

Croatian Coast Guard in the Prevention of Smuggling and Trafficking in Human beings from the Aspect of State Border and Sea Migration Surveillance

Uloga Hrvatske obalne straže u prevenciji krijumčarenja i trgovanja ljudima s aspekta nadzora državnih granica i pomorskih migracija

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Summary

This paper, based on the legal regulations, investigates the role and contribution of the Croatian Coast Guard in the implementation of the prevention and surveillance of smuggling and trafficking in human beings by sea. The analysis of the current migrant routes has identified the area of possible migration routes in the Adriatic Sea, and the focus of addressing the problem has been transferred to the Mediterranean. An analysis of the current situation and a cross-section of the past participation in operations under the auspices of the European Union in the Mediterranean provides a proposal for continuing and increasing the contribution to the implementation of joint cooperation in the fight against illegal migration with the aim of strengthening security and preventing further humanitarian disasters.

KEY WORDS

Coast Guard
smuggling and trafficking in human
beings
migrant routes
border protection
Mediterranean

Sažetak

U radu se, na temelju zakonskih propisa, istražuje uloga i doprinos Hrvatske obalne straže u provedbi prevencije i nadzora krijumčarenja i trgovanja ljudima morskim rutama. Analizom postojećih migrantskih ruta identificirano je područje mogućih migrantskih ruta u Jadranskom moru, a fokus u rješavanju problema prenesen je na Mediteran. Analizom postojeće situacije i presjekom prethodnog sudjelovanja u operacijama na području Mediterana, provedenim pod pokroviteljstvom Europske unije, predlaže se nastavak i povećano sudjelovanje u provedbi suradnje u borbi protiv ilegalne migracije s ciljem jačanja sigurnosti i prevencije daljnjih humanitarnih katastrofa.

KLJUČNE RIJEČI

obalna straža
krijumčarenje
trgovanje ljudima
migrantske rute
zaštita granica
Mediteran

1. INTRODUCTION / Uvod

Croatian Coast Guard was established by the Law on Coast Guard of the Republic of Croatia in 2007 in order to effectively control and protect the rights and interests of the Republic of Croatia at sea in accordance with the international law and regulations of the Republic of Croatia. This law establishes the organization, scope of work, authority, duties and tasks of the Coast Guard. Fundamental affairs and tasks of the Coast Guard are the protection of sovereign rights and the implementation of the jurisdiction of the Republic of Croatia in a protected ecological and fishing zone, the epicontinental belt and the open sea. In addition to the implementation of its core affairs and tasks, the Coast Guard provides support to other competent state administration bodies in the implementation of laws and other regulations within their jurisdiction in the territorial sea and inland waters of the Republic of Croatia [25].

Based on the Law on the Coast Guard, regulations of the Republic of Croatia and international regulations binding on the

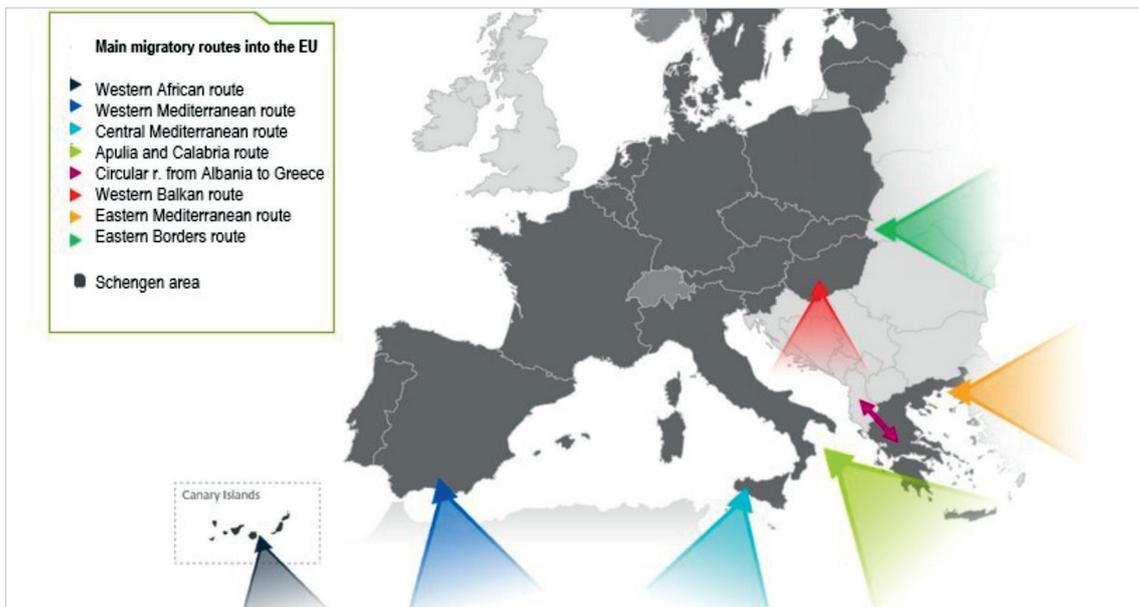
Republic of Croatia, Coast Guard, in addition to the protection of sovereignty, sovereign rights and jurisdictions of the Republic of Croatia, has the task of: suppression and prevention of terrorism, organized international crime and spreading weapons of mass destruction, the suppression of piracy and other forms of use of the open sea for belligerent purposes, supervision and maintenance of sailing safety, the pursuit of search and rescue tasks, the protection of the marine environment, nature and cultural heritage and the surveillance of marine fisheries.

Although these tasks are partially intertwined and in practice it is difficult to plan and carry out the task at sea in which it will be possible to carry out only one legally defined task ignoring all the others, in the theoretical and legislative part they should be observed and studied separately.

2. RESULTS AND DISCUSSION / Rezultati i rasprava

Article 24 and 25 of Law on the Coast Guard regulate that Coast Guard, in co-operation with other state bodies and bodies of international organizations, carries out affairs and tasks in the

¹ The viewpoints given in the article are the personal attitude of the author and have no connection with the institution in which she is employed.



Source: Frontex official website [9].

Figure 1 Main migratory routes into the European union
Slika 1. Glavne migracijske rute prema Europskoj uniji

fight against terrorism and sea robbery, prevents the spread of weapons of mass destruction, prevents smuggling of goods and persons by sea carries out preventive measures against the perpetrators of those criminal offenses in accordance with international law and regulations of the Republic of Croatia and participates in the suppression of the illicit transactions, trafficking and transit of firearms, their parts, components and ammunition and the illegal transport of people, goods or animals. The cooperation of all relevant factors in the implementation of the above mentioned task takes place through the work of the Central Coordination for the supervision and protection of rights and interests of the Republic of Croatia at sea, the Expert Body and the Area Coordination Units.

Already in the description of the task itself, it is apparent that it consists of several mutually related but still different segments. This way of grouping individual segments reduces the importance of each of them in their interpretation as well as in the importance of the complexity of their quality execution. Because of the above, the aforementioned task will be analysed through only one of its segments: trafficking and smuggling in human beings.

Smuggling and trafficking in human beings as part of an organized crime activity mainly starts with migration of the population i.e. it presents illegal migration that can endanger both the security of individual borders and the internal security of an individual state. There is a need to differentiate between smuggling and trafficking of people as two different concepts, although sometimes it is not always easy to determine them in practice. People smuggling represents illegal transport from home to the country of destination in exchange for financial benefit, migrant - smuggler relationship is based on a voluntary basis and ends upon a migrant's arrival to the country of destination. Trafficking in human beings is an example of violations of human rights by exploiting a person for the purpose of creating illegal profits, and does not have to involve the crossing of borders. In cases where migrants are forced to continue their relationship

with smugglers due to final repayment of transport costs, the ultimate goal of trafficking in human beings (debt ratio, extortion, compulsion, exploitation) becomes apparent only at this stage [5]. Trafficking in human beings can be considered as a type of modern slavery², and we must not forget that victims of human trafficking are protected by international law. Victims of trafficking in human beings are in most cases women and children [10]. With the aim of combating trafficking in human beings, the Republic of Croatia has ratified the UN Convention Against Transnational organized crime and its protocols: Protocol for the prevention, suppression and punishment of trafficking in persons, especially women and children, and the Protocol against smuggling of migrants by land, sea and air.

The State border Law stipulates that the prevention of illegal migration is one of the activities for controlling the crossing of the state border as well as the protection of the state border. Pursuant to the Law on police affairs and authorities and the Law on state border control, the state border control is within the competence of the Ministry of the Interior, and border control is carried out by border police. Although state border control is the primary task of border police, the Articles 7 and 101 of the Constitution of the Republic of Croatia stipulate the possibility of using the Armed forces to assist the police in cases of imminent threat to the independence, integrity and existence of the state, or where state authorities are prevented from regularly implementing their constitutional duties.

In 2016, the Law on amendments to the Law on defense (Article 3) and the Law on amendments to the Law on state surveillance (Article 62a) stipulate that the Armed forces of the Republic of Croatia, when deemed necessary for security and/or humanitarian reasons, may support the police in state border surveillance; in this case members of the Armed forces act on police instructions. The aforementioned indicates that, for security and humanitarian reasons, in the action of preventing trafficking and smuggling directly related to population migration and

²Trafficking in human beings is related to slavery in Criminal Law, article 105.

state border control, besides the Croatian Coast Guard, which is an integral part of the Croatian Navy, other components of the Armed forces of the Republic of Croatia may be included. Pursuant to the Article 7 of the Constitution of the Republic of Croatia, the Armed forces of the Republic of Croatia can cross its borders or act over them.

Based on the aforementioned and in accordance with the provisions of the Book of Regulations on mutual cooperation between competent ministries and cooperation with international institutions, it is evident that the Croatian Coast Guard performs its tasks in coordination with the competent ministries of the Republic of Croatia, other bodies as well as with international institutions. The task of preventing smuggling and trafficking in human beings is being implemented, as stipulated in the aforementioned laws and regulations, with the synergy of the Coast Guard primarily with the Interior ministry and the Ministry of defense of the Republic of Croatia, thus, when talking about the implementation of this task at sea, it is irrelevant to discern the role and performance of each of them individually.

Smuggling and trafficking in human beings represent activities of organized crime that are present daily and are most commonly associated with migration of the population. Mass migrations can not be observed solely through the smuggling and trafficking segment, but they certainly provide a fertile ground for this kind of activity, and it should be stressed that they fall into illegal migration.

In the Republic of Croatia, higher migrant arrivals were recorded during 2015. During the migration crisis in 2015, the Republic of Croatia has mostly served as a transit country to Western European countries, with no changes in the use of previously recognized major migratory routes. The western Balkan route was run across the Republic of Croatia, i.e. its mainland, while the sea route was not detected [3]. Although today, in the territory of the Republic of Croatia, expression illegal migration mainly refers to migration across the land border,

in no case should be neglected the influence and specificity of migration by sea, as the result of these migrations is higher inflow of migrants, that have to be appropriately admitted. In recent years we have witnessed that the political and humanitarian crises in third countries have resulted in the increase in the number of migrations to the European Union by sea. Taking into consideration the length of the Croatian border at sea special attention should be paid to the possible transfer of migration from the land border to the sea border. With regard to the position of the Republic of Croatia as possible routes for the opening of migratory routes by sea, parts of the branches of existing routes can be detected from the neighboring countries (Bosnia and Herzegovina, Montenegro and Albania). The activation of the Adriatic route as a continuation of the Mediterranean route from Greece and Italy seems less likely, but its activation could have a significant impact on the traffic and economy of the Republic of Croatia.

With regard to the position of the Republic of Croatia, joint activities carried out with the aim of protecting the border at sea, knowledge of current migrant flows and the fact that the Republic of Croatia is a part of the European Union the implementation of the task of prevention of smuggling and trafficking in human beings by sea must be observed in a wider context where the area of interest and action is the Mediterranean.

Although the impact of the migration crisis in the Republic of Croatia was most felt in 2015, observing the EU's external maritime borders, it has been noted that the migration flows and illegal crossing of the border in the Mediterranean region have increased since 2014. Based on the data of the European Agency for the Management of Cooperation at the External Borders of the EU Member States - Frontex illegal crossings of borders by migration routes in the Mediterranean from 2013 to 2017 are shown in Table 1. The data for the Western and Eastern Mediterranean route include the total data on illegal crossings recorded on land and sea while the data for the Central

Table 1 Illegal border crossings in the Mediterranean
Tablica 1. Ilegalni prijalazi granica na Mediteranu

Year	Western Mediterranean route		Central Mediterranean route ³		Eastern Mediterranean route	
	Detections of illegal border-crossing at the EU's external borders	Top three nationalities	Detections of illegal border-crossing at the EU's external borders	Top three nationalities	Detections of illegal border-crossing at the EU's external borders	Top three nationalities
2013.	6.838	N/S ⁴ 3.329 Algeria 1.436 Mali 467	40.304	Eritrea 9.926 Syria 9.591 Somalia 4.497	24.799	Syria 12.727 Afganistan 6.129 Somalia 526
2014.	7.842	Cameron 1.497 Algeria 734 Marocco 468	170.664	Syria 39.651 Eritrea 33.559 N/S ²⁶ 340	50.834	Syria 31.673 Afganistan 12.475 Somalia 1.621
2015.	7.164	Guinea 1.991 Algeria 1.052 Morocco 828	153.946	Eritrea 38.791 Nigeria 21.914 Somalia 12.430	885.386	Syria 496.340 Afganistan 213.635 Iraq 92.721
2016.	10.231	Guinea 2.184 Algeria 1.760 Côte d'Ivoire 1.646	181.459	Nigeria 37.554 Eritrea 20.721 Guinea 13.550	182.277	Syria 84.585 Afganistan 43.120 Iraq 27.987
2017. (JAN-SEP)	12.125	Marocco 3.147 Côte d'Ivoire 2.265 Algeria 1.530	104.760	Nigeria 17.048 Guinea 9.103 Bangladesh 8.807	27.419	Syria 10.534 Iraq 4.601 Afganistan 2.376

Source: Prepared by the authors according to data from the Frontex official website [9].

³ As of October 2014, the data for the the Central Mediterranean route include the data for the Apulia and Calabria route.

⁴ N/S: Not specified.

Mediterranean route only include data on illegal crossings recorded at sea. The Central Mediterranean route is mostly used by migrants from Africa and it can be assumed that this trend will continue in the foreseeable future.

The migrations that take place in the Mediterranean represent pressure on the EU's external maritime borders, making the Mediterranean one of the most important areas of foreign and security policy of the European Union. This requires a comprehensive response resulting in joint responses to existing migration flows and enhanced cooperation between all relevant services and bodies of the European Union. Three maritime operations under the auspices of the European Union take place in the Mediterranean. Operation EUNAVFOR MED SOPHIA is a military operation launched in 2015 in the Central Mediterranean in the framework of the Common Security Defense Policy [8]. This is confirmed by the fact that the challenges of the 21st century affect the participation of the Navy in the conduct of non-traditional tasks. The other two operations are non-military and take place through the European Cooperation Agency for External Borders of the EU Member States. Operation Joint Operation European Patrols Network (JO EPN) Triton was launched in 2014 in the central Mediterranean [9]. The Poseidon Rapid Intervention Operation was launched in 2015 as a continuation of the previous operation of JO EPN Poseidon in the Eastern Mediterranean [9].

The Republic of Croatia has contributed to the combating of illegal migrations regarding the struggle of the European Union against instability in the Mediterranean region by participating in all three mentioned maritime operations. During 2015, the crew of the Croatian Coast Guard ship (SB-73 "Andrija Mohorovičić") and six police officers of the Ministry of Internal Affairs participated in the Triton operation. During the quarterly participation in the operation with the task of implementing the law in the assigned area of operation, more than 2.500 persons [16] were rescued, which contributed to mitigation of refugee humanitarian disaster in the Mediterranean. In the Poseidon operation, the Ministry of the Interior with police vessels and officers has been actively participating since 2015 [13]. By decision of the Croatian Parliament in September 2017, the participation of members of the Croatian Navy in the operation EUNAVFOR MED SOPHIA started [20].

Although the above mentioned operations have been launched with the aim of combining responses to the fight against the protection of the EU's maritime borders and facing the problem of illegal migration to the Mediterranean, the humanitarian character of these operations is increasingly mentioned, where a large number of migrants have been saved during the regular duties. Illegal migration, apart from affecting the safety of navigation, primarily jeopardizes the safety of human life at sea, i.e. the lives of migrants themselves. According to the UN High Commissioner for Refugees (UNHCR) figures, the number of dead and missing people in the Mediterranean in mid-October 2017 was 2.784 [14]. In the last five years, the biggest black figure was in 2016 when there were 5.096 deaths/missings in the Mediterranean. The humanitarian character of the operation in the Mediterranean with the aim of gaining its benefit has also started to be used by smuggler groups.

Important changes were observed on this migratory route in 2016. During 2015, and the first months of 2016, smuggling groups instructed migrants to make satellite phone calls to the

Maritime Rescue Coordination Centre (MRCC) in Rome to initiate targeted rescues on the high seas. Libyanbased smugglers, in particular, heavily relied on the International Convention for the Safety of Life at Sea (SOLAS), and associated SAR as well as humanitarian assistance efforts, turning it into a distinct tactical advantage. This is not a new strategy, but the extent of the problem is alarming. Apparently, all parties involved in SAR operations in the Central Mediterranean unintentionally help criminals achieve their objectives at minimum cost and strengthen their business model by increasing the chances of success [4:32].

Table 2 Mediterranean sea: dead and missing
Tablica 2. Sredozemno more: mrtvi i nestali

Year	2013.	2014.	2015.	2016.	2017. (JAN-OCT)
Mediterranean sea: Dead and missing	600	3.538	3.771	5.096	2.784

Source: Prepared by the authors according to data from the UNHCR official website[14].

Based on available data from the EU's Frontex Cooperation Office on External Borders, the United Nations High Commissioner for Refugees (UNHCR) and the current indicators on the number of illegal border crossings and the number of dead/missing people in the Mediterranean, it can be expected that these numbers will be reduced compared to 2016. Despite this, there is still a significant number of illegal migrations, especially in the Central Mediterranean area.

In total, a staggering 96% of newly arrived migrants interviewed in the Central Mediterranean region stated that they had used the services of smuggling networks to enter the EU illegally. Moreover, 70% of migrants interviewed within the EPN JO Triton 2016 specifically stated that the reason why they decided to enter the EU illegally via Libya was the availability of smuggling services in that country [4:36].

The above mentioned issues can not be solved ad hoc but it is necessary to continue with the implementation of already existing joint operations and aspire to upgrade and improve the system with the aim of preventing and controlling illegal migration. The problem of illegal migration to the Mediterranean is possible only through the cooperation of all relevant services and state bodies within the EU member states, with the optimal use of civilian-military human and technical resources. All measures need to be taken not only to save human lives at sea, but also to identify and disable the resources used by migrant smugglers, to effectively affect against organized crime groups and to solve the crisis situations that caused mass migration. The Republic of Croatia has so far participated in the operations in the Mediterranean but it is certainly a fact that in the future it is possible to increase the scope of cooperation by participating in more human and material resources, primarily by ships, which would give a more concrete contribution to the support of security in the common security policy of the European union.

3. CONCLUSION / Zaključak

Law on the Coast Guard and other legal and regulatory provisions stipulate that the Croatian Coast Guard is committed to preventing smuggling and trafficking at sea in cooperation

with other state bodies and bodies of international organizations. The implementation of the task, with the collection and exchange of information, is primarily carried out by the state border control, which is within the competence of the Ministry of the Interior. Considering that this is a specific task carried out synergistically by all the authorities responsible for overseeing and protecting the rights and interests of the Republic of Croatia at sea, it is essential to look at and analyse the degree of success of the implementation of the overall task rather than the role and contribution of a particular participant. So far, the Republic of Croatia has mostly been used by migrants as a transit country to Western European countries where its land territory was used while a systematic use of the sea area with the same goal has not been recorded. Considering the position of the Republic of Croatia it can not be expected that in the future the Adriatic Sea will be systematically used for the realization of criminal activities of smuggling and human trafficking, but it is certainly necessary to closely follow the directions of the current recognized migratory flows from the land areas of neighboring countries that could start to use sea access for the transition to the Republic of Croatia and the possibility of activating the Adriatic route as a continuation of the Mediterranean route. Considering that illegal migration can affect the economy and the security of the state, and the fact that the Republic of Croatia is a member of the European Union, issues of illegal migration should be addressed in a wider context where the solution to the problem is shifted to the Mediterranean. Participating in joint operations in the Mediterranean contributes to the prevention and control of illegal migration but also to the prevention of humanitarian disasters. With the former participation in these operations, the Republic of Croatia has confirmed its intention to support a common response to the crisis, but considering the development of the situation in the Mediterranean, it is expected that the volume of participation in the future will increase. The problem of illegal migration in the Mediterranean should be systematically addressed in order to adequately respond to all identified challenges: surveillance and management of the European Union's external border at sea, rescuing human lives, identifying and disclosure of smuggling groups' modes, as well as disabling them, monitoring illegal migration flows and identification of their possible changes, support in solving crisis situations that have caused massive illegal migration, support in strengthening the determination of transit countries of illegal migrants and countries criminal groups originate from in the fight against smuggling and trafficking, the readiness to respond to the risk of increasing the number of massive illegal migrations. Considering that the criminal groups constantly adjust their work to new situations, using international regulations to achieve their goals, all efforts must be made in order to solve the problem of illegal migrations in the Mediterranean with all identified challenges, by the joint strategy.

REFERENCES / Literatura

- [1] Annual Risk Analysis (2014) http://frontex.europa.eu/assets/Publications/Risk_Analysis/Annual_Risk_Analysis_2014.pdf
- [2] Annual Risk Analysis (2015) http://frontex.europa.eu/assets/Publications/Risk_Analysis/Annual_Risk_Analysis_2015.pdf
- [3] Annual Risk Analysis (2016) http://frontex.europa.eu/assets/Publications/Risk_Analysis/Annual_Risk_Analysis_2016.pdf
- [4] Annual Risk Analysis (2017) http://frontex.europa.eu/assets/Publications/Risk_Analysis/Annual_Risk_Analysis_2017.pdf
- [5] Božić, V. (2015). Krijumčarenje i trgovina ljudima u Hrvatskom kaznenom zakonodavstvu i sudskoj praksi (analiza stanja de lege lata uz prijedloge de lege ferenda). Zbornik Pravnog fakulteta Sveučilišta u Rijeci, 36(2), 845-874. Preuzeto s <https://hrcak.srce.hr/154315>
- [6] Dragović, F. (2012). Kako čuvati europske granice?. Političke analize, 3(12), 12-16. <http://hrcak.srce.hr/142016>
- [7] http://data2.unhcr.org/en/situations/mediterranean#_ga=2.112323908.1109557653.150857737362957800.1503343671
- [8] https://eeas.europa.eu/csdp-missions-operations/eunavfor-med_en
- [9] <http://frontex.europa.eu/>
- [10] <https://ljudskaprava.gov.hr/>
- [11] <http://www.osrh.hr/>
- [12] <https://www.morh.hr/hr/>
- [13] <https://www.mup.hr/>
- [14] <http://www.unhcr.org/>
- [15] Izvješće o provedbi revidiranog Schengenskog akcijskog plana za 2014. godinu, <https://vlada.gov.hr/UserDocsImages//Sjednice/2015/229%20sjednica%20Vlade//229%20-%206.pdf>
- [16] Izvješće o provedbi revidiranog Schengenskog akcijskog plana za 2015. godinu, <https://vlada.gov.hr/UserDocsImages//Sjednice/2016/14%20sjednica%20Vlade//14%20-%2011a.pdf>
- [17] Izvješće o provedbi revidiranog Schengenskog akcijskog plana za 2016. godinu, <https://vlada.gov.hr/UserDocsImages//Sjednice/2017/04%20travanj/31%20sjednica%20Vlade%20Republike%20Hrvatske//31%20-%202016.pdf>
- [18] Kazneni zakon, Narodne novine 2011., 125.
- [19] Nacionalni plan za suzbijanje trgovanja ljudima za razdoblje od 2012. do 2015. godine, https://www.mup.hr/UserDocsImages/nacionalni_programi/trgovanje_ljudima/2012/NACIONALNI%20PLAN%20FINALNO.pdf
- [20] Odluka o sudjelovanju pripadnika Oružanih snaga Republike Hrvatske u operaciji Europske unije "EUNAVFOR MED SOPHIA", Narodne novine 2017., 65.
- [21] Osrečki, A. (2015). Djelomična koherentnost ciljeva mediteranskih politika Europske unije. Političke analize, 6(23), 53-58. <http://hrcak.srce.hr/151268>
- [22] Pravilnik o međusobnoj suradnji nadležnih ministarstava i suradnji s međunarodnim institucijama, Narodne novine, 2009., 153.
- [23] Ustav Republike Hrvatske (pročišćeni tekst), Narodne novine 2010., 85.
- [24] Toić Sintić, G. (2012). Uloga FRONTEX-a u nadzoru vanjskih granica Europske unije. Policija i sigurnost, 21(1), 143-154. <http://hrcak.srce.hr/84286>
- [25] Zakon o Obalnoj straži Republike Hrvatske, Narodne novine, 2007., 109.
- [26] Zakon o obrani, Narodne novine 2013., 73.
- [27] Zakon o dopuni Zakona o obrani, Narodne novine 2016., 27.
- [28] Zakon o policijskim poslovima i ovlastima, Narodne novine 2009., 76.
- [29] Zakon o izmjenama i dopunama Zakona o policijski poslovima i ovlastima, Narodne novine 2014., 92.
- [30] Zakon o nadzoru državne granice, Narodne novine 2013., 83.
- [31] Zakon o dopuni Zakona o nadzoru državne granice, Narodne novine 2016., 27.
- [32] Zgurić, B. (2015). Europska vanjska i sigurnosna politika prema Mediteranu. Političke analize, 6(22), 3-7. <http://hrcak.srce.hr/147480>