

**Comments of the Commission on a request for information from the European Ombudsman**  
**- Complaint by Amnesty International, ref. 1598/2020/MMO**

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## **I. BACKGROUND/SUMMARY OF THE FACTS/HISTORY**

A total amount EUR 18.15 million in emergency funding was granted to Croatia through two emergency assistance grants under the Internal Security Fund – Borders and Visa, awarded in December 2018 and December 2019 respectively, following Croatia's requests for additional funding support to reinforce border management. The grants were awarded to the Croatian Ministry of the Interior to carry out the projects in line with the grant agreements.

The primary focus of the two projects was to finance activities aimed at strengthening the border control to cope with increased migratory pressure at the external borders of Croatia. Furthermore, in the context of continuous reports by journalists and NGOs about violent pushbacks by the Croatian police at the border with Bosnia and Herzegovina, both projects included a component that envisaged to support activities of technical monitoring at the external borders, to which the grant agreements foresaw initial allocations of EUR 300 000 and EUR 94 751 respectively. These monitoring activities included controls of the border police activity, revision/development of standard operating procedures, specialised training and awareness raising for border police officers, cooperation activities/training by NGOs and international organisations (the so called "monitoring mechanism").

As concerns the first emergency assistance project that ended on 30 November 2019, the Commission concluded, based on the assessment of the final implementation report, that in general the activities were carried out in line with the grant agreement with a few minor deviations. The Commission also noted a low consumption of the funds allocated to monitoring activities due to savings or because some activities were supported from other sources as explained by the Croatian Ministry of the Interior. For the second project that ended on 30 November 2020, the final implementation report has been submitted by the Croatian authorities on 26 March 2021 and is currently being analysed by the Commission services.

In December 2020, a new funding request has been submitted by the Croatian Ministry of the Interior for an emergency assistance grant of EUR 14.4 million (EU contribution), with the aim to continue the activities implemented under the former projects. The application is being currently evaluated by Commission services.

## **II. THE COMPLAINT**

The European Ombudsman has opened an inquiry into a complaint received from Amnesty International against the European Commission, notably concerning how the Commission ensures that the Croatian authorities respect fundamental rights in the context of border management operations financed by EU funds.

The complainant considers that the Commission failed (i) to address persistent allegations of serious human rights abuses by Croatian authorities on the Croatian borders with Bosnia and Herzegovina (BiH) and Serbia and, in particular, (ii) to establish/ensure an establishment of

an effective means of monitoring to verify that the EU funds allocated to Croatia for border management are spent in compliance with fundamental rights and EU laws and (iii) to use widely-available reports on alleged violations and the absence of effective monitoring mechanism to inform its decisions on funding and other assistance to Croatia.

According to the complainant, the Commission has stated that Croatia has received EU funding to establish this monitoring mechanism. However, the complainant indicates there is no evidence that such a mechanism has been established. Moreover, the Commission has, according to the complainant, not investigated the allegations to ensure these had not been facilitated by EU funding.

Furthermore, the complainant continues that there is thus lack of transparency and clarity in the Commission's communications on how the EU funds in question were used.

Finally, according to the complainant, in the last years the allegations of human rights violations continued in the absence of independent monitoring of the activities of the Croatian police and of investigation of these unlawful activities, while, Croatia has received extensive EU funding.

### **III. THE COMMISSION'S COMMENTS TO THE COMPLAINANT'S ARGUMENTS**

#### **Reply to the questions addressed by the European Ombudsman**

*1. What does the concept of a monitoring mechanism entail under EU emergency funding? For example, does it imply funding existing international or national bodies to monitor fundamental rights and compliance with EU asylum law?*

There is no definition of a "monitoring mechanism" in the context of EU emergency funding. Support under Article 2 of the Regulation No 515/2014<sup>1</sup> can be provided in situations of urgent and exceptional pressure at the Union's external borders.

The specific modalities of the emergency grant, such as in this specific case the inclusion of a component of technical monitoring of border control activities, are laid down in the grant agreement signed between the Commission and the beneficiary with the objective to enable Croatia monitoring the operational activities at the borders.

More specifically, this component was aimed to assist the Croatian authorities in ensuring the implementation of border control activities in accordance with the applicable Union law provisions, including safeguards for the respect of fundamental rights and the international protection obligations of the beneficiary Member State. It is important to highlight that the purpose of the grant was not to investigate the allegations of pushbacks made against the Croatian authorities. That is the responsibility of the Croatian authorities themselves, which is intended to be supported by the emergency assistance grant that complements national funding allocated for this purpose.

In this specific case, the Croatian Ministry of the Interior was awarded an emergency assistance (EMAS) grant of EUR 6.8 million in December 2018 to primarily finance activities aimed at strengthening the border control to cope with increased migratory pressure at the external borders of Croatia<sup>2</sup>. In the context of the allegations on mistreatment of migrants at

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<sup>1</sup> Regulation (EU) No 515/2014 of the European Parliament and of the Council of 16 April 2014 establishing, as part of the Internal Security Fund, the instrument for financial support for external borders and visa and repealing Decision No 574/2007/EC.

<sup>2</sup> Project "Reinforcement of border control activities at the external border section of Croatia due to increased migratory pressure", HOME/2017/ISFB/AG/EMAS/0076.

the Croatian borders at the time of granting this funding support, a component relating to technical monitoring of border control (Sub-action 5) was included in this EMAS project at the request of the Commission. This was a concrete response to the reports about the allegations of mistreatment of migrants at the external borders of Croatia brought to the attention of the Commission. In this context, Sub-action 5 had foreseen independent controls by the United Nations High Commissioner for Refugees (UNHCR) and the Croatian Law Centre (CLC), as well as controls by the Border Police Directorate/Ministry of Interior. The findings/outcomes of these activities were to further support the revision and development of standard operating procedures of the border police, training and awareness raising of police officers on specific topics, in particular on fundamental rights and the findings of the independent monitoring by the United Nations High Commissioner for Refugees and the Croatian Law Centre. Furthermore, the project aimed at strengthening cooperation with civil society through specific trainings delivered by the International Organization for Migration (IOM), the Croatian Red Cross and the Croatian Law Centre. A final roundtable brought together relevant stakeholders<sup>3</sup> to discuss the results of the activities implemented under Sub-action 5.

In line with the above, the emergency assistance grant was meant to finance a number of activities related to the monitoring of the border control and capacity building of the border police, and it was not intended to establish a monitoring mechanism, which is being developed by the Croatian authorities with the support of the Commission.

It has to be mentioned that the independent monitoring controls by the United Nations High Commissioner for Refugees and the Croatian Law Centre were already in place when the emergency assistance project was initiated, due to a tripartite protocol concluded by the Croatian Ministry of the Interior with the two organisations, dating back to 2017 and funded by the United Nations High Commissioner for Refugees. However, the grant agreement provided for such activities to be funded from EU funding, as an overall amount of EUR 300 000 was allocated to Sub-action 5. In line with the grant agreement, this amount was not broken down by activities, so that the beneficiary had the possibility to address the needs in a more flexible manner within the sub-action 5.

Referring to your question, as explained above an overall amount of EUR 300 000 was allocated to Sub-action 5 to finance *inter alia* activities of control implemented by international or national bodies (the United Nations High Commissioner for Refugees, the Croatian Law Centre, Ministry of the Interior/Border Police Directorate) aimed at monitoring respect of fundamental rights of migrants and compliance with EU asylum law.

*2. Commissioner Johansson recently referred to an agreement according to which the Croatian Ombudsman, the Croatian Law Centre and the United Nations High Commissioner for Refugees would be involved in this work. Could the Commission provide more information on that agreement with the Croatian government and explain whether these entities have been involved?*

The Ministry of the Interior of the Republic of Croatia, the United Nations High Commissioner for Refugees and the Croatian Law Centre signed a tripartite protocol in March 2017 for the implementation of a project entitled “border monitoring”. This protocol has been

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<sup>3</sup> Public authorities, organisations and the Commission.

renewed annually, but not in 2020, due to concerns related to COVID-19. The Croatian Ombudsperson was not part of this protocol.

In order to develop a new, independent monitoring mechanism, the Croatian authorities have undertaken to develop an “Agreement” – still in its drafting phase – intended to involve civil society, international organisations, legal experts, the Ombudswoman, the Fundamental Rights Agency and the European Commission, whose ultimate objective is to ensure that the fundamental rights of migrants and asylum seekers are respected. The United Nations High Commissioner for Refugees has signalled readiness to be involved in an advisory capacity. Discussions between the United Nations High Commissioner for Refugees and the Croatian authorities are still underway.

The Commission is looking forward to receiving the text of the draft Agreement from the Croatian authorities.

Complementing that initiative, the Croatian authorities have shown willingness to discuss and to take concrete steps to improve the situation. They have committed to investigate reports of mistreatment at their external borders.

At the end of 2020, a series of online meetings with key Croatian stakeholders, as well as the Ministry of Interior, took place (on 16 November 2020) and a monitoring visit to a border section including one border crossing point on the Croatian border took place on 17 November 2020.

The discussions focused on the status of the investigations of the allegations of pushbacks, increasing transparency, the future independent monitoring mechanism and support for Bosnia and Herzegovina.

The above-mentioned Agreement is a concrete follow-up to that visit and discussions.

It is important to highlight that the Commission is advising and facilitating this process, but it is not competent to get involved in investigations nor any physical monitoring of the border. Those fall under the responsibility of the Croatian authorities.

The Commission has therefore encouraged the Croatian authorities to pursue their efforts on all fronts, including further supporting the Ombudswoman in her difficult task of investigating relevant cases and strengthening the existing independent monitoring system.

*3. Was the creation of an effective monitoring mechanism a prerequisite for allocating EU funding to Croatia under the emergency assistance project of December 2018<sup>4</sup>?*

No. In the context of existing allegations of mistreatments of migrants by the Croatian police at the border with Bosnia and Herzegovina, the Commission proposed to include some activities relating to monitoring of border control to the emergency assistance project, under sub-action 5. The objective of sub-action 5 was to ensure that border control activities by Croatian border guard officers remain fully compliant with EU law, international obligations and with the respect for fundamental rights and the rights resulting from the EU asylum acquis, including the principle of *non-refoulement*.

This component was considered as necessary in the context of the allegations of mistreatment of migrants, but has represented only a part of an effective monitoring mechanism. Ultimately, the Commission stands ready to support the efforts of the Croatian authorities to further develop such mechanism that provides for the possibility of early detection of any

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<sup>4</sup> HOME/2017/ISFB/AG/EMAS/0076.

incidents in view of their timely follow-up, including if appropriate, investigations under national law and remedial actions by the competent Croatian authorities. It is important that the Croatian authorities continue their efforts to set up such a mechanism with a clear mandate and objectives to deliver concrete results demonstrating that the allegations had effectively been addressed (e.g. results of investigations and subsequent measures).

*4. According to Commissioner Johansson<sup>5</sup>, the Commission has received from the Croatian authorities the final implementation report concerning the emergency assistance project above. Could the Commission share that report as well as its own assessment of how the project was carried out?*

Yes. Kindly refer to the relevant documents enclosed.

*5. Based on that report, does the Commission have concrete information on (i) whether the monitoring mechanism was set up, (ii) whether it became operational, (iii) its objectives and activities, and (iv) the entities involved?*

As set out in the reply to question 3, the grant agreement has provided for some activities that could be considered part of a monitoring mechanism. The final implementation report provided information about the activities carried out under the grant agreement. It did not provide information on (i) whether the monitoring mechanism was set up, or (ii) whether it became operational, as these were not covered by the grant agreement.

The final implementation report and the additional information provided by the beneficiary as requested by the Commission describe how the activities were implemented and to what extent the objectives (results, assumed indicators) of the grant agreement were achieved. Furthermore, it provides information and data concerning the entities involved in the implementation of the project activities.

More specifically, under the monitoring component the report indicates the following accomplishments:

- 71 control missions carried out by the representatives of the Border Police Directorate;
- the revision of 7 standard operating procedures relating to applicants for international protection and development of 2 new standard operating procedures, for border checks and border surveillance respectively;
- trainings and awareness raising sessions carried out by trainers of the Ministry of the Interior on 6 topics, in particular on fundamental rights, attended by almost 850 participants;
- trainings carried out by non-governmental and international organisations on 4 topics, attended by almost 800 participants.

*If the mechanism was indeed set up, and the Commission has verified this:*

As explained under Question 2, the modalities of setting up the independent monitoring mechanism fall under the responsibility of the Croatian authorities. The independent monitoring mechanism is being developed by the Croatian authorities with the support of the Commission. The Croatian authorities established a working group in cooperation with the European Commission and with the participation of a range of stakeholders, which discussed

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<sup>5</sup> <http://hr.n1info.com/English/NEWS/a567446/Johansson-We-have-to-make-sure-the-protection-ofborders-does-not-involve-abuse.html>

ways to further improve border monitoring, on 30 October 2020. The meeting showed the commitment of the Croatian authorities to address the issue of allegations of mistreatment at the external border. The next step is to lay down the legal foundations of the mechanism.

The Croatian authorities are currently developing a Memorandum of Understanding, which will establish the basis of the mechanism and determine the cooperation between participating actors. It is foreseen that civil society representatives and legal experts will be involved in carrying out the monitoring.

The Commission is, upon its request, being consulted on the mentioned Memorandum of Understanding. For now, the Commission has sent comments to the first draft text of the Memorandum of Understanding and has requested to receive a revised draft, which is currently still pending with the Croatian authorities.

*6. Does the Commission have information about the amount of funds actually spent on the mechanism?*

As explained above, funding was foreseen in the grant for activities designed to increase assurance that border control activities by Croatian border police officers are carried out in compliance with EU law, international obligations and with the respect of fundamental rights and the rights resulting from the EU asylum acquis.

The Croatian authorities spent EUR 87 567.72 (of which EUR 78 810.94 of EU contribution from the emergency assistance grant) for the Sub-action 5 “Technical monitoring border control activities”, respectively:

- EUR 17 469.87 for training of police officers deployed at the border by trainers of the Ministry of Interior,
- EUR 59 637.91 for cooperation activities/training by civil society organisations: Croatian Red Cross (EUR 19 048.74), International Organization for Migration (EUR 19 437.98), Croatian Law Centre (EUR 21 151.19),
- EUR 1 703.16 for the final roundtable discussion on the results of the monitoring mechanism and the border control activities, was attended by representatives of the Ministry of the Interior, European Commission, Croatian Ombudsman and different organisations.

*7. How has the Commission directly verified the independence and effectiveness of the mechanism? Did it organise a fact-finding mission to Croatia? Has the Commission discussed the results of the monitoring mechanism with the Croatian authorities, the Croatian Ombudsman and civil society organisations, as envisaged in the Communication to the European Parliament and Council on the verification of the full application of the Schengen acquis by Croatia<sup>6</sup>?*

The grant agreement did not foresee that the Commission would “directly verify the independence and effectiveness of the mechanism”. Furthermore, there are currently no binding legal provisions of Union law requiring Member States to put in place such a

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<sup>6</sup> COM(2019) 497 final of 22 October 2019: [https://ec.europa.eu/home-affairs/sites/homeaffairs/files/whatwe-do/policies/european-agenda-migration/20191022\\_com-2019-497-communication\\_en.pdf](https://ec.europa.eu/home-affairs/sites/homeaffairs/files/whatwe-do/policies/european-agenda-migration/20191022_com-2019-497-communication_en.pdf)

mechanism and/or authorising the Commission to verify any national systems put in place by the Member States.

Nevertheless, throughout the project implementation the Commission has been in close contact with the Croatian authorities, in particular about the implementation of Sub-action 5 “Technical monitoring border control activities”. The Croatian authorities submitted progress reports, in which they provided reassurances that the activities relating to the monitoring of the border control will be fully implemented by the end of the project period.

On 28 October 2019, a round table meeting organised by the Croatian Ministry of the Interior, with all relevant stakeholders including the Commission took place in Zagreb to provide an overview of the results of the implementation of the technical monitoring activities related to border control. NGOs and representatives of border police stations provided an update on the different activities carried out under the emergency assistance project.

The Croatian authorities explained in their final implementation report how the project activities relating to technical monitoring of border control had been conducted and outlined the results. In follow-up communications with the Border Police Directorate, Croatia provided a detailed analysis about the type of complaints that were investigated and clarified that none of the complaints justified any further proceedings and consequently were closed.

Based on the final implementation report and the additional information provided throughout its assessment by the Commission, it was concluded that the implementation of the project had been generally in line with the Grant Agreement, with some minor deviations concerning the target values under Sub-action 5<sup>7</sup>. Relating to Sub-action 5 “Technical monitoring border control activities”, around EUR 15 000 was not spent due to savings or because some activities were supported from other sources.

On 13 and 16 November 2020, the Commission organised online meetings with the Ministry of the Interior of Croatia, the Ombudswoman, and relevant organisations. Furthermore, on 17 and 18 November the representatives of the Commission and the Fundamental Rights Agency performed a visit to Zagreb, as well as one border crossing point and one border section at the border with Bosnia and Herzegovina. These discussions also included actors involved in the emergency assistance project, namely United Nations High Commissioner for Refugees, Croatian Law Centre, the International Organization for Migration, Croatian Red Cross and representatives of the Croatian Ministry of the Interior/Border Police. The discussions have not led to conclusions that would be different from the assessment of the final implementation report as performed by the Commission. The Croatian Ministry of the Interior has agreed to engage more actively with the NGO’s involved, increase transparency about the current investigations and set-up a more effective monitoring mechanism.

*8. Has the Commission requested any further measures by the Croatian authorities in order to enhance the effectiveness of how they monitor fundamental rights in context of border management?*

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<sup>7</sup> Number of trainees participating in 2 trainings, on fundamental rights and EU legislation respectively (Activities 5.3.2 and 5.3.4), slightly reduced by 8%, although the overall number of trainees under Sub-action 5 was exceeded by 30%.

The Commission has been constantly requesting further measures to be taken by the Croatian authorities to enhance the effectiveness of fundamental rights monitoring. Commissioner Johansson has written several letters to Deputy Prime Minister Božinović requesting information primarily about investigations underway; and has recalled on numerous occasions, including in the European Parliament, the need to respect the fundamental rights of migrants and asylum seekers.

As regards the long-standing discussions with the Croatian authorities, the Commission services visited Croatia and discussed the issues relating to pushback allegations with key partners already in 2018. Since then, the Commission has held several meetings with the Ministry of the Interior of Croatia, the Ombudswoman, the United Nations High Commissioner for Refugees and other Croatian stakeholders, both on a bilateral basis, and bringing all these relevant parties together.

Most recently, a series of online meetings with key Croatian stakeholders, as well as the Ministry of the Interior, took place on 13 and 16 November and a monitoring visit to one border crossing point and one border section with Bosnia and Herzegovina took place on 17 November 2020 (this visit had been postponed due to the pandemic).

The Croatian authorities have committed to investigate reports of mistreatment at their external borders, monitor the situation closely and keep the Commission informed on progress made. The Commission is assisting them in this task, involving different stakeholders, such as NGOs and international organisations.

*9. Does the Commission envisage any further action to improve how fundamental rights are monitored in the context of Croatian border operations? For instance, will the Commission organise a mission on the ground to help the Croatian authorities? If so, what will be the concrete role and tasks of that mission, under EU emergency funding?*

The Commission is in constant dialogue with the Croatian authorities, recalling on a regular basis the need to ensure the protection of fundamental rights on Croatia's external borders. The Commission has been – within its remit – facilitating the establishment of an independent monitoring mechanism, which is developed by the Croatian authorities, recalling the importance of respecting fundamental rights while conducting border control activities. However, the Commission does not have the competence to get involved in investigations nor any physical monitoring of the border. Those fall under the responsibility of the Croatian authorities. The Commission is expected to continue to participate in an advisory role in the independent monitoring mechanism, once set up.

The Commission already carries out a number of concrete actions to improve the monitoring of fundamental rights in the context of Croatian border operations, on a regular basis. As mentioned above, the Commission recently organised a mission to Croatia, in order to discuss and help the Croatian authorities in their efforts to ensure compliance with fundamental rights obligations at their external border. Due to Covid-19 restrictions, a first part of the mission were meetings held via videoconferences with Croatian stakeholders on 13 and 16 November and the second part was an actual visit on the ground in Zagreb and to the border with Bosnia and Herzegovina on 17 and 18 November 2020.

The Commission may, as the situation requires, carry out further, similar missions to Croatia in order to help the Croatian authorities. These missions, however, also depend on the pandemic situation and travel possibilities.



The videoconferences on 13 and 16 November gathered the Commission services, the Ministry of the Interior of the Republic of Croatia, key stakeholders involved in border protection and fundamental rights issues in Croatia, as well as the Croatian Ombudswoman. The Fundamental Rights Agency and the Frontex Fundamental Rights Officer (ad interim) were also present throughout the meetings.

The main issues discussed included the state of play on migration in Croatia, the current situation of pushback allegations and the progress in the establishment of an independent monitoring mechanism, to which stakeholders provided elements to be considered, and expressed the view that it will be a complex task to set up, recalling that it must stay the responsibility of the Croatian authorities.

The discussions with the Ministry of the Interior focused on the status of the investigations of the allegations of pushbacks; the discussions have continued on 17 and 18 November on the ground during the Commission/Fundamental Rights Agency visit to Croatia.

That visit also included the border section in Karlovacka Police administration at the external border with Bosnia and Herzegovina most affected by alleged pushbacks, and border crossing point Maljevac. During the visit, the Ministry of the Interior informed about the current pressure at this part of the external border and ensured that every reported incident has been internally investigated. The Ministry informed about the procedures of the border police focusing on fundamental rights aspects and providing details on the investigations undertaken in response to some of the incidents reported. By 15 October 2020, the Internal Control Department had reviewed more thoroughly 633 complaints, out of 1 873 complaints the Ministry had received. It found 75 complaints to be founded and 132 complaints to be partially founded. Furthermore, the Croatian authorities will continue working on the establishing of an independent monitoring mechanism and increase transparency about the investigations conducted so far.

The main purpose of the monitoring missions for projects funded by the EU budget is to verify on-the-spot how the project has been implemented against the objectives and targets set out in the grant agreement. These could also allow for discussions with the beneficiaries on the difficulties encountered during the implementation, in view of identification of possible solutions. The monitoring of the respect of fundamental rights is not within the scope of a mission under EU emergency funding.

*10. Did the allegations of systematic violations of fundamental rights at the Croatian border have an impact on allocating new (migration related) funds to Croatia in December 2019?*

The concrete outcome of the Commission's dialogue with the Croatian authorities is the commitment from those authorities to put in place a concrete monitoring mechanism with the involvement of civil society; with the Ombudswoman, international organisations, the Fundamental Rights Agency and the Commission in an advisory capacity. In view of the difficult political context in Croatia, this can be considered as a considerable achievement.

The Commission is and has been taking these allegations of violence towards migrants very seriously, also when additional emergency assistance was awarded to the Croatian Ministry of the Interior at the end of 2019 reinforcing Croatia's border control capacities at the external borders, in continuation of the previous grant. In the context of the persisting allegations on mistreatment of migrants at the Croatian border, the component relating to monitoring of border control (Sub-action 5) was again included in this EMAS project; and therefore,

remained in the grant, the same way as it was in the first one. The purpose of the sub-action is to monitor the implementation of border control by the Croatian authorities and to assist them in ensuring full compliance with the EU acquis and international obligations while carrying out their border guard duties in a period of increased migratory pressure at Croatia's external borders.

Also, the Commission considered that the continuation of professional trainings on respect for fundamental rights provided to police officers could be expected to have a positive impact on border management as a whole, thereby contributing to improving the situation as regards persisting allegations of mistreatment.

The Commission considered that Sub-action 5, that foresaw regular monitoring/controls of border control activities, is highly relevant especially in the context of allegations of push-backs and abuse of migrant rights by the Croatian authorities.

*11. Has the Commission considered recovering funds if there is evidence that Croatia did not comply with the conditions of the project?*

As a result of the assessment of the final implementation report of the first emergency assistance project from December 2018, the Commission has concluded that the money provided for the technical monitoring has been used in compliance with the grant agreement and its objectives; therefore financial corrections (reduction of the final payment or recovery) were not applied. The Commission is assessing the final implementation report of the second emergency assistance project carefully and will consider recovering funds, in case it concludes that Croatia did not comply with the conditions of the project set out in the grant agreement.

*12. What procedures does the Commission have in place (i) to react if there is evidence that Croatia did not comply with the conditions of the project, and (ii) to ensure that EU funding in the context of border management contributes to enhancing the protection of fundamental rights?*

(i) As regards financial management, if there is evidence that a project activity has not been implemented in line with the general and special conditions of the grant agreement, the first measure of the Commission would be to ask clarifications from the beneficiary. Furthermore, if the clarifications are considered unsatisfactory, the costs declared for the respective activity could be rejected from the final payment. Furthermore, the letter on the final payment would include explanation on the identified non-compliance and provide recommendations for the future similar interventions.

In line with the previous answer, such situations have not been identified in relation to the emergency assistance project awarded in December 2018.

(ii) According to the Schengen Borders Code, any measure taken by the Member States in order to comply with their legal obligation to control their borders and to prevent irregular crossing of the external borders and to deal with migratory flows, has to be fully in line with EU law and international obligations, including respect of migrants' human rights and respect of the principle of *non-refoulement*, and ensure effective access to the asylum procedure.

As concerns the emergency assistance projects, the Commission services assess the reports submitted by the beneficiaries as well as of any relevant information, that cover not only the

financial aspects, but also the eligibility and compliance with the relevant provisions of the grant agreement and general principles of sound financial management. The Commission also assesses to what extent particular situations observed in a Member State are addressed through the project. To this end, technical monitoring visits take place.

The Commission will therefore, where appropriate, make use of the means it has at its disposal to ensure that EU Funds are used in compliance with the Charter, in those cases where it is applicable, including interruptions of payment deadlines, suspensions of payments and financial corrections as well as infringement proceedings under Article 258 TFEU.

#### **IV. CONCLUSIONS**

The respect for human rights is one of the Commission's main guiding principles. The Commission continues working together with the Member States to support them in addressing any allegations of illegal pushbacks.

Following the assessment of the use of EU funding, the Commission has concluded that the Croatian authorities have used the awarded resources in compliance with the grant agreement and its objectives, as outlined above. It is worth noting that the resources allocated to technical monitoring of border control under the emergency assistance project "Reinforcement of border control activities at the external border section of Croatia due to increased migratory pressure", ref. no. HOME/2017/ISFB/AG/EMAS/0076 were not substantial and additionally, they were spent only to a limited extent.

Nevertheless, the Commission has continuously been encouraging Croatia to proceed with the setting up of an independent and more effective monitoring mechanism. Currently, the Commission is assisting the Croatian authorities in this process and positive steps have already been taken in this regard.

*For the Commission  
Ylva JOHANSSON  
Member of the Commission*