

Brussels, 30 March 2021

Dear Commissioner Johansson,

Cc Commissioner Reynders, Commissioner for Justice
Mr. Michael O’Flaherty, Director of the Fundamental Rights Agency
Ms Tanja Fajon, Chair of the EP Working Group on Schengen Scrutiny

As civil society organisations closely following the negotiations of the Pact on Migration and Asylum, including the proposed independent border monitoring mechanism and related national developments, including in Croatia, we would like to express our interest in advancing the discussion on the key principles with which any mechanism should comply. We are also concerned that any agreement on a national mechanism in Croatia which does not meet the necessary standards would undermine the intention behind the Commission’s proposal and set a bad precedent.

We appreciate the European Commission’s attempt to address ongoing violations at the EU’s border through the mechanism proposed in the Screening Regulation and its efforts to improve recently submitted proposals for monitoring at the national level. We also understand that due to the variety of political, legal and administrative systems in EU Member States, as well as issues related to competencies and complementarity, a workable mechanism must be adapted to the particular national context. It is therefore all the more important that key principles, such as independence and accountability following investigations, for all mechanism are clearly defined and applied in practice.

We have observed with concern the ongoing discussions with the Croatian authorities on the long-overdue establishment of the national independent monitoring mechanism– a requirement of EU funding that Croatia received in 2018. We strongly believe that, in the course of these discussions, the EU institutions must provide the necessary clarity as to the specific standards that need to be met to ensure that such a monitoring mechanism is independent, meaningful and effective.

In particular, we urge the European Commission to ensure consistency with key standards and the Fundamental Rights Agency to provide expertise in this process, such as issuing specific guidance on the key elements of an independent monitoring mechanism. An active role is necessary in order to support the Croatian authorities to set up a body that could credibly monitor compliance with EU law in border operations. The Annex to this letter includes material on key principles for any effective border monitoring mechanism developed by different organisations, for reference.

A monitoring mechanism must be independent in law and practice; equipped with the necessary means to ensure that violations of rights at and in proximity to EU borders are recorded; that those responsible are held to account; and that justice for the individuals affected is guaranteed. The European Commission should not condone or support – either politically or financially – any mechanism that falls short of these standards.

We would appreciate the opportunity to discuss our concerns, as well as our proposals for national mechanisms, with you or a member of your team in a short meeting. We remain at your full disposal for any questions about the above.

Yours sincerely,



Catherine Woollard
Director
ECRE



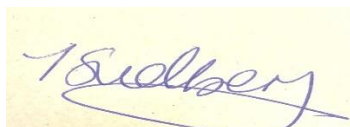
Birte Hald
DRC Brussels Representative
Danish Refugee Council



Eve Geddie
Head of Office and Advocacy Director
– European Institutions Office
Amnesty International



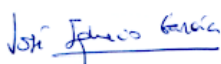
Marta Welander
Executive Director
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Dr. Imogen Sudbery
Director of Europe Policy and
Advocacy
International Rescue Committee



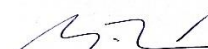
Evelien van Roemburg PhD
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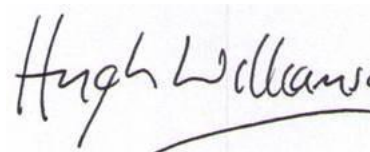
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Hugh Williamson
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Human Rights Watch



Anita Bay Bundegaard
EU Director and Representative
Save the Children

Annexes:

1. Joint NGO Statement Turning Rhetoric to Reality: New monitoring mechanism at European borders should ensure fundamental rights and accountability
2. Informal background document on key elements of national border monitoring mechanisms drafted by several NGOs
3. ENNHRI Opinion on independent human rights monitoring mechanism at the border
4. Final Note on Joint OHCHR UNHCR Consultation on Independent National Monitoring Mechanisms