



CENTRE FOR PEACE STUDIES

Selska cesta 112A, HR-10000 Zagreb, Tel./fax: +385 1 4820094, E-mail: cms@cms.hr, web: www.cms.hr

Call to the EU to protect human rights and rule of law by establishing an independent monitoring mechanism of the police operations

The ongoing, illegal and violent practice of pushbacks from the Croatian territory carried out by the Croatian authorities has been well documented for four years. Reports from different institutions, including Croatian Ombudsperson, national and international NGOs, thousands of victims' testimonies collected by activists, photographs, videos, medical documentation, and even testimonies of the several police officers - together point out in the same direction: **systematic, severe violations of human rights at the borders of the EU**. Refugees and other migrants are being collectively and violently pushed back outside the borders of the Union after they have been stripped of their clothes, shoes, money, phones - and, most importantly, their dignity and rights. These collective expulsions are carried out without any due process and access to legal remedies, using methods of torture and arbitrary detention - where it leads to the endangering the very rule of law.

There is absolutely no monitoring of the actions of the Croatian police actions - while this is crucial in preventing human rights violations and holding the perpetrators accountable.

Therefore, **the Centre for Peace Studies calls for the EU to swiftly implement the independent monitoring mechanism which will stand in defence of the very foundations of the EU: respect of human rights and rule of law**. For it to be effective, it must be ensured that the mechanism is independent, transparent and has envisioned consequences - and to ensure that we, as an organisation with needed expertise and knowledge - present to you the following suggestions.

1. Independency of the monitoring mechanism must be ensured:

- Put in place by **independent actors**: Ombudsperson and the civil society organisations which are experts in migration and refugee law
- The **separate funds** should be allocated for the implementation of the independent monitoring mechanism, to make sure that the implementers have required sources and capacity to implement their role. In order to ensure the independence of the monitoring, **the funds need to be allocated directly to each of the implementers from the EU**. This would mean that for the implementation of the activities all the actors are directly responsible to the EU.
- **An independent and effective border monitoring mechanism should be implemented irrespective of whether Frontex/EBCG is present at the border**. Frontex/EBCG's limited air surveillance monitoring does not have the additional safeguards in place to replace the proposed mechanism.

2. Scope of monitoring activities:

- The monitoring should cover **all alleged fundamental rights violations by national border management authorities or during border control activities**. Any geographical or procedural limitations of scope would completely hamper the effectiveness of the monitoring mechanism, since in Croatia the majority of human rights violations against refugees and other migrants happens outside of any formal procedure, while the pushbacks are carried

out not only from the border areas but also from the depths of Croatian territory. Also, as the victims of pushbacks find themselves outside of the EU territory, the mechanism needs to consider cross-border situations and act upon information received from individuals outside of the state.

- Unfettered, systematic and guaranteed **access to documentation, data collected by the authorities, premises and field presence.**
- It needs to be ensured that the **implementers are guaranteed to accompany police officers upon request.**

3. Collection of evidence

- Besides the findings from the monitoring implementers, the authorities need to be required to take seriously the reports and evidence of the human rights violations at the border and/or towards the migrant groups collected by other actors. Any allegations of that kind need to be promptly and effectively investigated and the results of the investigation and all the relevant findings need to be presented to the implementers.

4. Equipment of the police forces

- Obligatory **human rights trainings**
- The use of **body cameras** and visible identification numbers should be mandatory for law enforcement officials and all police units patrolling the border, to increase transparency and contribute to the collection of evidence. The policemen should be obliged to have the whole footage from the moment of start until the end of shift and there cannot be any unjustified loopholes in the footage. Upon request, the whole footage of the shift should be given to the monitoring implementers.
- It should be required that the **GPS in the police vans** is switched on throughout the whole shift, and the monitoring implementers need to have full access to the GPS track upon request, as well as to be able to compare the GPS track record with the number of driven kilometres.

5. Accountability mechanism

- All the findings of the possible human rights violations pointed out by the monitoring implementers need to be **promptly and effectively investigated.** All the relevant findings of the internal investigation, as well as its results, need to be shared with the monitoring implementers immediately after the completion of the investigation. When inconsistencies are found, or where there are findings that point out to the criminal liability, independent bodies, like the State Attorney, are to start the criminal investigation promptly - where the deadline needs to be clearly stated in the criminal law.
- Ensuring respect for human rights includes providing legal advice and counselling to **ensure that those whose rights are violated can effectively challenge this by starting legal proceedings** – directly, or through civil society organizations providing legal assistance.
- **Civil society actors should be facilitated to submit the allegations on behalf of victims, irrespective of their remaining physical presence in the state.** The reporting system should be sensitive to migrant and refugees' vulnerabilities, including gender and age.

6. Consequences

- If the MS government fails to cooperate with the mechanism, does not set it up at all or ignores its findings, there must be political and financial consequences envisioned.