmarked black uniforms, with balaclavas on their heads, equipped with batons.

• Migration-related trauma

- Long journeys, exhaustion and illness that often require medical treatment and care.
- Different cultural relations and language barrier.

- Disorientation in time and space.
- Family separation and related uncertainty.
- Risk of joint criminal activities of organised groups of smugglers and traffickers from several countries.

▪ **(Potential) self-victimisation and endangering vulnerable persons**

Exposure life-threatening situations due to attempts to cross the border even in mine suspected areas, endangering vulnerable groups (children, pregnant women, the sick and the elderly).

▪ **Reception/accommodation**

One of the major problems of migrants is the fact that police stations do not always have adequate facilities for their temporary accommodation. Due to the large number of migrants, in some stations it is currently impossible to provide an adequate room in which migrants would spend a certain amount of time until they are identified. The room must meet the conditions referred to in Article 13, paragraph 2 of the Ordinance on the treatment of third-country nationals. If a request for international protection is made, the person is referred to the reception centre visited by members of the Mechanism and which offers appropriate accommodation for migrants.

5. RECOMMENDATIONS

The Mechanism provides the following recommendations, for which, based on the preliminary findings of the first six months of oversight, it can be reasonably assumed that their acceptance and implementation would significantly reduce the risk of unlawful actions of police officers in the field of irregular migration. Additionally, accepting and implementing the recommendations would undoubtedly raise the quality of the work of the MOI in this challenging sector. Finally, the urgent implementation of these recommendations would allow the Mechanism to carry out a preliminary evaluation of the implemented measures in the next six months in order to determine the possible corrections needed and the effectiveness of individual measures. Regardless of the timeframe and scope of the implementation of specific measures based on the following recommendations, it is necessary to design appropriate evaluation instruments and procedures when designing individual measures and before their implementation.

- 1) Improve the method for establishing the identity of irregular migrants**, both in the case of asylum seekers/applicants for international protection as well as those not seeking asylum/international protection, e.g. by using modern face recognition software that can be used with smartphones. Launch an initiative to establish an EU database of biometric data in the field of irregular migration. Although this does not address the challenges of establishing the true identity of irregular migrants without valid documents, it would allow the person registered in this manner to be 'linked' to the same identity throughout the migration route.
- 2) Improve cooperation among police border stations in dealing with migrants crossing the border illegally.** If they do not express their intention to apply for asylum/international protection in the Republic of Croatia, such persons are handed a decision following an administrative procedure instructing them to voluntarily leave the territory of the Republic of Croatia within seven days, instead of being immediately and officially handed over to police in Bosnia and Herzegovina (as is the case if they are found in the Republic of Croatia after seven days). Their fingerprints are taken by the police, however, they are apparently not entered into the EURODAC system, allowing them to repeat the attempt at another BPS, since the exchange of information between the BPSs is lacking in this regard.
- 3) Register all persons irregularly entering the territory of the Republic of Croatia.** The problem also arises in enforcing the decision to depart the European Economic Area in the case of persons who have not applied for international protection/asylum. These persons are only photographed, no fingerprints are taken for the purpose of entering them into EURODAC. Since they usually have no documents, such persons cannot be identified when attempting to illegally re-enter the Republic of Croatia, and "agents" (smugglers and/or traffickers) might use this situation to survey the field. It is recommended to examine the possibility of taking fingerprints in the BPSs (and not reception centres) of all persons attempting to illegally enter the Republic of Croatia, whether or not they have sought international protection/asylum.

- 4) **Improve international legal assistance as well as police cooperation** with countries where this is possible and which are located on the irregular migration route, especially neighbouring countries from which migrants enter into the Republic of Croatia (Bosnia and Herzegovina), as well as use the diplomatic and consular network and other available sources of information to acquire information on the identity of persons caught crossing the border illegally, without endangering the human rights and privacy of those persons.
- 5) **Pay special attention to different international legal obligations depending on the status of a person as a *refugee* or a *migrant*.** With regard to the first category, the obligation of non-refoulement is unquestionable and part of general international case-law (with rare exceptions provided for in international law), while there is no such obligation in international migration law. The state is prohibited from using illicit deterrence, regardless of the person's status as a refugee or migrant.
- 6) **Record GPS coordinates of the movements of police patrols along the green border.** It is recommended that GPS coordinates become an integral part of the report submitted by border police patrols after conducting border surveillance. GPS data should be recorded in a way that automatically generates "tracking", without creating additional administrative burden for police officers. On the one hand, this allows for the subsequent personal identification of all police officers in the event that irregular migrants report irregular/illegal conduct, while on the other hand, the measure would also have a preventive effect, as the police officers are aware that they can be identified – both in terms of exculpatory absence and in terms of potentially incriminating presence at the scene.
- 7) **Create and distribute internal written instructions for police officers to follow during border surveillance and in the field of irregular migration, and instruct them to disregard verbal instructions that deviate from or contradict the written instructions, of which they are obliged to inform the Police Directorate and the Mechanism in writing and without delay.** On the one hand, this prevents irregular/illegal conduct of police officers based on irregular/illegal verbal instructions/orders, while on the other hand, it prevents senior police officers from issuing such instructions/orders. This would also clearly define the procedure and contact for reporting violations of MOI internal written instructions, guaranteeing timely internal and external (the Mechanism) oversight.
- 8) **Improve the case/file tracking system with the aim of consolidating all information** in one place and consolidate the files on asylum seekers/applicants for international protection of the Sector for Foreigners and the border police.
- 9) **Compile a collection of good practices in the field of irregular migration.** The Mechanism was informed of or encountered instances in which the border police rescued migrants or organised their transport and medical assistance. Transporting migrants to the reception centre in unmarked police vans is another positive example, as well having access to interpreters for almost any language spoken by the migrants. As another example of good practice, we point out the relationship of female police officers at BPS Slavonski Brod with vulnerable groups – women and children – and their transport in unmarked vehicles to the "Porin" reception centre in Zagreb.

- 10) Request/use budgetary resources and/or EU funds to ensure equal quality of accommodation in all border police stations,** as during the observations, the Mechanism found that the accommodation capacities of some border police stations do not meet the minimum standards.
- 11) Prepare a manual with a precise description of standard operating procedures** which clearly distinguishes between actions carried out during border surveillance which are permissible according to national legislation as well as international and EU law, and illicit actions that violate the human rights of migrants and applicants for international protection, as well as ensure that all relevant MOI employees (uniformed police officers, border police, tactical units) are familiar with the contents of the manual.
- 12) Improve the sources of information for irregular migrants,** for example, include a list of border crossing points where migrants can seek asylum in the Republic of Croatia, create a website in all languages with instructions on how to apply for asylum in the Republic of Croatia, provide contact information, transparently present the uniforms of the border police and other units involved in border control operations (appearance, markings) and provide contact information for reporting persons in the border area in different uniforms.
- 13) Adopt the practice that after discovering incidents/unlawful treatment of irregular migrants by police officers, the MOI must immediately inform the Mechanism** of the event and the actions planned and taken. The measure would strengthen and improve the dialogue of the MIO towards the Mechanism, as well as allow the MOI to use the expertise of the Mechanism to its full potential.
- 14) In consultation with the Advisory Board and the MOI, analyse the expectations and needs of relevant stakeholders in relation to the tasks of the Mechanism that are evidently beyond its existing tasks (and thus the powers, organisation and operations).** Based on this analysis, which would be carried out during the second stage over the next six months, the Mechanism in cooperation with the MOI can prepare a proposal for the extension of the Mechanism, both in terms of its task and duration, and in terms of the normative framework needed.

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- ⁵ European Partners Against Corruption/European contact-point network against corruption (November 2011), Police Oversight Principles, available at https://www.epaceacn.org/fileadmin/Documents/Recommendations/Police_Oversight_Principles.pdf [22.11.2021].
- ⁶ Among the key international recommendations/standards guiding the creation of the Mechanism, the following must be mentioned: Recommendation CM/Rec(2021)1 of the Committee of Ministers to member States on the development and strengthening of effective, pluralist and independent national human rights institutions (Adopted by the Committee of Ministers on 31 March 2021 at the 1400th meeting of the Ministers' Deputies), available at <https://rm.coe.int/0900001680a1f4da> [22.11.2021]; Guidelines on National Preventive Mechanisms: UN. Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (12th sess., 2010, Geneva), available at https://digitallibrary.un.org/record/695890/files/CAT_OP_12_5-EN.pdf [22.11.2021]; Principles relating to the Status of National Institutions (The Paris Principles), available at <https://www.un.org/ruleoflaw/files/PRINCI~5.PDF> [22.11.2021].
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- ⁸ European Partners Against Corruption/European contact-point network against corruption (November 2011), Police Oversight Principles, pp. 10, available at https://www.epaceacn.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, pp. 11 and 12, available at https://www.epaceacn.org/fileadmin/Documents/Recommendations/Police_Oversight_Principles.pdf [22.11.2021].
- ¹⁰ Nasilje nad migrantima: Povjerenica Johansson zadovoljna reakcijom Hrvatske: 'Uzeli su to iznimno ozbiljno, ministar je šokiran!' Johansson je održala sastanke u četvrtak navečer s ministrom Božinovićem i grčkim ministrom za migracije i azil Notisom Mitarachijem [Violence against migrants: Commissioner Johansson satisfied with Croatia's reaction – They have taken it extremely seriously, the Minister is shocked! Johansson held meetings Thursday night with Minister Božinović and Greek Minister for Migration and Asylum Notis Mitarachi], HINA (08.10.2021), available at <https://www.jutarnji.hr/vijesti/svijet/povjerenica-johanssonzadovoljna-reakcijom-hrvatske-uzeli-su-to-iznimno-ozbiljno-ministar-je-sokiran-15108412> [22.11.2021].
- ¹¹ The mechanism has access to files on complaints of alleged unlawful treatment of irregular migrants and applicants for international protection, as well as the Reports of the Police Directorate. Furthermore, it was possible to talk to the police officers involved in the case, as well as with the complainant if they are in the territory of the Republic of Croatia and if agree to the interview. When visiting the "Porin" reception centre, an interview was carried out with a female asylum seeker who made a complaint against the treatment of police officers in her statement. The Activity Implementers of the Mechanism receive almost daily information on migrants encountered in the territory of the Republic of Croatia, allowing them to monitor their movements.

¹² Access to information depends on the finality of the case/file and data confidentiality/classification.

¹³ Cf. FRA (2020), Praktični priručnik: Granične kontrole i temeljna prava na vanjskim kopnenim granicama [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-pocketedition_hr.pdf [29.11.2021].

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Prof.dr.sc Iris Goldner Lang, (redacted), (redacted), PIN (OIB): (redacted)

concluded on 8 July 2021 the following

COOPERATION AGREEMENT FOR THE IMPLEMENTATION OF THE INDEPENDENT OVERSIGHT MECHANISM MONITORING THE ACTIONS OF POLICE OFFICERS OF THE MINISTRY OF THE INTERIOR IN THE FIELD OF IRREGULAR MIGRATION AND INTERNATIONAL PROTECTION

Article 1

PURPOSE

The Agreement establishes the Independent Oversight Mechanism monitoring the actions of police officers of the Ministry of the Interior in the field of irregular migration and international protection (hereinafter: Independent Oversight Mechanism).

Article 2

CONCEPTS

For the purposes of this Agreement, the term “irregular migrant” shall refer to a third-country national or stateless person who has crossed or has attempted to cross the state border of the Republic of Croatia outside the border crossing point or through the border crossing point outside of opening hours or has left the border crossing area before the completion of border control procedures.

Article 3

INDEPENDENT OVERSIGHT MECHANISM ACTIVITY IMPLEMENTERS

The Independent Oversight Mechanism Activity Implementers (hereinafter: Activity Implementers) shall appoint, within 15 days from the signing of this Agreement, two representatives each to directly implement the activities of the Independent Oversight Mechanism (hereinafter: Immediate Implementers) and one representative each to participate in the work of the Coordinating Committee.

Activity Implementers are obliged to adhere to statutory regulations of the Republic of Croatia and the EU acquis in the implementation of activities.

The logistical and administrative support for the Independent Oversight Mechanism shall be ensured by the MIO, which shall appoint, within 15 days from the signing of this Agreement, a contact officer to ensure the smooth and timely exchange of information and other tasks that enable the implementation of the activities of the Independent Oversight Mechanism.

Article 4

LOCATION OF THE ACTIVITIES OF THE INDEPENDENT OVERSIGHT MECHANISM

The activities of the Independent Oversight Mechanism shall be carried out at the border (border crossing points/police stations/police departments) of the Republic of Croatia with Bosnia and Herzegovina, the Republic of Montenegro and the Republic of Serbia as well as reception centres for foreign nationals.

Article 5

ACTIVITIES OF THE INDEPENDENT OVERSIGHT MECHANISM

Immediate Implementers shall carry out the following activities:

- observing the treatment of irregular migrants and applicants for international protection by police officers in locations referred to in Article 4 of this Agreement during the enforcement of regulations governing border control and the provision of international protection (hereinafter: Observing police treatment);
- announced visits to the green border;
- access to the case files with final decisions concerning the submitted complaints on the alleged unlawful treatment of irregular migrants and applicants for international protection and access to the activities and reports of the Police Directorate regarding the alleged unlawful treatment of irregular migrants and applicants for international protection (hereinafter: Access to case files).

During the activities of the Independent Oversight Mechanism referred to in paragraph 1 of this Article, the Activity Implementers shall be provided with the expert assistance of a translator and/or interpreter, as necessary.

When carrying out the activities referred to in paragraph 1 of this Article, the Activity Implementers are obliged to comply with the regulations on personal data protection and information secrecy.

Article 6

OBSERVING POLICE TREATMENT

Immediate Implementers shall conduct a total of 20 observations for the duration of this Agreement.

Observations referred to in paragraph 1 of this Article may include unannounced visits to the green border.

A representative of the MOI shall submit to the Activity Implementers by the tenth day of the month statistical reports for the previous month containing the information on all irregular migrants and applicants for international protection.

Activity Implementers shall select individual cases for observation based on the received statistical reports and in accordance with previously established criteria.

The observation may be announced or unannounced.

Immediate Implementers shall be allowed access to the case file selected for observation, to attend the interview of the irregular migrant and applicant for international protection as well as to examine the room in which the irregular migrant and applicant for international protection is being detained and interviewed, conditional on the consent of the person being detained and interviewed.

Immediate Implementers shall conduct announced visits to the green border accompanied by authorising officers of the MOI whose instructions they are obliged to follow.

Immediate Implementers are obliged to comply with the instructions of the authorising officers of the MOI in restricted areas (e.g. border crossing points, reception centres etc.)

Immediate Implementers shall, within seven days from the conducted observation, jointly compile an individual report and submit it to the Coordinating Committee. The report shall also contain the information on the announced visit to the green border.

Article 7

ACCESS TO CASE FILES

Immediate Implementers shall have access to case files with complaints against the alleged unlawful treatment of irregular migrants and applicants for international protection which have become final within one year prior to the signing of this Agreement and to activities and reports of the Police Directorate regarding the alleged unlawful treatment of irregular migrants and applicants for international protection.

The powers of the Immediate Implementers referred to in paragraph 1 of this Article do not include access to the MOI Information System.

The MOI contact officer shall, within 15 days from the signing of this Agreement, provide the Immediate Implementers with a list of case files with final decisions referred to in paragraph 1 of this Article.

Immediate Implementers shall have access to interview police officers involved in the chosen case file and, with prior consent, to the person who filed the complaint if they are in the Republic of Croatia and agree to the interview.

Immediate Implementers shall, within seven days from accessing the case file, jointly compile an individual report and submit the report to the Coordinating Committee.

Article 8

COORDINATING COMMITTEE

The Coordinating Committee (hereinafter: Committee) shall expertly guide and manage the activities of the Independent Oversight Mechanism, based on the individual reports of the Immediate Implementers draft a final report on the actions of police officers of the MIO in the field of irregular migrations and international protection, and perform other activities related to the management of the Independent Oversight Mechanism.

The Committee shall consist of one representative each of the Activity Implementers.

The Committee shall meet at least once in a three-month period.

The head of the Committee, the deputy and the secretary shall be elected from among the members of the Committee by a majority vote.

The head of the Committee shall represent the Committee, coordinate the activities of the Independent Oversight Mechanism, organise and convene meetings of the Committee, and once in six months present the activities of the Independent Oversight Mechanism to the Supervisory Board as an informal body.

If the head of the Committee is prevented from attending, the deputy shall take their place.

The secretary of the Committee shall perform administrative duties related to the activities of the Independent Oversight Mechanism.

Based on individual reports by the Immediate Implementers, the Committee shall draft a semi-annual and final report. The final report shall be drafted within 30 days from the last activity of the Independent Oversight Mechanism. The summary of the final report shall be published on the official website of the MOI.

Article 9

FINANCING

The activities of the Independent Oversight Mechanism are financed by the European Commission from funds paid into the State budget of the Republic of Croatia.

An Indicative Financial Plan for the implementation of the Independent Oversight Mechanism is an integral part of this Agreement.

Half of the cost amount provided for in the Indicative Financial Plan referred to in paragraph 2 of this Article shall be paid to the accounts of the Activity Implementers within 15 days from the day the European Commission pays the funds into the State budget of the Republic of Croatia, and the other half within six months from signing this Agreement.

Article 10

FINAL PROVISIONS

The Independent Oversight Mechanism is established for a period of one year with the possibility of extension.

The activities of the Independent Oversight Mechanism begin on the date of the final signature of this Agreement.

The signatories of the Agreement may withdraw from the Agreement with written notice to the other signatories.

The decision to withdraw comes into effect within 15 days from the date of the notice referred to in paragraph 3 of this Article.

The Agreement is concluded in six (6) identical copies, one for each party.

FOR THE MINISTRY OF THE INTERIOR

Deputy Prime Minister and Minister

Dr.sc. Davor Božinović (signature)

Place and date: Zagreb, 8.6.2021

CLASS: 018-01/19-01/607

REG. NO.: 511-01-131-21-602

For the Association CROATIAN ACADEMY OF MEDICAL SCIENCES

President

Prof.dr.sc. Alemka Markotić (signature)

Place and date: Zagreb, 8.6.2021.

Number: 01-15-1/2021

For the Association CROATIAN ACADEMY OF LEGAL SCIENCES

President

Prof.dr.sc. Davor Derenčinović (signature)

Place and date: Zagreb, 8.6.2021.

No.: _____

For the Association CENTRE FOR CULTURAL DIALOGUE

President

Aziz Hasanović (signature)

Place and date: Zagreb, 8.6.2021.

Number: 21.00-D1/21-83

For the Association CROATIAN RED CROSS

Executive director

Robert Markt (signature)

Place and date: Zagreb, 8.6.2021.

Number: 104634-02-1-59-21/06-1

Prof.dr.sc Iris Goldner Lang

(signature)

Place and date: Zagreb, 8.6.2021.

Number: _____