



# aida

Asylum Information  
Database

## Country Report: Croatia



**December 2015**

Edited by:



## ACKNOWLEDGMENTS

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**The information in this report is up-to-date as of November 2015.**

## The AIDA project

The Asylum Information Database (AIDA) project is jointly coordinated by the European Council on Refugees and Exiles (ECRE), Forum Réfugiés-Cosi, Irish Refugee Council and the Hungarian Helsinki Committee. It aims to provide up-to date information on asylum practice in 16 EU Member States (AT, BE, BG, CY, DE, FR, GR, HR, HU, IE, IT, MT, NL, PL, SE, UK) and 2 non-EU countries (Switzerland, Turkey) which is easily accessible to the media, researchers, advocates, legal practitioners and the general public through the dedicated website [www.asylumineurope.org](http://www.asylumineurope.org). Furthermore the project seeks to promote the implementation and transposition of EU asylum legislation reflecting the highest possible standards of protection in line with international refugee and human rights law and based on best practice.



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## Glossary & List of Abbreviations

<b>Dismissal</b>	Rejection of an application as inadmissible
<b>Reception Centre for Foreigners</b>	Pre-removal detention centre
<b>CJEU</b>	Court of Justice of the European Union
<b>CLC</b>	Croatian Law Centre
<b>EASO</b>	European Asylum Support Office
<b>ECHR</b>	European Convention on Human Rights
<b>ECtHR</b>	European Court of Human Rights
<b>LITP</b>	Law on International and Temporary Protection
<b>UNHCR</b>	United Nations High Commissioner for Refugees

## Statistics

**Table 1: Applications and granting of protection status at first instance: 2015 (1 January – 15 October)**

	Applicants in 2015	Pending applications in 2015	Refugee status	Subsidiary protection	Rejection <sup>1</sup>	Refugee rate	Subs. Prot. rate	Rejection rate
<b>Total</b>	162	35	30	7	115	19.7%	4.6%	75.7%

Breakdown by countries of origin of the total numbers

Algeria	21	2	0	0	19	0%	100%	100%
Syria	21	5	0	1	2	0%	33.3%	66.6%
Nigeria	11	0	5	0	14	26.3%	0%	73.7%
Morocco	9	0	1	0	7	12.5%	0%	87.5%
Iran	7	2	1	0	1	50%	0%	50%
Serbia	7	1	0	0	4	0%	0%	100%
Afghanistan	6	0	1	0	4	20%	0%	80%
Kosovo	6	3	0	0	3	0%	0%	100%
Turkey	6	0	2	0	3	40%	0%	60%
Somalia	2	0	1	2	0	33.3%	66.6%	0%
Eritrea	1	0	1	0	0	100%	0%	0%

Source: Ministry of Interior, Meeting held on 9 November 2015.

<sup>1</sup> Rejection should include *both* in-merit and admissibility negative decisions (including Dublin decisions).

**Table 2: Gender/age breakdown of the total numbers of applicants: 2015 (1 January – 15 October)**

	Number	Percentage
<b>Total number of applicants</b>	162	100%
Men	144	88.9%
Women	18	11.1%
Children	11	6.8%
Unaccompanied children	2	1.2%

Source: Ministry of Interior, Meeting held on 9 November 2015.

**Table 3: Comparison between first instance and appeal decision rates: 2015 (1 January – 15 October)**

	First instance		Appeal	
	Number	Percentage	Number	Percentage
<b>Total number of decisions</b>	212	100%	74	100%
<i>Positive decisions</i>	37	24.3%	4	6%
• <i>Refugee status</i>	30	19.7%	1	1.5%
• <i>Subsidiary protection</i>	7	4.6%	0	0
<i>Negative decisions</i>	115	75.6%	63	94%

Source: Ministry of Interior, Meeting held on 9 November 2015.

**Table 4: Applications processed under the accelerated procedure in 2015 (1 January – 15 October)**

	Number	Percentage
<b>Total number of applications</b>	162	100%
<b>Applications treated under accelerated procedure at first instance</b>	5	3.1%

Source: Ministry of Interior, Meeting held on 9 November 2015.

**Table 5: Subsequent applications lodged in 2015 (1 January – 15 October)**

	<b>Number</b>	<b>Percentage</b>
<b>Total number of subsequent applications</b>	54	100%

Main countries of origin

<b>Algeria</b>	19	35.2%
<b>Nigeria</b>	10	18.5%
<b>Morocco</b>	7	13%
<b>unknown citizenship</b>	4	7.4%
<b>Bangladesh</b>	2	3,7%

Source: Ministry of Interior, Meeting held on 9 November 2015.

**Table 6: Number of applicants detained per ground of detention: 2013-2015**

<b>Ground for detention</b>	<b>2013</b>	<b>2014</b>	<b>2015</b>
Article 74 Law on Asylum	73	81	16
Article 56(6) LITP	N/A	N/A	4
<b>Total number of applicants detained</b>	73	81	20

Source: Ministry of Interior, email received on 30 November 2015.

The Ministry of Interior does not keep records on detention by specific legal ground.

**Table 7: Number of applicants detained and subject to alternatives to detention**

The Ministry of Interior does not have statistics on alternatives to detention.

## Overview of the legal framework and practice

### Main legislative acts relevant to asylum procedures, reception conditions and detention

Title (EN)	Original Title (HR)	Abbreviation	Web Link <sup>2</sup>
Law on Asylum Official Gazette 79/07  <i>Amended:</i> Official Gazette 88/10 <i>Amended:</i> Official Gazette 143/13	Zakon o azilu NN 79/07, 88/10, 143/13	Law on Asylum	< <a href="http://bit.ly/1MRraQ5">http://bit.ly/1MRraQ5</a> > (HR)  < <a href="http://bit.ly/1loghC1">http://bit.ly/1loghC1</a> > (EN unofficial translation) < <a href="http://bit.ly/1J7yrxu">http://bit.ly/1J7yrxu</a> > (HR)  < <a href="http://bit.ly/1logkxD">http://bit.ly/1logkxD</a> > (HR)
Law on International and Temporary Protection	Zakon o međunarodnoj i privremenoj zaštiti 70/15	LITP	< <a href="http://bit.ly/1hlaq3Q">http://bit.ly/1hlaq3Q</a> > (HR)
Law on General Administrative Procedure Official Gazette 143/13	Zakon o općem upravnom postupku 143/13	Law on General Administrative Procedure	< <a href="http://bit.ly/1J7BRAh">http://bit.ly/1J7BRAh</a> > (HR)
Law on Administrative Disputes Official Gazette 20/10  <i>Amended:</i> Official Gazette 143/12 <i>Amended:</i> Official Gazette 152/14	Zakon o upravnim sporovima 20/10, 143/12, 152/14	Law on Administrative Disputes	< <a href="http://bit.ly/1Gm4uTi">http://bit.ly/1Gm4uTi</a> > (HR)  < <a href="http://bit.ly/1K118fv">http://bit.ly/1K118fv</a> > (HR)  < <a href="http://bit.ly/1Bs4ZiO">http://bit.ly/1Bs4ZiO</a> > (HR)
Law on Foreigners Official Gazette 130/11  <i>Amended:</i> Official Gazette 74/13	Zakon o strancima 130/11, 74/13	Law on Foreigners	< <a href="http://bit.ly/1Rf18Kq">http://bit.ly/1Rf18Kq</a> > (HR)  < <a href="http://bit.ly/1CgRDB8">http://bit.ly/1CgRDB8</a> > (HR)
Law on Mandatory Health Insurance and Health Care for Foreigners in the Republic of Croatia Official Gazette 80/13	Zakon o obveznom zdravstvenom osiguranju i zdravstvenoj zaštiti stranaca u Republici Hrvatskoj 80/13	Law on Mandatory Health Insurance and Health Care	< <a href="http://bit.ly/1Gm4KSp">http://bit.ly/1Gm4KSp</a> > (HR)
Law on Free Legal Aid Official Gazette 143/13	Zakon o besplatnoj pravnoj pomoći 143/13	Law on Free Legal Aid	< <a href="http://bit.ly/1lojGRf">http://bit.ly/1lojGRf</a> > (HR)

<sup>2</sup> Note that multiple links related to one legislative instrument refer to subsequent amendments. There is no consolidated version of legislative instruments modified by subsequent amendments available.

## Main implementing decrees and administrative guidelines and regulations relevant to asylum procedures, reception conditions and detention

Title (EN)	Original Title (HR)	Abbreviation	Web Link <sup>3</sup>
Ordinance on Forms and Data Collections in the Asylum Procedure Official Gazette 36/08 <i>Amended:</i> Official Gazette 46/08 <i>Amended:</i> Official Gazette 10/09 <i>Amended:</i> Official Gazette 88/11 <i>Amended:</i> Official Gazette 81/13	Pravilnik o obrascima i zbirkama podataka u postupku azila 36/08 46/08 10/09 88/11 81/13	Ordinance on Forms	< <a href="http://bit.ly/1Ljfx7e">http://bit.ly/1Ljfx7e</a> > (HR)  < <a href="http://bit.ly/1GvTtCb">http://bit.ly/1GvTtCb</a> > (HR) < <a href="http://bit.ly/1GVdofh">http://bit.ly/1GVdofh</a> > (HR) < <a href="http://bit.ly/1JZiPjl">http://bit.ly/1JZiPjl</a> > (HR) < <a href="http://bit.ly/1etJNiy">http://bit.ly/1etJNiy</a> > (HR)
Ordinance on the amount of financial assistance provided to asylum seekers, asylees and foreigners under subsidiary protection Official Gazette 39/08	Pravilnik o visini novčane pomoći tražiteljima azila, azilantima, strancima pod privremenom zaštitom i strancima pod supsidijarnom zaštitom 39/08	Ordinance on financial assistance	< <a href="http://bit.ly/1GVdwel">http://bit.ly/1GVdwel</a> > (HR)
Ordinance on the accommodation of asylum seekers, asylees and aliens under temporary protection Official Gazette 36/08 <i>Amended:</i> Official Gazette 116/11	Pravilnik o smještaju tražitelja azila, azilanata i stranaca pod supsidijarnom zaštitom i strancima pod privremenom zaštitom 36/08 116/11	Ordinance on accommodation	< <a href="http://bit.ly/1CgS7XU">http://bit.ly/1CgS7XU</a> > (HR)  < <a href="http://bit.ly/1TAfgzs">http://bit.ly/1TAfgzs</a> > (HR)
Ordinance on free legal aid in the asylum procedure Official Gazette 32/12	Pravilnik o besplatnoj pravnoj pomoći u postupku azila 32/12	Ordinance on free legal aid	< <a href="http://bit.ly/1MRzBe9">http://bit.ly/1MRzBe9</a> > (HR)
Ordinance on the content of the medical examination of asylum seekers, asylees and foreigners under subsidiary protection  Official Gazette 39/08	Pravilnik o sadržaju zdravstvenog pregleda tražitelja azila, azilanata, stranaca pod privremenom zaštitom i stranaca pod supsidijarnom zaštitom 39/08	Ordinance on medical examination	< <a href="http://bit.ly/1K1l9zT">http://bit.ly/1K1l9zT</a> > (HR)
Ordinance on the manner of implementing the	Pravilnik o načinu provođenja programa i provjeri znanja	Ordinance on the	< <a href="http://bit.ly/1Gm5yGG">http://bit.ly/1Gm5yGG</a> > (HR)

<sup>3</sup> Note that multiple links related to one legislative instrument refer to subsequent amendments. There is no consolidated version of legislative instruments modified by subsequent amendments available.

programme and tests of knowledge of asylum seekers, asylees, foreigners under temporary protection and foreigners under subsidiary protection, for the purpose of joining the education system of the Republic of Croatia Official Gazette 89/08	tražitelja azila, azilanata, stranaca pod privremenom zaštitom i stranaca pod supsidijarnom zaštitom, radi pristupa obrazovnom sustavu Republike Hrvatske 89/08	manner of implementing the programme and tests of knowledge	
Decision on the Programme of Croatian language, history and culture for asylum seekers and asylees Official Gazette 129/09	Odluka o programu hrvatskog jezika, povijesti i kulture za tražitelje azila i azilante 129/09	Decision on the Programme of Croatian language	< <a href="http://bit.ly/1SuZQLq">http://bit.ly/1SuZQLq</a> > (HR)
Decision on the Programme of Croatian language, history and culture asylees and foreigners under subsidiary protection for inclusion into Croatian Society Official Gazette 154/14	Odluka o programu učenja hrvatskoga jezika, povijesti i kulture za azilante i strance pod supsidijarnom zaštitom radi uključivanja u hrvatsko društvo 154/14	Decision on the Programme of Croatian language, history and culture asylees and foreigners under subsidiary protection for inclusion into Croatian Society	< <a href="http://bit.ly/1FXstO8">http://bit.ly/1FXstO8</a> > (HR)
Decision on establishing the price of passport issued in accordance with the 1951 Convention relating to the Status of Refugees Official Gazette 12/11	Rješenje o utvrđivanju cijene putovnice izdane sukladno Konvenciji o statusu izbjeglica od 28. srpnja 1951. godine 12/11	Decision on the price of passport	< <a href="http://bit.ly/1MRzJuc">http://bit.ly/1MRzJuc</a> > (HR)
Decision on establishing the price of identity card for asylees, identity cards for foreigners under subsidiary protection and travel documents for asylees Official Gazette 131/08	Rješenje o utvrđivanju cijene osobne iskaznice za azilanta, iskaznice stranca pod supsidijarnom zaštitom te putne isprave za azilanta 131/08	Decision on the price of identity card	< <a href="http://bit.ly/1L5qBUw">http://bit.ly/1L5qBUw</a> > (HR)
Decision on the costs of accommodation in the Reception Centre for Asylum Seekers Official Gazette 49/08	Odluka o troškovima smještaja u Prihvatalištu za tražitelje azila 49/08	Decision on the costs of accommodation	< <a href="http://bit.ly/1FqHIZN">http://bit.ly/1FqHIZN</a> > (HR)

## Overview of the main changes since the previous update

The report was previously updated in **March 2015**.

In June 2015, the Croatian Parliament adopted the Law on International and Temporary Protection (LITP), which transposes into domestic law the recast Qualification Directive, Asylum Procedures Directive and Reception Conditions Directive, the Temporary Protection Directive, as well as relevant provisions of the Family Reunification Directive and the Dublin III Regulation. The LITP repeals the Law on Asylum and applies to asylum claims lodged as of 2 July 2015. All applications lodged prior to that date were regulated by the Law on Asylum. At the moment of writing of this report there are no cases pending under the previous Law on Asylum.

### *Procedure*

- While the procedure officially begins from the moment the application was submitted (as it was also prescribed by the previous Law on Asylum), the status of applicant for international protection is gained with the expression of the intention to apply for international protection. The procedure may be initiated *ex officio* in cases when intention was expressed but the application was not submitted. This was needed in order to stop the procedure and revoke the status of applicant.
- During the subsequent procedure, in general, no interview is conducted. Rights of applicants are connected with the right to stay (except right to free legal aid). In case of a second subsequent application, applicants do not have right to stay in Croatia.
- The form of the decision is different in terms that also the measure to voluntarily leave Croatia within the prescribed deadline is covered by decision on the application, while before there were 2 decisions issued.
- Not all appeals have suspensive effect.
- The 6 month time limit for completing the examination of the application in the regular procedure may be extended for a further 9 plus 3 months under certain circumstances and, exceptionally, the procedure may last up to 21 months.
- The grounds for applying the accelerated procedure have been amended. The Ministry can apply the accelerated procedure where: (1) The applicant has presented only facts which are irrelevant to an assessment of the merits of the application; (2) The applicant has consciously misled the Ministry by presenting false information or unreliable documents, or by not providing relevant information or by concealing documents which could have had a negative effect on the decision; (3) The applicant in bad faith has probably acted and destroyed documents that establish identity and/or nationality with the aim to provide false information about his or her identity and/or nationality; (4) The applicant has presented inconsistent, contradictory, manifestly inaccurate or unconvincing statements contrary to the verified information on the country of origin, rendering his/her application unreliable; (5) A subsequent application is admissible; (6) The applicant has already resided for a longer period of time in the Republic of Croatia and for no justifiable reason failed to express his or her intention to apply for international protection earlier; (7) The applicant expressed the intention to apply for international protection for the clear purpose of postponing or preventing the enforcement of a decision which would result in his or her expulsion from the Republic of Croatia; (8) The applicant represents a risk for the national security or public order of the Republic of Croatia; (9) It is possible to apply the concept of safe country of origin; or (10) The applicant has refused to give fingerprints. In practice the personal interviews are held in the accelerated procedure.

### *Reception conditions*

- Since the crisis in September 2015, accommodation of applicants has been arranged only in the Reception Centre in Kutina.

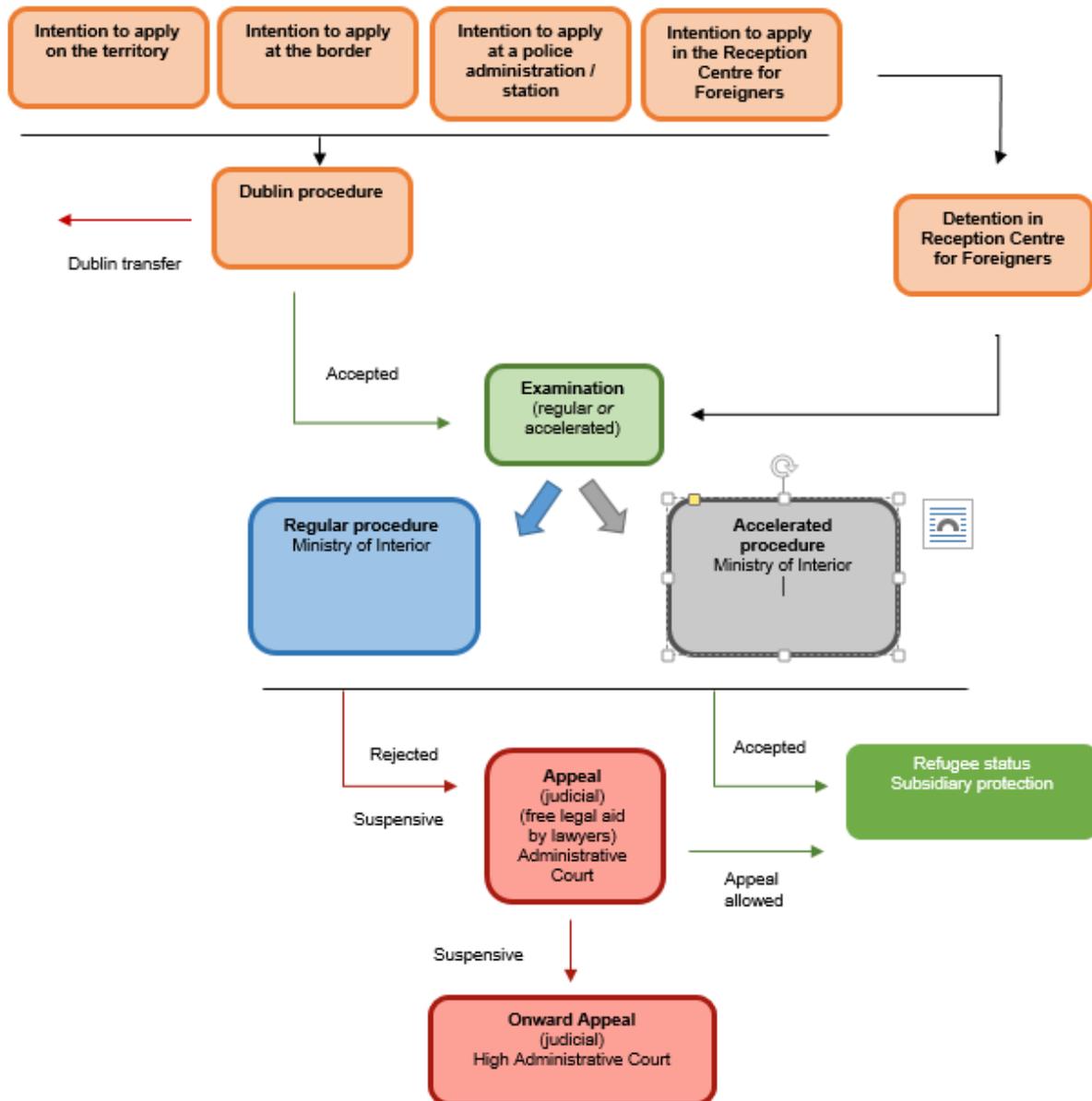
#### *Detention*

- The LITP has amended the grounds for detention. Detention may be ordered, if it is established by individual assessment that other measures would not achieve the purpose of restriction of freedom of movement: (1) to establish the facts and circumstances of the application which cannot be determined without limitation on freedom of movement, in particular where there is a risk of absconding; (2) to establish and verify identity or nationality; (3) to protect national security or public order; (4) to prevent abuse of procedure where, on the basis of objective criteria, which include the possibility of access to the procedure of approval of international protection, there is a well-founded suspicion that the intention to apply for international protection expressed during the procedure of forced return was aimed at preventing the procedure of removal; or (5) for the purpose of applying the Dublin III Regulation.
- It should be noted that the LITP does not refer to a “*significant* risk of absconding” in accordance with Article 28(2) of the Dublin III Regulation, however. The existence of a “risk of absconding” is determined on the basis of all the facts and circumstances of the concrete case, especially with regard to: (1) Previous attempts to abscond; (2) Refusal to submit to verification and establishment of identity; (3) Concealing or providing false information on the identity and/or nationality; (4) Violation of the reception centre’s house rules; (5) A Eurodac ‘hit; and (6) Opposition to a Dublin transfer.
- Within the detention centre, a special facility has been built for vulnerable groups i.e. children. Although its opening had not been planned by the end of 2015, it was put into place at the beginning of the refugee crisis during September 2015.

# Asylum Procedure

## A. General

### 1. Flow chart



## 2. Types of procedures

### Indicators: Types of Procedures

Which types of procedures exist in your country?

- |   |   |  |
|---|---|--|
| ❖ Regular procedure:                    | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No            |
| ▪ Prioritised examination: <sup>4</sup> | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No            |
| ▪ Fast-track processing: <sup>5</sup>   | <input type="checkbox"/> Yes            | <input checked="" type="checkbox"/> No |
| ❖ Dublin procedure:                     | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No            |
| ❖ Admissibility procedure:              | <input type="checkbox"/> Yes            | <input checked="" type="checkbox"/> No |
| ❖ Border procedure:                     | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No            |
| ❖ Accelerated procedure: <sup>6</sup>   | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No            |
| ❖ Other:                                |   |  |

Are any of the procedures that are foreseen in the law, not being applied in practice?  Yes  No  
The border procedure foreseen by the Law on Asylum and the Law on International and Temporary Protection (LITP) is not being applied in practice.

## 3. List the authorities that intervene in each stage of the procedure

Stage of the procedure	Competent authority in EN	Competent authority in original language (HR)
Intention to apply ❖ At the border  ❖ On the territory	Border Police, Ministry of Interior  Police administration or Police station	Granična policija  Polijska uprava Polijska stanica
Registration of application	Reception Centre for Asylum Seekers' administration, Ministry of Interior	Prihvatilište za tražitelje azila, Ministarstvo unutarnjih poslova
Dublin (responsibility assessment)	Asylum Department, Ministry of Interior	Odjel za azil, Ministarstvo unutarnjih poslova
Refugee status determination	Asylum Department, Ministry of Interior	Odjel za azil, Ministarstvo unutarnjih poslova
Appeal ❖ First appeal ❖ Onward appeal	Administrative Court  High Administrative Court	Upravni sud  Visoki upravni sud
Subsequent application	Asylum Department, Ministry of Interior	Odjel za azil, Ministarstvo unutarnjih poslova

## 4. Number of staff and nature of the first instance authority

Name in English	Number of staff	Ministry responsible	Is there any political interference possible by the responsible Minister with the decision making in individual cases by the first instance authority?
<b>Asylum Department</b>	20	Ministry of Interior	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
<b>Reception Centre for Asylum Seekers</b>	16		

<sup>4</sup> For applications likely to be well-founded or made by vulnerable applicants. See Article 31(7) APD.

<sup>5</sup> Accelerating the processing of specific caseloads as part of the regular procedure.

<sup>6</sup> Albeit not labelled as "accelerated procedure" in national law. See Article 31(8) APD.

## 5. Short overview of the asylum procedure

The asylum procedure in Croatia is an administrative procedure which, as of June 2015, is regulated by the Law on International and Temporary Protection (LITP). The LITP brought about a significant number of reforms, which govern applications lodged after 2 July 2015. Applications lodged prior to that date are still regulated by the Law on Asylum.

Additionally, the Law on General Administrative Procedure is applied in the asylum procedure, unless otherwise provided by the Law on Asylum and LITP. The main body responsible for the implementation of asylum policy in Croatia is the Ministry of Interior, which is also the competent authority in the first instance procedures.<sup>7</sup> All asylum matters are under the responsibility of the Administrative and Inspection Affairs Directorate, within which is the Service for Aliens and Asylum. The Service for Aliens and Asylum, among other departments, includes the Asylum Department and the Reception Centre for Asylum Seekers.<sup>8</sup>

### **Registration**

The procedure officially begins after the lodging of the application for international protection. Before this stage, a foreigner must express the intention to seek asylum.

According to the LITP, police officers or officials from the Reception Centre for Applicants for International Protection, immediately following the expression of the intention to apply for international protection, shall take the applicant's fingerprints and shall photograph him or her, establish his or her identity, how he or she entered the Republic of Croatia, the travel route from the country of origin to the Republic of Croatia, and personal circumstances of importance for assessing the special reception and procedural guarantees.<sup>9</sup>

Border officers, the police administration/station or the Reception Centre for Applicants for International Protection shall register the applicant in the records of the Ministry of Interior no later than 3 working days from the day the applicant expressed the intention to apply for international protection. If the intention was expressed before some other body, the Reception Centre shall register the applicant in the records of the Ministry within 6 working days from the day when he or she expressed his or her intention.<sup>10</sup>

The authority which undertook registration shall issue a certificate of registration of the applicant in the records of the Ministry, and, as necessary, shall set a time limit in which the applicant must report to the Reception Centre for Applicants for International Protection to lodge an application.<sup>11</sup>

Applicants shall be permitted to lodge an application within the shortest possible time and no later than within 15 days from registration of their status in the records of the Ministry of Interior.<sup>12</sup>

### **First instance procedure**

After the application has been lodged, the Ministry of Interior (i.e. the Asylum Department) shall, as soon as possible, arrange the personal interview with the applicant,<sup>13</sup> and shall issue a decision within 6

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<sup>7</sup> Article 12(1) Law on Asylum; Article 32(1) LITP.

<sup>8</sup> The Reception Centre for Asylum Seekers (the new LITP names it Reception Centre for Applicants for International Protection) is the name of one of the organisational units of the Ministry of Interior. It is also the name of the accommodation centre, the place where asylum applications are recorded and where interviews are conducted. There is no separate registration office. As organisational unit, the Reception Centre is still called Reception Centre for Asylum Seekers. It is expected that the new name, in accordance with the new LITP would be changed.

<sup>9</sup> Article 33 (8) LITP.

<sup>10</sup> Article 33 (9) LITP.

<sup>11</sup> Article 33 (10) LITP.

<sup>12</sup> Article 34 (2) LITP.

<sup>13</sup> Article 35(1) LITP.

months of a duly completed application or a duly completed and admissible subsequent application.<sup>14</sup> The 6 month time limit may be extended for a further 9 months under certain circumstances and, exceptionally, the procedure may last up to 21 months.

The Asylum Department is also responsible for examining the Dublin criteria and carrying out Dublin transfers to another Member State.

The asylum procedure in Croatia is a single procedure, given the fact that application for international protection cover both request for asylum and subsidiary protection, so Asylum Department determines *ex officio* the existence of conditions for granting subsidiary protection status where the conditions for granting refugee status are not met. An application may also be processed under an accelerated or border procedure.

### **Accelerated procedure**

According to the new LITP the Ministry shall render a decision in an accelerated procedure no later than within 2 months from the day the application or an admissible subsequent application is lodged if, in conducting the entire procedure it is established that conditions for such procedure exists. There are ten grounds for applying the accelerated procedure.

The deadline for lodging an appeal according to the LITP is the same i.e. 8 days from the day the decision is delivered, but the appeal has no suspensive effect.<sup>15</sup>

### **Border procedure**

Procedures at the border or in transit zones are regulated by the LITP. However, they are not applied in practice due to lack of appropriate centres and capacity at the borders.

### **Appeal**

The Ministry's decision (in the regular, accelerated or border procedure) may be challenged before the Administrative Court.<sup>16</sup> There are four Administrative Courts: in Zagreb, Rijeka, Osijek and Split. The majority of asylum cases are handled by the Zagreb Administrative Court. With the new LITP coming into force, not all appeals against first instance decisions have suspensive effect.

Following the last amendments to the Law on Administrative Disputes adopted in December 2014, asylum seekers may have lodged a further appeal against the Administrative Court decision before the High Administrative Court. This is the case only if the application was submitted according to the old Law on Asylum.. However, there is no publicly available data on how this functions in practice (or even on whether such cases have been reported to date). The new LITP has clarified that this appeal does not have suspensive effect.<sup>17</sup>

Although the administrative dispute is the final instance decision on asylum applications, besides the possibility to lodge non suspensive appeal to High Administrative Court, there is also a possibility to lodge a complaint before the Constitutional Court in case the applicant claims a violation of a right guaranteed by the Croatian Constitution. In that case, a foreigner would have to regularise their stay in Croatia in accordance with the Law on Foreigners, as stay under the LITP is not foreseen once the administrative dispute is over. However, it is not feasible in practice for rejected asylum seekers to easily regularise their stay under the Law on Foreigners, as the majority of them would not meet the conditions prescribed by the Law on Foreigners to obtain a residence permit. This renders it therefore very difficult in practice to appeal against a negative decision from the Administrative Court on constitutional grounds.

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<sup>14</sup> Article 40(1) LITP.

<sup>15</sup> Article 41(5) and 51(1)(1) LITP.

<sup>16</sup> Article 12(2) Law on Asylum, Article 32(2) LITP.

<sup>17</sup> Article 51(3) LITP.

## B. Procedures

### 1. Registration of the asylum application

#### Indicators: Registration

1. Are specific time-limits laid down in law for asylum seekers to lodge their application?  Yes  No
2. If so, what is the time-limit for lodging an application? 15 days
3. Are there any reports (NGO reports, media, testimonies, etc.) of people refused entry at the border and returned without examination of their protection needs?  Yes  No

Although no time-limit is specified in the LITP, a foreigner is in practice expected to seek international protection (i.e. express the intention to lodge an application) at a police administration / station, at border crossing points, in Reception Centre for Foreigners or in the Reception Centre for Applicants for International Protection within a reasonable time after entering the country.

At the moment when a foreigner expresses the intention to seek protection during a border control at a border crossing point,<sup>18</sup> competent officials will refer him or her to the Reception Centre for Applicants for International Protection<sup>19</sup> and if necessary determine the time period within which he or she must report to the Reception Centre to lodge the application.

In practice, a person may express such intention even after having been found irregularly crossing the state border or at a later stage, during further proceedings related to irregular border crossing. After the foreigner has been apprehended and transferred to a police administration or station, the police officer makes a report and hands the person over to officers in charge of irregular migration for further proceedings. These police officers will conduct an interview with the foreigner in the police station to determine the person's identity, perform a security check and conduct an informative interview. If the foreigner expresses the intention to seek international protection at any stage of this procedure, the procedure will be suspended and the person will have the right to stay in Croatia until a final decision is taken on the application for international protection.

If after having expressed the intention foreigner does not report to the Reception Applicants for International Protection without a justified reason the provisions of the Law on Foreigners apply. In particular, that means that if a person did not report to the Reception Centre for Applicants for International Protection where they can officially lodge the application, they would be considered as irregular migrant and would be put in detention for the purpose of removal. The same applies in case the foreigner leaves the Reception Centre for Applicants for more than two days without obtaining consent from the Centre.

However, after having expressed the intention to seek international protection and reporting to the Reception Centre for Applicants for International Protection, an applicant shall be enabled to formally lodge an application as soon as possible and no later than within 15 days from registration of his or her status in the records of the Ministry of Interior.<sup>20</sup>

The Reception Centre for Applicants for International Protection (which is both an organisational unit<sup>21</sup> of the Ministry of Interior within the Service for Aliens and Asylum as well as an accommodation centre for applicants for international protection) is the competent authority for conducting interviews for the purpose of receiving applications for international protection. The application is usually lodged at the Reception Centre for Applicants for International Protection, and only exceptionally outside the

<sup>18</sup> Article 33 (1) LITP.

<sup>19</sup> The Reception Centre is also the place where asylum seekers have to report themselves after expressing their intention to lodge an asylum claim and where interviews are conducted.

<sup>20</sup> Article 34(2) LITP.

<sup>21</sup> At the time of writing the official name of organisational unit is still Reception Centre for Asylum Seekers.

Reception Centre within an appropriate period, depending on personal circumstances of the applicant,<sup>22</sup> for example where he or she is detained in the Reception Centre for Foreigners (detention centre) or in prison. In the past, migrants in the Reception Centre for Foreigners have sometimes faced difficulties in having their letters declaring the intention to seek protection delivered to the asylum authority. However, such problems have not been reported recently.

The procedure for international protection is initiated by lodging the application. In practice this means that the application is submitted orally by the person seeking protection in front of the asylum authority (Reception Centre for Asylum Seekers' administration), which drafts minutes of the interview. The civil servants of the Reception Centre for Applicants administration conduct a short interview to collect the following information: personal data of the asylum seeker, information on military service, family and other relations, information on the journey from country of origin (type of transportation and route) and the reasons (in short) why they fled their country of origin. All documents, including the minutes of the first interview, are then sent to the Asylum Department within the Ministry of Interior, which is responsible for conducting a further substantive interview and examining the application.

Besides that, civil servants in the Reception Centre for Applicants take fingerprints and photos of the applicants, provide them with information on the procedures, their rights and obligations, and issue the applicants' identity card. The identity card shall be issued within three days from the lodging of the application and confirms the right of residence in the Republic of Croatia until the completion of the procedure. An applicant's card is not proof of identity.<sup>23</sup>

During 2012 and 2013, a lack of accommodation places and some organisational problems caused delays, up to two months, in the organisation of interviews for the purpose of lodging asylum applications. This is no longer the case.

In the past there were no reports of *refoulement* or "push-backs" at the border. However with the refugee crisis which started in September 2015, in November 2015 a new practice of separation of migrants who are not coming from war-torn countries has been introduced but only for a few days, so one can assume that there could be a risk of a breach of the principle of *non-refoulement*. On the other side, since the beginning of the crisis in September 2015, there were only a few intentions expressed to apply for international protection in Croatia, as the majority of persons have given up and decided not to apply for international protection.

## 2. Regular procedure

### 2.1. General (scope, time limits)

#### Indicators: Regular Procedure: General

- |  |   |
|--|---|
| 1. Time-limit set in law for the determining authority to make a decision on the asylum application at first instance:     | 6 months  |
| 2. Are detailed reasons for the rejection at first instance of an asylum application shared with the applicant in writing? | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No |
| 3. Backlog of pending cases as of 15 October 2015:   | 35  |

The Asylum Department of the Ministry of Interior is an administrative authority specialised in decision-making in procedure for international protection. Croatia has a single asylum procedure: the Asylum Department examines whether the applicant fulfils the eligibility criteria for refugee status and, failing that, subsequently examines whether the applicant is eligible for subsidiary protection. The civil servants working in the Asylum Department conduct interviews with applicants for international procedure and,

<sup>22</sup> Article 34(3) LITP.

<sup>23</sup> Article 62(1) LITP.

on the basis of all the relevant facts and circumstances arising from the application, the applicant's position and personal circumstances (including sex and age) based on the testimony presented during the interview, the evidence submitted and available country of origin information, as well as the activities of the asylum seeker after leaving the country of origin to assess whether these activities might expose the asylum seeker to persecution or serious harm if they are returned to that country, issue a decision on the asylum application. The existence of an internal protection alternative in the country of origin, and the possibility for the asylum seeker to obtain the protection of his or her alleged country of nationality, are also considered when taking a decision.<sup>24</sup>

When deciding on the credibility of the asylum seeker's statements, the person conducting the procedure should abide by the principle of the benefit of the doubt.<sup>25</sup>

The first instance decision can be a decision by which the Ministry of Interior:

- Grants asylum;
- Grants subsidiary protection;
- Rejects the application if the applicant does not meet the conditions for asylum and subsidiary protection;
- Rejects the application if the conditions are met for exclusion;
- Rejects the application as manifestly unfounded;
- Dismisses an asylum application; or
- Suspends the procedure.

The Ministry of Interior (i.e. the Asylum Department) has the obligation to take a decision on the application for asylum within 6 months from its lodging. If no decision can be rendered within 6 months, the applicant shall be informed of this in writing and at his or her request shall be provided with information about the reasons for the failure to respect the time limit and about the time needed before which he or she may expect a decision. The 6 month time limit exceptionally may be prolonged for additional 9 plus 3 months. It may be extended for a further 9 months if:

- (a) The application includes complex facts and/or legal issues;
- (b) A large number of third-country nationals or stateless persons are requesting international protection at the same time; or
- (c) The applicant, through his or her actions, contrary to his or her obligations as applicant, causes the time limit to be extended.

However this time limit may be extended for a further 3 months exclusively in order to ensure the complete consideration of the application.

If it is justifiably to be expected that no decision will be rendered on the application within the time limits referred above on account of the temporary unsafe situation in the country of origin, the Ministry shall periodically verify the situation in the country of origin and inform the applicant and the European Commission within a reasonable time of the reasons for failure to render a decision. In that case, a decision must be rendered no later than within 21 months from the day the application is lodged.<sup>26</sup>

## **2.2. Fast-track processing**

Applications by unaccompanied children are prioritised.<sup>27</sup> Additionally an application which may be approved on the basis of the established facts also has priority in decision-making.<sup>28</sup> Beyond that, there is no information available on certain caseloads being prioritised as a matter of law or practice by the first instance authority, neither there is official information on the backlog of cases at first instance.

## **2.3. Personal interview**

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<sup>24</sup> Article 27 and 28 LITP.

<sup>25</sup> Article 29 LITP.

<sup>26</sup> Article 40 LITP.

<sup>27</sup> Article 17(9) LITP.

<sup>28</sup> Article 38(2) LITP.

### Indicators: Regular Procedure: Personal Interview

1. Is a personal interview of the asylum seeker in most cases conducted in practice in the regular procedure?  Yes  No
  - ❖ If so, are interpreters available in practice, for interviews?  Yes  No
2. In the regular procedure, is the interview conducted by the authority responsible for taking the decision?  Yes  No
3. Are interviews conducted through video conferencing?  Frequently  Rarely  Never

After a short initial interview conducted by the officials from the Reception Centre for Applicants for International Protection for the purpose of lodging an application, a substantive interview is conducted by the Asylum Department of the Ministry of Interior. According to the Law on Asylum and LITP, when the application has been lodged, the Ministry of Interior shall, as soon as possible, interview the applicant. During the interview, the asylum seeker is obliged to present all circumstances relevant to the asylum application, truthfully answer all questions, and submit all available evidence to support the application, i.e. give credible and convincing explanations of all the reasons behind the application for asylum.<sup>29</sup>

The interview may be omitted:

- When a positive decision on application may be taken on the basis of the available evidence;
- In cases when an applicant is unfit or unable to be interviewed, owing to enduring circumstances beyond his or her control; or
- The admissibility of a subsequent application is being assessed.<sup>30</sup>

The novelty introduced by the LITP is that applicant shall give reasons if he or she refuses to cooperate with the official conducting the interview. The Ministry shall consider the reasons and shall inform the applicant orally for the record of its decision.<sup>31</sup>

All interviews are conducted by the civil servants of the Asylum Department within the Ministry of Interior, who are also responsible for taking decisions on the application. Most applicants are interviewed in practice. Whether this would change with new LITP is hard to predict at the moment. According to the Law on Asylum and LITP, the presence of an interpreter during the personal interview is required in case an asylum seeker does not understand the language in which the procedure is conducted.<sup>32</sup> In practice this means that the interpreter is present in all cases, with the only exception of those in which the asylum seeker understands Croatian (for example asylum seekers who are nationals of a neighbouring country such as Bosnia and Herzegovina).

In the past, a few asylum seekers have complained to the Croatian Law Centre about the quality of translation. There is no specific code of conduct for interpreters in the context of asylum procedures, nor were standards prescribed in the past with regard to the qualifications of interpreters in the procedure for international protection. The LITP prescribes conditions that have to be fulfilled in order for a contract to be signed between the Ministry of Interior and an interpreter.<sup>33</sup> The Ministry shall conclude an agreement with a translator/interpreter if:

- (a) It is assessed that he or she has good knowledge of the Croatian language in writing and speech;
- (b) It is assessed that he or she has good knowledge of the language for which he or she is being engaged;
- (c) It is established that no circumstances exist that could represent a hindrance to employment in the civil service pursuant to the regulations on employment in the civil service;

<sup>29</sup> Article 54(1)-(2) Law on Asylum; Article 35(2) LITP.

<sup>30</sup> Article 35(8) LITP.

<sup>31</sup> Article 35(6) LITP.

<sup>32</sup> Article 24(1) Law on Asylum; Article 14(2) LITP.

<sup>33</sup> Article 13 LITP.

- (d) It is established that no security hindrances exist after the conducting of a basic security check pursuant to the regulations on security checks.

In addition, the interpreter must be reliable, impartial and must interpret truthfully and accurately. He or she is obliged to act pursuant to the regulations governing the protection of personal data, and especially may not disclose the data such as personal and other information collected during the procedure.

An additional novelty which entered into force with the LITP is that, if for objective reasons it is not possible to provide an interpreter for a specific language, the Ministry of Interior shall request assistance from another Member State of the European Economic Area.

Up to now, interpreters were not professionally trained and interpretation is not done by accredited interpreters in the majority of cases. Usually, persons who simply possess the requested language skills are contracted by the Ministry of Interior. Nevertheless, there is a lack of interpreters, especially for some specific languages. For example, asylum seekers from African countries are often interviewed in English or French, languages they are considered as being able to understand. Asylum seekers are asked at the beginning of the interview if they understand the interpreter.

In the past there was also a possibility for the interview to be conducted through video conferencing (through the GDISC Interpreters Pool Project and later also in cooperation with the Dutch Immigration and Naturalisation Service). However, such a possibility is not available at the moment.<sup>34</sup> The new LITP prescribes that interpretation can be provided by means of electronic telecommunications or audio-visual equipment.

During the interview, verbatim minutes of the interview are drafted. Once the interview is finished, the interpreter translates the minutes to the applicant who then has a possibility to make corrections, interventions, as well as to add information if needed. Generally, in practice, the quality of the minutes is not considered problematic, although there were cases in which minutes were not considered to be of sufficient quality by the applicants. It also depends on the interpreter whether he or she summarises the answers (which they should not do), or translates each sentence of the applicant (which is how they should translate). By signing the minutes, the applicant agrees with the content of the transcript.

## 2.4. Appeal

### Indicators: Regular Procedure: Appeal

- |   |  |   |
|---|--|---|
| 1. Does the law provide for an appeal against the first instance decision in the regular procedure? | <input checked="" type="checkbox"/> Yes      | <input type="checkbox"/> No             |
| ❖ If yes, is it   | <input checked="" type="checkbox"/> Judicial | <input type="checkbox"/> Administrative |
| ❖ If yes, is it suspensive  | <input checked="" type="checkbox"/> Yes      | <input type="checkbox"/> No             |
| 2. Average processing time for the appeal body to make a decision: <sup>35</sup>                    | 3 months                                     |   |

Decisions of the Ministry of Interior may be challenged before the Administrative Court. According to the law, the time limit for an applicant to lodge an appeal to the Administrative Court in the regular procedure<sup>36</sup> is 30 days after the delivery of the decision of the Ministry of Interior.<sup>37</sup>

<sup>34</sup> Answer from the Ministry of Interior to the request for video conference translation in a particular case, dated 10 April 2014, and confirmed again at the meeting on 9 November 2015.

<sup>35</sup> The Ministry of Interior does not have official data on average processing time for the Administrative Court, but information was given at the meeting with the Ministry of Interior on 9 November 2015.

<sup>36</sup> According to Article 70(1) Law on Asylum, lodging of complaints and the procedure before the Administrative Court shall be governed by the provisions of the Law on Administrative Disputes, unless otherwise provided by Law on Asylum.

<sup>37</sup> Article 24(1) Law on Administrative Disputes.

Each asylum case is examined by a single judge. Judges are not specialised on asylum neither specifically trained in asylum law, although from time to time some trainings are organised for judges (usually by UNHCR and NGOs).

In the Croatian Law Centre's experience, there is no information specifying that in practice applicants face obstacles to appealing a decision.

The court holds a hearing in the presence of the asylum seeker in the majority of cases (exceptions may occur in some Dublin cases or when the asylum seeker's whereabouts are unknown). Interpreters are provided and paid by the state. So far, to the knowledge of the Croatian Law Centre, interpreters were always available during the administrative dispute. The hearings are not public.

The Court can freely assess the evidence and establish the facts (requesting also further evidence if needed) – without being bound by the facts established in the procedure of the Ministry of Interior – while determining refugee status, although it takes them into account when deciding. Evidence, in terms of Law on Administrative Disputes, includes in this case documents, interviews of the parties, experts' opinions and findings and other means of collecting evidence, and the court presents it according to the rules for presenting evidence in the civil procedure.<sup>38</sup> In general, there is no time limit set in law for the Administrative Court to make a decision in the regular procedure.

The outcomes of the administrative dispute can be that the appeal is dismissed (and therefore not decided on the merits), rejected (i.e. decided negatively on the merits), or adopted. If the appeal is adopted, the Court can either refer the case back to the Ministry of Interior for the review procedure or it can change the decision by itself, meaning that the result is granting refugee or subsidiary protection status. The court decisions are not publicly available.

Following the amendments to the Law on Administrative Disputes adopted in December 2014, applicants may lodge a further appeal against the Administrative Court decision before a High Administrative Court. This appeal, however, does *not* have suspensive effect.<sup>39</sup> There is no publicly available data on how this was functioning in practice (and on whether there have been such cases to date) and how such cases are handled.<sup>40</sup>

## 2.5. Legal assistance

### Indicators: Regular Procedure: Legal Assistance

1. Do asylum seekers have access to free legal assistance at first instance in practice?  
 Yes       With difficulty       No  
❖ Does free legal assistance cover:  
 Representation in interview  
 Legal advice
  
2. Do asylum seekers have access to free legal assistance on appeal against a negative decision in practice?  
 Yes       With difficulty       No  
❖ Does free legal assistance cover  
 Representation in courts  
 Legal advice

The right to free legal assistance in procedures was regulated by the Law on Asylum and is also regulated by LITP. There is also a general procedure and system of free legal aid which is regulated by the Law on Free Legal Aid, but applicants for international protection can only benefit from this law in some procedures for which legal aid is not provided for by the specific law (for example Law on Asylum and LITP).

### First instance procedure

<sup>38</sup> Article 33 Law on Administrative Disputes.

<sup>39</sup> Article 51(3) LITP.

<sup>40</sup> Article 19 Amendments to the Law on Administrative Disputes.

Free state-funded legal aid under the Law on Asylum was not available during the first instance asylum procedure, but only before the Administrative Court. However, with the entry into force of the LITP, this changed, not in terms of representation in the first instance procedure but in terms of possibility for legal counselling.<sup>41</sup> The LITP specifies that applicants should, at their request, be provided with legal and procedural information on the approval of international protection, taking into account the circumstances of the specific case, in a language which it may be reasonably be presumed that they understand and in which they are able to communicate. The right to counselling should be provided by organisations working to protect the rights of refugees or by attorneys with whom the Ministry shall conclude an agreement on the provision of legal counselling. An applicant who has no financial resources or things of significant value that enable him or her to have an appropriate standard of living shall have the right to legal counselling. However at the moment it is not clear how this would be implemented in practice.

## Appeal

According to the LITP, free legal aid includes assistance in the preparation of a claim to the Administrative Court and representation before the Administrative Court i.e. in the first instance administrative disputes,<sup>42</sup> if requested by the applicant and foreigners under transfer, under the condition that they do not possess sufficient financial resources or things of significant value.<sup>43</sup> Legal assistance may be provided by attorneys at law and lawyers from organisations registered for providing legal assistance.<sup>44</sup> However, this second option until today is not available in practice, as to date the Ministry of Interior has not issued a call to NGOs to become providers of free legal aid funded by the State, although this possibility was stipulated by the Law on Asylum and as well LITP provides for a possibility for lawyers from organisations registered for providing legal assistance to represent applicants in administrative disputes.

The Administrative Court shall decide on the right to free legal assistance, and the amount of costs of legal assistance.<sup>45</sup> According to the knowledge of CLC, this provision is considered problematic by attorneys representing applicants in the first instance administrative disputes as in the past, practice has shown that in some cases where they represented applicants, filed a lawsuit and attended the hearing before Administrative Court, their costs were not reimbursed on the basis of the court's decision.

One of the additional novelties in the LITP is that the providers of free legal aid must without delay inform the Ministry of Interior of the bringing of a claim before the Administrative Court and the date of delivery of the Court's judgment. If a provider of legal assistance does not act in line with this obligation, the provider shall be deleted from the List of Providers of Free Legal assistance.<sup>46</sup>

In practice, legal information and assistance are also provided by NGOs, and primarily by the Croatian Law Centre as implementing partner of UNHCR and the Legal Clinic of the Law Faculty of the University of Zagreb. Lawyers of the Croatian Law Centre are present twice a month in the Reception Centre for Applicants for free legal counselling, and once a month in Reception Centre for Foreigners (detention centre). However, with regard to the representation in the first instance procedure, they are not present at interviews, except in specific selected cases provided that they are authorised by the applicant for legal representation. However, in practice there is a greater need for free legal assistance in the first instance procedure, but unfortunately due to financial restrictions and lack of capacity, two lawyers from the Croatian Law Centre can represent only a very small number of cases.

To this end, according to the Ordinance on free legal aid,<sup>47</sup> the Administrative Court takes into account the evidence on the financial status of the asylum seeker (which is obtained *ex officio* by the Ministry of

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<sup>41</sup> Article 59(3)-(5) LITP.

<sup>42</sup> Article 60(2) LITP.

<sup>43</sup> Article 60(1) LITP.

<sup>44</sup> Article 60(4) LITP.

<sup>45</sup> Article 60(3) LITP.

<sup>46</sup> Article 60(5) LITP.

<sup>47</sup> New subregulations according to Article 93(6) LITP should be adopted within 180 days from the day LITP came into force.

Interior during the first instance procedure). In practice that means that at the beginning of the first instance procedure, the asylum seeker has to specify (by completing a form provided to them) if they carry any valuables with them, which is rarely the case. If an asylum seeker possesses sufficient financial means or valuable possessions, the Administrative Court, when deciding on the legal remedy, will determine that the costs of legal aid are borne by the asylum seeker. In practice there are no obstacles to accessing attorneys, as asylum seekers are informed about their right to free legal assistance and attorneys are notified the appointment by the Ministry of Interior. Attorneys organize the interpreter for the appointment and then inform the Ministry of Interior. To the knowledge of the Croatian Law Centre, the amount of the financial compensation for legal assistance providers is adequate for lawyers to engage effectively in the provision of legal assistance to asylum seekers. However, compensation for legal aid seems to encounter obstacles in practice as specified before, as attorneys informed the Croatian Law Centre that the Administrative Court did not approve free legal aid in some cases. Consequently, lawyers were not paid for their work.

### 3. Dublin

#### 3.1. General

##### Indicators: Dublin: General<sup>48</sup>

1. Number of outgoing requests in 2015 (1 January-15 October):	10
❖ Top 3 receiving countries	BG 2 HU 2 Others 1
2. Number of incoming requests in 2015 (1 January-15 October):	134
❖ Top 3 sending countries	DE 39 AT 22 CH 18
3. Number of outgoing transfers in 2015 (1 January-15 October):	1
❖ Top 3 receiving countries	BG 1
4. Number of incoming transfers in 2015 (1 January-15 October):	15
❖ Top 3 sending countries	AT 5 CH 3 DE/FR 2

#### Application of the Dublin criteria

Croatia does not use any national legislation to incorporate the Dublin III Regulation, as it is directly applicable, but refers to it in Articles 1 and Article 60 of the Law on Asylum, as well as Article 2 and Article 43 LITP, specifying that the application will be dismissed if the responsibility of another Member State has been established. In that respect, the Law on Asylum and LITP do not establish criteria to determine the state responsible, but the Ministry of Interior, when deciding on a case, simply refers to the criteria listed in the Dublin Regulation.<sup>49</sup> The Dublin procedure is applied whenever the criteria listed in the Dublin Regulation are met, except if the responsible country appears to be Greece. In those cases, Croatia accepts responsibility for examining asylum applications.

In practice,<sup>50</sup> for outgoing requests also the possession of a visa is a criterion which is used. For incoming request, the criteria of both legal and illegal entry is often used. In practice discretionary clauses are rarely used as most of the applicants are adult single males. However the Ministry of Interior does not keep statistics on the number of cases in which the discretionary clauses were used.

<sup>48</sup> Information provided by the Ministry of Interior, Meeting of 9 November 2015.

<sup>49</sup> A meeting with officials of the Ministry of Interior with the purpose of collecting information about Eurodac and the Dublin procedure was held on 8 July 8, 2014.

<sup>50</sup> Information provided by the Ministry of Interior, Meeting of 9 November 2015.

The family unity criteria were also rarely used, but within every application the Ministry checks carefully whether there are family members somewhere else.

### 3.2. Procedure

#### Indicators: Dublin: Procedure

1. On average, how long does a transfer take after the responsible Member State has accepted responsibility? 3 months

Within the Asylum Department, 3 state officials working within the so called Dublin Unit conduct Eurodac and Dublin procedures.

As there are only two LiveScan machines for taking fingerprints for Eurodac purposes, one in the Reception Centre for Applicants for International Protection in Zagreb, and the other in the Reception Centre for Foreigners, classical fingerprinting is first done at the police station. It only then serves for back up purposes and it is delivered to the Reception Centre for Applicants, where all asylum seekers older than 14 are then systematically fingerprinted and checked in Eurodac. In cases where there is a hit in Eurodac, the fingerprints are sent to the Forensic Centre within the Ministry of Interior for an additional check. Where fingerprinting is temporarily impossible due to medical or some other reasons, fingerprints of an asylum seeker shall be taken as soon as those impediments cease to exist.<sup>51</sup>

The applicant who without justified cause refuses to be fingerprinted shall have his or her fingerprints taken by police officers without his or her consent.<sup>52</sup> This can also be a reason for the Ministry of Interior to render a decision in an accelerated procedure (see section on Accelerated Procedure).<sup>53</sup>

Asylum seekers are informed about the Dublin procedure twice, at the beginning of the procedure while fingerprinted and afterwards if conditions are met for actually carrying out a Dublin procedure. The Ministry of Interior does not provide a written translation of the Dublin decision, but the decision is explained orally by the interpreter during its delivery in a language that the asylum seeker understands.

#### Individualised guarantees

According to the Ministry of Interior,<sup>54</sup> individualised guarantees depend on the person in question. However, as the majority of applicants in Croatia are healthy single male adults, in recent practice there was no need for such guarantees to be requested.

#### Transfers

In practice, if another EU Member State accepts responsibility for the asylum applicant, the time for the transfer to the responsible Member State will depend on the circumstances of each case.

Asylum seekers are not detained in practice upon notification of the decision of transfer under the Dublin procedure, but alternatives to detention are used (see section on Legal Framework of Detention: Alternatives to Detention).

However, according to the Ministry of Interior,<sup>55</sup> foreigners awaiting transfer often escape. Therefore alternatives to detention prove not to be effective in some cases and it is difficult to predict how the practice in this regard will evolve.

The transfer to the responsible Member State is organised by the Dublin Unit of the Ministry of Interior, in cooperation with the receiving Member State. According to the Ministry of Interior,<sup>56</sup> the transfer is

<sup>51</sup> Article 37(3) Law on Asylum; Article 33(6) LITP.

<sup>52</sup> Article 33(7) LITP.

<sup>53</sup> Article 41(1)(10) LITP.

<sup>54</sup> Information provided by the Ministry of Interior, Meeting of 9 November 2015.

<sup>55</sup> Meeting with the Ministry of Interior, 8 July 2014.

usually voluntary, i.e. the foreigner travels without police escorts. However, the escort will be provided if a foreigner's behaviour or personal circumstances require it.

Asylum seekers who are returned from other Member States in principle do not have any obstacles to access the asylum procedure in Croatia. However, those who had left Croatia before the end of procedure and therefore had their case suspended, have to re-apply for asylum (if they wish) once they return to Croatia.

### 3.3. Personal interview

#### Indicators: Dublin: Personal Interview

Same as regular procedure

1. Is a personal interview of the asylum seeker in most cases conducted in practice in the Dublin procedure?  Yes  No
  - ❖ If so, are interpreters available in practice, for interviews?  Yes  No
2. Are interviews conducted through video conferencing?  Frequently  Rarely  Never

There is no special interview conducted in the Dublin procedure, since questions relevant to that procedure are part of the first interview that is conducted by the officials of the Reception Centre for Asylum Seekers' administration.

If there are elements (in connection with the Dublin procedure) which were not mentioned in the application (for instance there is a Eurodac hit and the asylum seeker did not mention that he or she was in another Member State), an additional interview can be conducted.

The same procedural rules as for the regular procedure apply during this part of the procedure, and the same guarantees as for the first interview in the regular procedure will apply (see section on Regular Procedure: Personal Interview).

### 3.4. Appeal

#### Indicators: Dublin: Appeal

Same as regular procedure

1. Does the law provide for an appeal against the decision in the Dublin procedure?
  - Yes  No
  - ❖ If yes, is it  Judicial  Administrative
  - ❖ If yes, is it suspensive  Yes  No

The decision on the transfer includes the grounds for the application of the Dublin Regulation and information on how to lodge a complaint against the decision. The complaint, for which applicants receive free legal assistance, must be lodged before the Administrative Court within 8 days from the delivery of the decision.<sup>57</sup> While the Law on Asylum specified that the Administrative Court should decide on the complaint within 15 days from the reception of the case file,<sup>58</sup> the new LITP does not contain any deadline in that respect.

The courts and their judges are not specialised in asylum cases. The court examines the lawfulness of the Dublin decision. A personal hearing can be omitted on the decision of the judge: therefore in some cases the oral procedure is conducted *in absentia* (with only the legal representative present). In Dublin cases, it happens when the complainant disputes only the application of the law and not the facts of the case, and the parties have not made a request for a hearing to be held.

<sup>56</sup> Meeting with officials of the Ministry of Interior with the purpose of collecting information about Eurodac and Dublin procedure was held on 8 July 2014.

<sup>57</sup> Article 60(6) Law on Asylum; Article 43(3) LITP.

<sup>58</sup> Article 60(6) Law on Asylum.

Complaints have suspensive effect. According to the information available to the Croatian Law Centre, the court does not always take into account the level of reception conditions, the procedural guarantees and the recognition rates in the responsible Member State when reviewing the Dublin decision. For instance, to the Croatian Law Centre's knowledge, in 2014 the transfer of vulnerable asylum seekers to Bulgaria was not suspended by a Court decision despite deficiencies in the system and UNHCR's recommendation not to return vulnerable categories of asylum seekers to that country. However, there is no publicly available data on how many Dublin decisions on transfers to other Member States were actually challenged before the Administrative Court since Croatia became an EU Member State last year. Therefore, no conclusions can be drawn on whether the Administrative Court takes into account the conditions and guarantees in the responsible Member state when reviewing the Dublin decision.

### 3.5. Legal assistance

**Indicators: Dublin: Legal Assistance**

Same as regular procedure

1. Do asylum seekers have access to free legal assistance at first instance in practice?

Yes       With difficulty       No

❖ Does free legal assistance cover:

Representation in interview  
 Legal advice

2. Do asylum seekers have access to free legal assistance on appeal against a Dublin decision in practice?

Yes       With difficulty       No

❖ Does free legal assistance cover

Representation in courts  
 Legal advice

The same rules as in the regular procedure apply for access to free legal assistance during the Dublin procedure, meaning that free legal aid includes assistance in the preparation of the appeal and representation before the Administrative Court,<sup>59</sup> if requested by the asylum seeker.

### 3.6. Suspension of transfers

**Indicators: Dublin: Suspension of Transfers**

1. Are Dublin transfers systematically suspended as a matter of policy or jurisprudence to one or more countries?

Yes       No

❖ If yes, to which country or countries?

Greece

After entering the EU, Croatia suspended transfers of asylum seekers to **Greece**. Where there is no responsible Member State other than Greece, Croatia will take responsibility for the examination of the asylum application. There are no data or information available on Administrative Court rulings suspending Dublin transfers to other EU Member States or associated States. To the knowledge of the Croatian Law Centre, so far the Administrative Court has not suspended any transfer.

## 4. Admissibility procedure

### 4.1. General (scope, criteria, time limits)

No specific procedure is named as “admissibility procedure” in Croatia. However, it is possible for the Asylum Department to make a decision without entering into a further in-depth examination of the asylum application (i.e. an examination on the merits) when the grounds for the dismissal of the application are met.

<sup>59</sup> Article 60(2) LITP.

An application will be dismissed where:<sup>60</sup>

- (1) The applicant has been granted international protection in another member state of the European Economic Area;
- (2) The applicant has been granted international protection in a third state whose rights he or she still enjoys, including the guarantees stemming from *non-refoulement*, provided that he or she will be received back into that state;
- (3) It is possible to apply the concept of safe third country;
- (4) It is possible to apply the concept of European safe third country;
- (5) The responsibility of another member state of the European Economic Area is established to consider the application; or
- (6) The application was lodged by a national of a member state of the European Union.

There are no specific time limits that must be respected by the Ministry of Interior in the first instance procedure for delivering a dismissal decision, and the rules governing the regular procedure are applicable.

In case of a subsequent application,<sup>61</sup> the admissibility of the application shall be assessed on the basis of the facts and evidence it contains, and in connection with the facts and evidence already used in the previous procedure. If it is established that the subsequent application is admissible, a decision shall be rendered once again on the merits of the application, and the previous decision would be revoked.

The subsequent application would be dismissed if it is established that it is inadmissible i.e. if the subsequent application is not understandable and does not contain relevant facts and evidence which arose after decision became final or which the applicant for justified reasons did not present during the previous procedure relating to establishing the meeting of the conditions for approval of international protection (see section on Subsequent Applications).

## 4.2. Personal interview

### Indicators: Admissibility Procedure: Personal Interview

Same as regular procedure

1. Is a personal interview of the asylum seeker in most cases conducted in practice in the admissibility procedure?  Yes  No
  - ❖ If so, are questions limited to identity, nationality, travel route?  Yes  No
  - ❖ If so, are interpreters available in practice, for interviews?  Yes  No
2. Are interviews conducted through video conferencing?  Frequently  Rarely  Never

The interview is conducted by the Ministry of Interior (i.e. by decision makers from the Asylum Department). According to the LITP, the personal interview would not be undertaken if the admissibility of a subsequent application is being assessed.<sup>62</sup> In such cases, usually only the interview for registering the asylum application is conducted, with questions focused only on specific issues such as new circumstances. However, in such cases, the interview is often conducted by case workers from the Asylum Department (whereas normally the interview conducted for the purpose of registering the asylum application is conducted by the Reception Centre Administration's caseworkers).

<sup>60</sup> Article 43(1) LITP.

<sup>61</sup> Article 47 LITP.

<sup>62</sup> Article 35(8)(3) LITP.

### 4.3. Appeal

#### Indicators: Admissibility Procedure: Appeal

Same as regular procedure

1. Does the law provide for an appeal against an inadmissibility decision?

- |                             |  |   |
|-----------------------------|--|---|
| ❖ If yes, is it             | <input checked="" type="checkbox"/> Yes      | <input type="checkbox"/> No             |
| ❖ If yes, is it suspensive  | <input checked="" type="checkbox"/> Judicial | <input type="checkbox"/> Administrative |
| - "First country of asylum" | <input type="checkbox"/> Yes                 | <input checked="" type="checkbox"/> No  |
| - Other grounds             | <input checked="" type="checkbox"/> Yes      | <input type="checkbox"/> No             |

While according to the Law on Asylum there were no major differences between the appeal system in the regular procedure and in the "dismissal" procedure, as the time limit for an asylum seeker to lodge an appeal to the Administrative Court was the same as in the regular procedure, 30 days after the delivery of the decision of the Ministry of Interior, according to the LITP the deadline is 8 days after the delivery of the decision of the Ministry of Interior.

As for suspensive effect, the LITP provides all appeals with suspensive effect, except for appeals against dismissal decisions on "first country of asylum" grounds where the asylum seeker has refugee status in another country.<sup>63</sup>

### 4.4. Legal assistance

#### Indicators: Admissibility Procedure: Legal Assistance

Same as regular procedure

1. Do asylum seekers have access to free legal assistance at first instance in practice?

- |                                     |  |  |  |
|-------------------------------------|--|--|--|
|                                     | <input type="checkbox"/> Yes                         | <input type="checkbox"/> With difficulty | <input checked="" type="checkbox"/> No |
| ❖ Does free legal assistance cover: | <input type="checkbox"/> Representation in interview |  |  |
|                                     | <input type="checkbox"/> Legal advice                |  |  |

2. Do asylum seekers have access to free legal assistance on appeal against an inadmissibility decision in practice?

- |                                    |  |  |                             |
|------------------------------------|--|--|-----------------------------|
|                                    | <input checked="" type="checkbox"/> Yes                      | <input type="checkbox"/> With difficulty | <input type="checkbox"/> No |
| ❖ Does free legal assistance cover | <input checked="" type="checkbox"/> Representation in courts |  |                             |
|                                    | <input checked="" type="checkbox"/> Legal advice             |  |                             |

Regarding free legal assistance in "inadmissible" cases, the general provisions about the right and access to free legal assistance apply, meaning that free legal aid in terms of representation is not foreseen in the first instance procedure, but only in the preparation of a claim to the Administrative Court, including representation before the Administrative Court,<sup>64</sup> if requested by the asylum seeker (see section on [Regular Procedure: Legal Assistance](#)).

<sup>63</sup> Article 51(1)(2) LITP, citing Article 43(1)(1)-(2) LITP.

<sup>64</sup> Article 60 LITP.

## 5. Border procedure (border and transit zones)

### 5.1. General (scope, time-limits)

#### Indicators: Border Procedure: General

1. Do border authorities receive written instructions on the referral of asylum seekers to the competent authorities?  Yes  No
2. Can an application made at the border be examined in substance during a border procedure?  Yes  No
3. Is there a maximum time-limit for border procedures laid down in the law?  Yes  No
  - ❖ If yes, what is the maximum time-limit? 4 weeks

A border procedure is foreseen by the LITP for those foreigners who express the intention to lodge an application or make subsequent application at a border crossing point or in a transit zone of an airport, sea port or internal water port,. However, this procedure is not being applied in practice due to the lack of centres and capacity at border crossing points where foreigners could be accommodated while it is carried out. At the moment, two transit centres for irregular migrants are being built, one at the border with Serbia and another near the border with Bosnia and Herzegovina. At the moment it is not clear whether the border procedure provided under the law would take place in those two centres once they are finished, or whether those centres would only serve for the detention of irregular migrants in removal procedures. Also, at the moment it is not clear which authority under the Ministry of Interior would conduct the procedure (if it is to be conducted at the border) and take the decision on the asylum application once those centres will be functional, i.e. whether it would be Service for Aliens and Asylum (in particular the Asylum Department) or another authority such as the border police.

According to the LITP, the border procedure would be applicable for the foreigner who expresses intention of lodging an application or make subsequent application at a border crossing point or in a transit zone of an airport, sea port or internal water port, provided that the following conditions are met:

- The applicant is provided with material reception conditions; and
- The application or subsequent application may be rejected as manifestly unfounded if the applicant does not meet the conditions for asylum or subsidiary protection and conditions are met for the accelerated procedure to be conducted, or the application or subsequent application may be dismissed as inadmissible.<sup>65</sup>

However, if a decision concerning the application is not issued within the period of 28 days from the day of the lodging of the application for international protection, the applicant would be permitted entry to the Republic of Croatia with a view to conducting the procedure.<sup>66</sup>

### 5.2. Personal Interview

As there is no border procedure conducted at the moment due to the lack of accommodation centres and capacity at border crossing points, it is quite difficult to predict how a personal interview in such procedure will look in the future.

### 5.3. Appeal

#### Indicators: Border Procedure: Appeal

Same as regular procedure

1. Does the law provide for an appeal against the decision in the border procedure?

	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
❖ If yes, is it	<input checked="" type="checkbox"/> Judicial	<input type="checkbox"/> Administrative
❖ If yes, is it suspensive	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No

<sup>65</sup> Article 42(1) LITP.

<sup>66</sup> Article 42(4) (5) Law on Asylum.

The border asylum procedure is foreseen by the LITP, but is not applied in practice. By law appeals against decisions in the border asylum procedure are subject to shorter time limits: a complaint to the Administrative Court against a decision of the Ministry of Interior made in the border asylum procedure must be lodged within 5 days from the day of the delivery of the decision. The Ministry shall deliver the case file no later than 8 days from the day of receipt of the decision by which the Administrative Court requests the case file. The Administrative Court shall render a judgment within 8 days from the day of receipt of the case file.<sup>67</sup>

The legislation provides also the possibility to temporarily restrict access to those locations (and therefore to applicants accommodated there) for the applicant's legal representative or for a representative of an organisation engaged in the protection of refugee rights, other than the UNHCR, when it is necessary for the protection of national security and legal order of the Republic of Croatia.<sup>68</sup>

#### 5.4. Legal assistance

**Indicators: Border Procedure: Legal Assistance**

Same as regular procedure

1. Do asylum seekers have access to free legal assistance at first instance in practice?

Yes       With difficulty       No

❖ Does free legal assistance cover:

Representation in interview  
 Legal advice

2. Do asylum seekers have access to free legal assistance on appeal against a negative decision in practice?

Yes       With difficulty       No

❖ Does free legal assistance cover

Representation in courts  
 Legal advice

There is no border procedure conducted in Croatia due to the lack of accommodation centres at the border crossing points, so it difficult to predict how the system of free legal aid in the border procedure would function in practice. According to the LITP, applicants in all types of procedures shall have access to free state funded legal aid in the preparation of a claim to the Administrative Court, including representation before the Administrative Court where requested by the applicants. However, this could be restricted, as the LITP allows the possibility to temporarily restrict access to those locations (and therefore to applicants accommodated there) for the applicant's legal representative or a representative of an organisation engaged in the protection of refugee rights, other than the UNHCR, when it is necessary for the protection of the national security and legal order of the Republic of Croatia.<sup>69</sup>

### 6. Accelerated procedure

#### 6.1. General (scope, grounds for accelerated procedures, time-limits)

The Law on Asylum foresaw the use of an accelerated procedure where a positive decision may be taken on the basis of the available evidence or when an application is deemed manifestly unfounded.<sup>70</sup> Asylum applications were rejected in an accelerated procedure as manifestly unfounded if: (1) the asylum seeker, when lodging the application, has not, without any justified reasons, provided information on identity, age, family relationships, former residence, travelling directions, identification documents, reasons for seeking protection, and former applications for asylum; (2) the asylum seeker has stated only information which are irrelevant or are of a minimal importance for the result of the procedure; (3) the asylum seeker has misled the Ministry, by stating false information which are important for the result of the procedure, presenting unreliable documents, withholding relevant

<sup>67</sup> Article 42(6) LITP.

<sup>68</sup> Article 42(3) LITP.

<sup>69</sup> Article 42(3) LITP.

<sup>70</sup> Article 56(1) Law on Asylum.

information, or destroying documents for establishing their identity and/or nationality with bad faith, which could have a negative impact on the decision; (4) the asylum seeker conceals that they had previously lodged an application for asylum stating different personal data; (5) the asylum seeker has stated inconsistent, contradictory, impossible or insufficient facts which make their application unconvincing; (6) the asylum seeker has refused to be fingerprinted; (7) the asylum seeker has been staying in the territory of the Republic of Croatia for a long period of time and has not, without justified reason, previously lodged an asylum application;<sup>71</sup> (8) the asylum seeker lodges the application with an obvious intention of postponing or preventing the implementation of the decision which would result in their expulsion from the Republic of Croatia; (9) the asylum seeker represents a threat for the national security and public order of the Republic of Croatia; or (10) the asylum seeker has arrived from a safe country of origin and has not indicated any serious grounds for considering that country as not to be a safe country of origin in their particular circumstances, taking into account fulfilment of conditions for refugee status.<sup>72</sup>

According to the new LITP the Ministry shall render a decision in an accelerated procedure where:<sup>73</sup>

1. The applicant has presented only facts which are irrelevant to an assessment of the merits of the application;
2. The applicant has consciously misled the Ministry by presenting false information or unreliable documents, or by not providing relevant information or by concealing documents which could have had a negative effect on the decision;
3. The applicant in bad faith has probably acted and destroyed documents that establish identity and/or nationality with the aim to provide false information about his or her identity and/or nationality;
4. The applicant has presented inconsistent, contradictory, manifestly inaccurate or unconvincing statements contrary to the verified information on the country of origin, rendering his/her application unreliable;
5. A subsequent application is admissible;
6. The applicant has already resided for a longer period of time in the Republic of Croatia and for no justifiable reason failed to express his or her intention to apply for international protection earlier;
7. The applicant expressed the intention to apply for international protection for the clear purpose of postponing or preventing the enforcement of a decision which would result in his or her expulsion from the Republic of Croatia;
8. The applicant represents a risk for the national security or public order of the Republic of Croatia;
9. It is possible to apply the concept of safe country of origin; or
10. The applicant has refused to give fingerprints.

The Asylum Department within the Ministry of Interior is responsible for taking decisions in accelerated procedures. Whereas there was no specific time limit set in the Law on Asylum for a decision to be taken by the Ministry of Interior under the accelerated procedure, the LITP has set a 2-month deadline for completing the accelerated procedure, failing which the claim is transferred to the regular procedure.

The number of asylum applications that were handled in an accelerated manner according to the grounds listed above is not publicly available. However, according to the Ministry of Interior, as of 15 October 2015, approximately 3% of cases were handled in accelerated procedure.<sup>74</sup>

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<sup>71</sup> Although no time limits for lodging an asylum application under the Law on Asylum were foreseen, foreigners who have been staying in Croatia for a long period of time without applying for asylum, have to provide justified reasons for not applying for asylum earlier, or their application will be considered as manifestly unfounded.

<sup>72</sup> Article 61 Law on Asylum.

<sup>73</sup> Article 41(1) LITP.

<sup>74</sup> Information provided by the Ministry of Interior, Meeting of 9 November 2015.

## 6.2. Personal Interview

### Indicators: Accelerated Procedure: Personal Interview

Same as regular procedure

1. Is a personal interview of the asylum seeker in most cases conducted in practice in the accelerated procedure?  Yes  No
  - ❖ If so, are questions limited to nationality, identity, travel route?  Yes  No
  - ❖ If so, are interpreters available in practice, for interviews?  Yes  No
2. Are interviews conducted through video conferencing?  Frequently  Rarely  Never

The same provisions from the LITP on the personal interview in a regular procedure apply to the one in accelerated procedures. That means that the interview in accelerated procedure is not held only in specific cases prescribed by the LITP, i.e. when:

- A positive decision on application may be taken on the basis of the available evidence;
- In cases when an applicant is unfit or unable to be interviewed, owing to enduring circumstances beyond his or her control; or
- The admissibility of a subsequent application is being assessed.<sup>75</sup>

The Asylum Department of the Ministry of Interior is responsible for conducting the interviews and taking decision.

## 6.3. Appeal

### Indicators: Accelerated Procedure: Appeal

Same as regular procedure

1. Does the law provide for an appeal against the decision in the accelerated procedure?
  - Yes  No
  - ❖ If yes, is it  Judicial  Administrative
  - ❖ If yes, is it suspensive  Yes  No

The Administrative Court is the competent appeal body in the accelerated procedure, so there is no difference in the authority responsible for handling the appeal compared to regular procedure. However, time limits are shorter: a complaint may be lodged to the Administrative Court within 8 days from the delivery of the decision of the Ministry of Interior.<sup>76</sup>

Moreover, appeals against negative decisions in the accelerated procedures do *not* have suspensive effect.<sup>77</sup> The asylum seeker can apply for suspensive effect, which the Court has to decide on within 8 days from the receipt. However, appeals against decisions in cases where the applicant has already resided for a longer period of time in the Republic of Croatia and for no justifiable reason failed to express his or her intention to apply for international protection earlier *never* have suspensive effect i.e. there is no possibility to request for suspensive effect.<sup>78</sup>

<sup>75</sup> Article 35(8) LITP.

<sup>76</sup> Article 41(5) LITP.

<sup>77</sup> Article 51(1)(1) LITP.

<sup>78</sup> Article 51(1)(2) LITP, citing Article 41(1)(6) LITP.

## 6.4. Legal assistance

### Indicators: Accelerated Procedure: Legal Assistance

Same as regular procedure

1. Do asylum seekers have access to free legal assistance at first instance in practice?  
 Yes       With difficulty       No  
❖ Does free legal assistance cover:  
 Representation in interview  
 Legal advice
  
2. Do asylum seekers have access to free legal assistance on appeal against a negative decision in practice?  
 Yes       With difficulty       No  
❖ Does free legal assistance cover  
 Representation in courts  
 Legal advice

The same provisions from the LITP as to access to free legal assistance for asylum seekers in the regular asylum procedure apply for access to free legal assistance during an accelerated procedure, meaning that free legal aid includes assistance in the preparation of a claim to the Administrative Court and representation before the Administrative Court, if requested by the asylum seeker (see section on Regular Procedure: Legal Assistance).

## C. Information for asylum seekers and access to NGOs and UNHCR

### Indicators: Information and Access to NGOs and UNHCR

1. Is sufficient information provided to asylum seekers on the procedures, their rights and obligations in practice?       Yes       With difficulty       No  
❖ Is tailored information provided to unaccompanied children?       Yes       No
  
2. Do asylum seekers located at the border have effective access to NGOs and UNHCR if they wish so in practice?       Yes       With difficulty       No
  
2. Do asylum seekers in detention centres have effective access to NGOs and UNHCR if they wish so in practice?       Yes       With difficulty       No
  
3. Do asylum seekers accommodated in remote locations on the territory (excluding borders) have effective access to NGOs and UNHCR if they wish so in practice?  
 Yes       With difficulty       No

The LITP prescribes that the Ministry of Interior is obliged, within 15 days from the expression of the intention to apply for international protection, to inform an asylum seeker about the procedure for international protection, about rights and obligations applicants are entitled to in the procedure, and about the possibility to get free legal aid and to get into contact with UNHCR representatives and representatives of other organisations dealing with the protection of refugees' rights.<sup>79</sup> This information must be given in the asylum seeker's own language or in a language he or she can be reasonably supposed "to be able to communicate" in.<sup>80</sup> The law does not specify whether the information should be provided orally or in writing. The same type of information is provided with the same modalities to applicants during all types of procedures except in border procedure where this information should be given by police officers.<sup>81</sup>

In practice, prior the entry into force of the new LITP, this information was given in writing during the process of lodging of the asylum application. The paper with information was available in the main languages spoken by persons seeking asylum in Croatia (i.e. in Arabic, English, French, Farsi, Russian,

<sup>79</sup> Article 59(2) LITP.

<sup>80</sup> Article 14 LITP.

<sup>81</sup> Article 59(1) LITP.

Turkish and Somali), and should be in a language the asylum seeker can reasonably be expected to understand. According to the Croatian Law Centre, this information was written in a rather legalistic manner and might therefore not be understood by the majority of asylum seekers. This information is general information given to everyone rather than tailored to asylum seekers. When the person is illiterate or where there is no written information in some particular language, the information was read to the asylum seeker by an interpreter present at the asylum application interview. At the beginning of the interview, the applicant is also informed about his or her duties in the procedure and during the interview. According to the Ministry of Interior,<sup>82</sup> at the moment information is provided also during the process of lodging the application for international protection. An information sheet is available in English, Arabic and French, and it is planned that the translation in other languages would be soon available. At the moment for all other languages translation of information is provided by interpreters.

Asylum seekers were informed about the Dublin procedure twice: at the beginning of the procedure while fingerprinted, and then in more detail if conditions were met for actually carrying out the Dublin procedure. The decision on the transfer that asylum seekers received included the ground for application of the Dublin Regulation, and also information on the fact that they can lodge a complaint before the Administrative Court within 8 days from the delivery of the decision.<sup>83</sup> The Ministry of Interior does not provide a written translation of the Dublin decision, but they do explain it orally in a language that the asylum seeker understands during the delivery of the decision itself.

So far, according to the Ministry of Interior and due to some practical obstacles, the common leaflet as well as the specific leaflet for unaccompanied children according to the Article 4(3) of the recast Dublin Regulation, have not been issued and consequently not provided to asylum seekers in practice.

NGOs also provide information on asylum. Specialised NGOs, particularly those which are UNHCR's project partners (for example the Croatian Law Centre and the Centre for Peace Studies)<sup>84</sup> have issued leaflets and brochures which are also available in the Reception Centre for Applicants, as well in Reception Centre for Foreigners (detention and deportation centre). However, some of them were not up to date which is why UNHCR and the Croatian Law Centre decided to prepare new leaflets,<sup>85</sup> which were distributed in the summer of 2014. As the new LITP came into force in July 2015, it is envisaged that probably the new leaflet would be prepared by CLC and UNHCR in cooperation with the Ministry of Interior during the 2016. The Centre for Peace Studies has issued a brochure entitled "Welcome to Croatian Society", containing information on Croatian history, the political system of Croatia, cultural differences, information on detention, a short overview of asylum procedure etc.<sup>86</sup> Besides that, Croatian Red Cross staff is present on a daily basis in the Reception Centre for Asylum Seekers and can refer applicants to the relevant organisations or institutions which can provide information to them. Lawyers of the Croatian Law Centre have access to both the Reception Centre for Applicants and the Reception Centre for Foreigners, where they provide free legal information. They are present in the Reception Centre for Applicants at least twice a month and in the Reception Centre for Foreigners at least once a month. Quite often, when they need information or advice, asylum seekers go directly to the office of the Croatian Law Centre. The students engaged in the Legal Clinic of the Law Faculty of the University in Zagreb also provide legal information in the Reception Centre for Asylum Seekers.

In general, according to the Croatian Law Centre's experience, most applicants are interested in receiving information on the duration of the procedure for international protection, as well as on the duration of detention and the reasons why a person who applied for international protection can remain

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<sup>82</sup> Information provided by the Ministry of Interior, Meeting of 9 November 2015.

<sup>83</sup> Article 60(6) Law on Asylum.

<sup>84</sup> The Centre for Peace Studies is an NGO dealing with the integration of beneficiaries of international protection (with refugee status or under subsidiary protection). They have issued different leaflets dealing with inclusion into society, accommodation, education, free legal aid, family, religion, health and social care. Leaflets are available in Croatian, English and French.

<sup>85</sup> The leaflets contain information for asylum seekers about the asylum procedure and are available in 10 languages (Arabic, Croatian, Farsi, French, English, Pashtu, Russian, Somali, Turkish, Urdu).

<sup>86</sup> According to the Centre for Peace Studies, the brochure is available in Arabic, Croatian, Farsi, French, English, Russian and Turkish.

detained. Apparently, the grounds for detention are not explained in a clear and understandable way to asylum seekers in detention.

UNHCR has access to all facilities where applicants are accommodated.

In the past, foreigners arriving at the borders generally did not have access to information about the asylum procedure. Written leaflets, which in the past were prepared by UNHCR and the Croatian Law Centre and were provided at some of the border crossing points, were no longer up-to-date and it was not known with certainty in which languages they were available in practice. However, new leaflets were prepared and distributed in the summer of 2014 to a number of police stations on the territory and border entry points. At the moment new leaflets are being prepared which would be aligned with the LITP. At some border crossing points, there is a lack of available interpreters. This prevents effective communication between foreigners (among whom some are potential asylum seekers i.e applicants for international protection) and border officers. However according to the new LITP third-country nationals or stateless persons in a reception centre, at a border crossing or in a transit zone of an airport, sea port or inland water port who wish to express their intention to apply for international protection shall be provided by police officers with all necessary information on the procedure for the approval of international protection in a language which they may justifiably be expected to understand and in which they are able to communicate.<sup>87</sup>

Although at the moment the border procedure is not applied, it will be interesting to see how the provision from the LITP on the access to UNHCR and NGO will apply in practice in the border procedure, as the LITP allows the possibility to temporarily restrict access to those locations (and therefore to applicants accommodated there) for the applicant's legal representative or a representative of an organisation engaged in the protection of refugee rights, other than the UNHCR, when it is necessary for the protection of the national security and legal order of the Republic of Croatia.<sup>88</sup>

With regard to decisions, these are written only in Croatian and are translated orally by an interpreter to the applicant during the delivery of the decision. However, due to the legal terms used in the decision, the level of understanding of that information by applicants is questionable (including the information on the available legal remedy and its deadline).

## D. Subsequent applications

### Indicators: Subsequent Applications

1. Does the law provide for a specific procedure for subsequent applications?  Yes  No
2. Is a removal order suspended during the examination of a first subsequent application?
  - ❖ At first instance  Yes  No
  - ❖ At the appeal stage  Yes  No
3. Is a removal order suspended during the examination of a second, third, subsequent application?
  - ❖ At first instance  Yes  No
  - ❖ At the appeal stage  Yes  No

When the foreigner lodges a subsequent application, the authority competent to examine the application is the Asylum Department of the Ministry of Interior, the same authority as in the regular procedure. The Asylum Department examines the elements presented in the subsequent application in conjunction with the elements provided in the previous application and/or appeal.

The LITP has introduced a specific procedure for subsequent applications. Under the LITP, a subsequent application for international protection is defined as the intention to apply for international

<sup>87</sup> Article 59(1) LITP.

<sup>88</sup> Article 42(3) LITP.

protection expressed after a final decision has been taken on a previous application i.e. the previous application was rejected because the conditions were not met for asylum or subsidiary protection; or conditions were met for exclusion; or the application was rejected as manifestly unfounded as the applicant did not meet the conditions for asylum or subsidiary protection or the procedure was discontinued because the applicant withdrew the application.<sup>89</sup>

If a person decides to submit subsequent application,<sup>90</sup> an explanation of the subsequent application should be submitted to the Reception Centre for Applicants directly in writing or orally if the person is illiterate. The Ministry of Interior must decide on the subsequent application no later than within 15 days from the day of receiving it. This subsequent application must be comprehensible and contain the relevant facts and evidence which arose after the finality of the decision or which the applicant for justified reasons did not present during the previous procedure, relating to establishing the conditions for approval of international protection. The admissibility of the subsequent application should be assessed on the basis of the facts and evidence it contains, and in connection with the facts and evidence already used in the previous procedure. If it is established that the subsequent application is admissible, a decision shall be rendered once again on the substance of the application, and the previous decision revoked. The subsequent application should be dismissed if it is established that it is inadmissible. A subsequent application made by a foreigner under transfer shall be considered in the responsible member state of the European Economic Area, but a subsequent application lodged in the Republic of Croatia shall be dismissed as inadmissible.

In practice until the entry into force of the new LITP, to the knowledge of the Croatian Law Centre, the decision maker from the Asylum Department examined old elements along with the new ones in the application. What differs in the examination of subsequent asylum applications as compared to the regular procedure, is that, in practice, while in the regular procedure the interview for lodging of the asylum application and the substantive asylum interview are separate interviews, they are united into one in the case of a subsequent application; however, this may also vary. The interview is most frequently conducted by civil servants from the Asylum Department. An additional difference is that the interview is often much shorter compared to that conducted in the regular procedure, i.e. the asylum seeker is just asked to provide new elements. Whether the practice would change with the LITP is hard to predict at the moment.

Also, before the entry into force of the LITP, asylum seekers did not face obstacles to lodging a subsequent asylum application neither they had restricted rights (such as lack of legal assistance or lack of reception conditions). The main problem in practice was that the majority of asylum seekers who apply for asylum for more than once do not have new elements in their subsequent applications.

Under the new LITP,<sup>91</sup> if the applicant lodges a subsequent application with the intention of postponing or preventing the enforcement of the decision on expulsion from the Republic of Croatia, he or she shall have the right of residence until the decision on the subsequent application becomes final. However, as at the same time new LITP prescribes that the Ministry shall render a decision to dismiss a subsequent application if it assesses that it is inadmissible,<sup>92</sup> and that in that case appeal to Administrative Court does not have a suspensive effect,<sup>93</sup> (which means that the decision is final)<sup>94</sup> the above provision means that the right to residence is applicable only during the first instance procedure. However, there is also a possibility for the appeal to contain a request for suspensive effect.<sup>95</sup> If the applicant brings an appeal which contains a request for suspensive effect, he or she shall have the right of residence until the delivery of the judgment on granting suspensive effect.<sup>96</sup>

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<sup>89</sup> Article 4(1)(13) LITP.

<sup>90</sup> Article 47 LITP.

<sup>91</sup> Article 53(3)-(4) LITP.

<sup>92</sup> Article 43(2) LITP.

<sup>93</sup> Article 51(1)(3) LITP.

<sup>94</sup> Article 4(1)(21) LITP.

<sup>95</sup> Article 51(2) LITP.

<sup>96</sup> Article 53 LITP.

However, applicants who lodge a new subsequent application after a decision has already been rendered on a previous subsequent application do not have the right of residence in the Republic of Croatia.

If the conditions for the accelerated procedure are met and the subsequent application is admissible, then the Ministry of Interior must render its decision within 2 months period. The deadline for the appeal in that case is then 8 days for the delivery of the first instance decision, however it does not have suspensive effect. Otherwise the 15 day time limit is applicable for the the Ministry of Interior to decide on subsequent applications. As in the regular procedure, the Administrative Court is the competent authority for deciding upon appeal. If the subsequent application is dismissed as inadmissible, the deadline is 8 days from the delivery of the first instance decision and does not have suspensive effect.

## E. Guarantees for vulnerable groups of asylum seekers (children, traumatised persons, survivors of torture)

### 1. Special procedural guarantees

#### Indicators: Special Procedural Guarantees

1. Is there a specific identification mechanism in place to systematically identify vulnerable asylum seekers?  Yes  For certain categories  No  
❖ If for certain categories, specify which:
2. Are there special procedural arrangements/guarantees for vulnerable people?  Yes  For certain categories  No  
❖ If for certain categories, specify which:

According to the LITP, vulnerable groups include persons without legal capacity, children, unaccompanied children, elderly and infirm persons, seriously ill persons, disabled persons, pregnant women, single parents with minor children, persons with mental disorders and victims of trafficking, as well as victims of torture, rape or other forms of psychological, physical and sexual violence, such as victims of female genital mutilation.<sup>97</sup>

The LITP has introduced special procedural and reception guarantees.<sup>98</sup> It specifies that appropriate support must be provided for applicants in relation to their personal circumstances, amongst other things their age, gender, sexual orientation, gender identity, disability, serious illness, mental health, or as a consequence of torture, rape or other serious forms of psychological, physical or sexual violence, for the purpose of exercising the rights and obligations from the LITP. The procedure of recognising the personal circumstances of applicants shall be conducted continuously by specially trained police officers, employees of the Ministry of Interior and other competent bodies, from the moment of the expression of intention to apply for international protection until the delivery of the decision on the application.

At the moment there is no further detailed guidance available in the law. To the knowledge of the Croatian Law Centre, before the entry into force of the LITP, it was quite difficult to assess to what extent vulnerability is identified systematically from the beginning of the asylum procedure, as generally this was something that depended on the officials in charge of the case. The practice would surely develop with the new guarantees introduced in the LITP, but at the moment it is hard to predict in which direction.

Also, the LITP regulates that the needs of the applicant who needs special procedural and reception guarantees shall be taken into account when rights established in the LITP are exercised.<sup>99</sup> However, the Ministry of Interior does not have a special unit (neither within the Reception Centre for Asylum

<sup>97</sup> Article 4(1)(14) LITP.

<sup>98</sup> Article 15 LITP.

<sup>99</sup> Article 52(2) LITP.

Seekers' administration nor within the Asylum Department) dealing with vulnerable groups, but accommodates their needs in the general system and assesses their cases within the same legislative framework. In the past, trainings on how to deal with vulnerable cases were organised for case workers, but since then new civil servants were employed and the need for a continuation of such trainings still exists.

Besides that, up to now in Croatia, a system for the early identification of victims of torture or other forms of ill-treatment by competent authorities and professionals has not been developed. With the special procedural and reception guarantees prescribed by the LITP, the practice would have to develop and change.

### **Special procedural guarantees**

There are also little specific provisions on how to process and assess the cases of vulnerable asylum seekers, and with few exceptions (enumerated below) the same procedural guarantees are in place for vulnerable categories as for other asylum seekers. There is a general obligation to take into consideration the individual situation and personal circumstances of the asylum seeker,<sup>100</sup> in particular the acts of persecution or serious harm already undergone.<sup>101</sup> The personal interview and decision-making mechanism is the same for all asylum seekers, regardless of their vulnerability.

It could be concluded that, according to the LITP, vulnerable asylum seekers have the following rights in the status determination procedure:

- To the possibility to be interviewed by a decision-maker of the same sex;<sup>102</sup>
- To an interpreter of the same sex, if possible;<sup>103</sup>
- To be interviewed as soon as possible upon the submission of the application for asylum;<sup>104</sup>
- In cases where the interview is omitted,<sup>105</sup> in particular when an applicant is unfit or unable to be interviewed, owing to enduring circumstances beyond their control, their relatives shall be permitted to present evidence and give statements;<sup>106</sup>
- In case of application of an unaccompanied child, their application have priority in decision-making (see section on Regular Procedure: Fast-Track Processing).<sup>107</sup>

As for the accelerated procedure, according to the LITP, this type of procedure would not apply to cases of application lodged by an unaccompanied child except in cases when a subsequent application is admissible, when child represents a risk for the national security or public order of the Republic of Croatia or when it is possible to apply the concept of safe country of origin.<sup>108</sup> Procedures at border crossings or in transit zones would not apply to cases of application lodged by an unaccompanied child.<sup>109</sup>

The LITP also prescribes that accelerated procedure and procedures at border crossings or in transit zones, shall not apply to applicants who are in need of special procedural guarantees, especially victims of torture, rape or another form of serious psychological, physical or sexual violence, if it is not possible to provide the appropriate support.<sup>110</sup>

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<sup>100</sup> Article 28(2)(3) LITP.

<sup>101</sup> Article 28(3) LITP.

<sup>102</sup> Article 35(5) LITP.

<sup>103</sup> Article 14(3) LITP.

<sup>104</sup> Article 35 LITP.

<sup>105</sup> Article 35(8)(2) LITP.

<sup>106</sup> Article 35(9) LITP.

<sup>107</sup> Article 17(9) LITP.

<sup>108</sup> Article 17(10) LITP.

<sup>109</sup> Article 10(11) LITP.

<sup>110</sup> Article 15(3) LITP.

## 2. Use of medical reports

### Indicators: Use of medical reports

1. Does the law provide for the possibility of a medical report in support of the applicant's statements regarding past persecution or serious harm?  
 Yes       In some cases       No
2. Are medical reports taken into account when assessing the credibility of the applicant's statements?  
 Yes       No

According to the information available to the Croatian Law Centre, in practice evidence is rarely presented by way of medical reports, although the claims of some applicants indicate that it is possible that they have been victims of torture or inhuman and degrading treatment. In most, if not all of the cases where medical reports were provided, this was at the initiative of applicant's legal advisor. To the knowledge of the Croatian Law Centre, in those few cases medical reports were not based on the methodology laid down in the Istanbul Protocol. The LITP does not explicitly establish the possibility to submit a medical report in the procedure, so in this case the provisions of the Law on General Administrative Procedure are applied. That means that in the procedure, the case worker determines the factual situation using any means suitable as evidence and can for this purpose, among other possibilities, make use of findings and opinions of experts.<sup>111</sup> However, expert witnesses are not mandatory according to the law, and that is why they are rarely used in practice. Even when applicants mention that they are victims of torture, they are still not referred to a specialist, either during the first instance procedure or even later during the administrative dispute. The other reason is the lack of public funds from the State budget. Therefore, the Ministry of Interior has the possibility to order a medical examination; however, this possibility is not used in practice. Few medical examinations for the purpose of drafting a medical report were paid within the project financed by UN Voluntary Fund for Victims of Torture implemented by the Croatian Law Centre together with the Croatian Red Cross.

The new LITP only introduces the possibility of use of medical records in age assessment procedure.

## 3. Age assessment and legal representation of unaccompanied children

### Indicators: Unaccompanied Children

1. Does the law provide for an identification mechanism for unaccompanied children?  
 Yes       No
2. Does the law provide for the appointment of a representative to all unaccompanied children?  
 Yes       No

At the moment, the number of unaccompanied children in Croatia is low. According to the LITP, unaccompanied child means a third-country national or a stateless person younger than eighteen years of age who entered the Republic of Croatia unaccompanied by an adult person responsible for him or her in the sense of parental care, pursuant to the law of the Republic of Croatia, until placed under the care of such a person, and includes all children who are left unaccompanied after they entered the Republic of Croatia.<sup>112</sup>

### Age assessment

In the past, when many asylum seekers were claiming that they were children, some Centres for Social Welfare had the practice of conducting age assessments on their own. In practice, in the majority of those cases, age assessment was conducted on the basis of the physical appearance of the disputed child and on an interview with them.

<sup>111</sup> Article 58(1) Law on General Administrative Procedure.

<sup>112</sup> Article 2(1)(17) LITP.

The LITP has introduced the possibility of an age assessment procedure if, during the procedure for international protection, doubt arises regarding the age of an unaccompanied child.<sup>113</sup> The assessment of the child's age shall be conducted on the basis of the information available on the child, including the expert opinions of persons involved in work with the child. If the information available is insufficient, a medical examination shall be conducted, with the prior written consent of the child and the guardian. The medical examination shall be conducted by means of a physical examination, X-ray of the teeth and/or hands, with full respect for the dignity of the unaccompanied minor. An unaccompanied child shall be informed in writing in a language which he or she may justifiably be presumed to understand and in which he or she is able to communicate about the manner of examination and its possible consequences for his or her health, the consequences of the results of the medical examination for his/her application, as well as the consequences of unjustified refusal. In the case of unjustified refusal of consent, the unaccompanied child shall be deemed to be an adult applicant. The application cannot be refused exclusively on the basis of the fact that consent to perform a medical examination was not given. During the medical examination, an unaccompanied child who does not understand Croatian shall be provided with a translator/interpreter for a language which he or she may justifiably be presumed to understand and in which he or she is able to communicate. The costs of the medical examination shall be borne by the Ministry. If, even following the results and report on the medical examination undertaken, there is still doubt regarding the age of the minor, the concept of benefit of the doubt shall be applied.

As there were lots of open questions in the practice, the government accepted the *Protocol on treatment of separated children-foreign nationals* with the aim to provide a unified procedure that should be followed by relevant institutions when dealing with unaccompanied children. The Protocol was drafted by the representatives of relevant ministries, i.e. representatives of the Ministry of Interior, the Ministry of Health, the Ministry of Foreign and European Affairs, the Ministry of Social Policy and Youth, and the Ministry of Science, Education and Sports. Although not a part of the formal working group, input to the Protocol was also given by UNHCR. The purpose of this Protocol is to determine which authority/institution is in charge of identifying, assisting and protecting children (foreign citizens who are separated from their parents) in order to protect their rights and interests, i.e. to ensure their safe return, family reunification, or integration into Croatian society. In the past, age assessment was conducted by staff of the Centre for Social Welfare on the basis of the physical appearance of the age-disputed child and an interview with him or her. In practice, to the knowledge of the Croatian Law Centre, when the Ministry of Interior starts an age assessment procedure, the individual is treated as a child pending assessment.

## **Guardianship**

According to the LITP, unaccompanied children who have expressed the intention to apply for international protection should be appointed legal guardians i.e. the Centre for Social Welfare shall appoint a guardian trained to work with children, who does not have a conflict of interests with the child.<sup>114</sup> The child must be informed immediately about the appointment of the guardian. The procedure for international protection must be conducted by the official from the Ministry of Interior trained to work with children. The guardian has to prepare, on time, the unaccompanied child for the interview and provide him or her with information on the significance and consequences of the interview in a language which it may justifiably be assumed that child understands and in which he or she is able to communicate. The costs of interpretation shall be borne by the ministry competent for internal affairs.

Until now, no special qualifications were required for the appointment of guardians. In practice, according to the information available to the Croatian Law Centre, when workers from Centres for Social Welfare were appointed as guardians, these were usually lawyers, social workers or social pedagogues who are working within the Centre for Social Welfare. In November 2014, the Ministry of Social Policy and Youth, UNHCR Croatia and the Croatian Red Cross organised a training for special guardians on their role and importance in protecting the rights of unaccompanied children. Guardians of

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<sup>113</sup> Article 18 LITP.

<sup>114</sup> Article 17(1) LITP.

unaccompanied children are generally appointed among the social workers of the competent Centre for Social Welfare. In the past, however, according to the information available to the Croatian Law Centre, due to the work overload of social workers and the language barrier existing between the guardian and the client, their role was usually formal, and there was no active involvement in the procedure to protect the best interest of the child or other clients.

According to the new law, the best interests of children should be considered when implementing provisions of LITP,<sup>115</sup> so also when appointing a person to act as a guardian. The best interests of the child shall be assessed, taking into account:

- The welfare and social development of the child, and his/her origin;
- The protection and safety of the child, especially if the possibility exists that he or she is a victim of trafficking in human beings;
- The child's opinion, depending on his or her age and maturity; and
- The possibility of family reunification, etc.

The guardian of an unaccompanied child shall undertake all the necessary activities, including contact and cooperation with the competent ministries, other state and foreign bodies, and NGOs, in order to reunite the child with his/her family if this is in the best interests of the child.

On the other side, the LITP prescribes that a guardian shall not be appointed when an unaccompanied child is over 16 years of age and is married,<sup>116</sup> which can be understood that persons from the age of 16 have the capacity "to perform procedural acts" on their own behalf in procedures for international protection.

One of the issues with regard to guardianship in the past was also that of the appointment of a person from those with whom the child entered Croatia. This is generally not in the best interests of the child, and carries certain risks for the child, since it is impossible to determine whether such person meets the legal requirements necessary to perform the duties of a legal guardian. This is due to the fact that most applicants generally do not possess any personal documents or have forged documents, therefore it is impossible to determine their identity.

There is no time limit prescribed by law for the appointment of the representative of an unaccompanied child but it is obvious from the LITP that a guardian has to be appointed before submitting application for international protection. From the information provided by social workers of the Croatian Red Cross, previous problems with delays in the appointment of legal guardians in practice, do not exist anymore.

## F. The safe country concepts

### Indicators: Safe Country Concepts

- |  |   |  |
|--|---|--|
| 1. Does national legislation allow for the use of "safe country of origin" concept?  | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No            |
| ❖ Is there a national list of safe countries of origin?                              | <input type="checkbox"/> Yes            | <input checked="" type="checkbox"/> No |
| ❖ Is the safe country of origin concept used in practice?                            | <input type="checkbox"/> Yes            | <input checked="" type="checkbox"/> No |
| 2. Does national legislation allow for the use of "safe third country" concept?      | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No            |
| ❖ Is the safe third country concept used in practice?                                | <input type="checkbox"/> Yes            | <input checked="" type="checkbox"/> No |
| 3. Does national legislation allow for the use of "first country of asylum" concept? | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No            |

In Croatia, safe countries of origin and safe third countries' lists have never been adopted, although the concepts were prescribed by the previous Law on Asylum. Therefore, those concepts were not applied in practice. With the entry into force of the new LITP, this will probably change.

<sup>115</sup> Article 10 LITP.

<sup>116</sup> Article 17(3) LITP.

## Safe country of origin

According to the LITP,<sup>117</sup> a country is considered as a safe country of origin where, on the basis of the legal situation, the application of the law and the general political circumstances, it can be shown that there is generally and consistently no persecution, or risk of suffering serious harm, as established on the basis of information on:

- (1) The relevant laws and legislation of the country and the manner in which they are applied;
- (2) Respecting the rights and freedoms guaranteed by the ECHR, especially Article 15(2) of the ECHR, the International Covenant for Civil and Political Rights and the United Nations Convention against Torture;
- (3) Respect for the principle of *non-refoulement*;
- (4) The provision of a system of effective remedies.

The information referred above shall be collected from various relevant sources, especially from other member states of the European Economic Area, the EASO, UNHCR, the Council of Europe and other relevant international organisations.

The Minister competent for internal affairs, with the prior consent of the Minister competent for foreign affairs, shall render a decision to establish a list of safe countries of origin, and shall inform the European Commission of this. According to the Ministry of Interior as the list would be done on EU level, they would not issue a national list.<sup>118</sup>

The Ministry shall regularly verify and as necessary revise the list of safe countries of origin, taking into account above mentioned information, with the prior consent of the minister competent for foreign affairs, and shall inform the European Commission accordingly.

It shall be established for each application individually whether the conditions are met for the application of the concept of safe country of origin. A country included on the list of safe countries of origin may be considered a safe country of origin in a specific case only if the applicant:

- (1) Has the nationality of that country or had his or her previous residence in that country as a stateless person; and
- (2) Has not explained in a credible manner why that country of origin cannot be deemed to be a safe country of origin for him/her.

The applicant shall be informed timely of the application of the mentioned concept in order to enable him/her to challenge the use of the concept of safe country of origin, in view of the specific nature of his/her personal circumstances.

An asylum application shall be rejected in an accelerated procedure if it is possible to apply a safe country of origin concept (see section on Accelerated Procedure).<sup>119</sup> This is also applied to unaccompanied minors, who are generally exempted from accelerated procedures (see Special Procedural Guarantees).

## Safe third country

The new LITP defines safe third country as a country where the applicant is safe from persecution or the risk of suffering serious harm and where he or she enjoys the benefits of *non-refoulement*, and the possibility exists of access to an effective procedure of being granted protection, pursuant to the 1951 Convention.<sup>120</sup>

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<sup>117</sup> Article 44 LITP.

<sup>118</sup> Information provided by the Ministry of Interior, Meeting of 9 November 2015.

<sup>119</sup> Article 41(1)(9) LITP.

<sup>120</sup> Article 45 LITP.

The fact whether the conditions have been met to apply the concept of safe third country is established separately for each application, by assessing whether a country meets the abovementioned conditions and whether a connection exists between that country and the applicant, on the basis of which it may reasonably be expected that he or she could request international protection there, taking into account all the facts and circumstances of his or her application.

The applicant will be informed timely of the application of the safe third country concept, so that he or she is able to challenge this in view of the specific characteristics of his or her personal circumstances.

The Ministry shall issue an applicant whose application is dismissed with a document in the language of the safe third country, informing the competent state bodies of that country that his or her application has not been examined in substance in the Republic of Croatia. If the safe third country refuses to accept the foreigner, a procedure would be conducted in Croatia i.e. decision shall be rendered on the substance of the application pursuant to the provisions of LITP.

The Ministry has obligation to regularly inform the European Commission about the countries to which the concept of safe third country has been applied.

### First country of asylum

While the LITP does not define the concept of first country of asylum, an application may be dismissed as inadmissible where the applicant has been granted international protection or enjoys sufficient protection from *refoulement* in a third country.<sup>121</sup>

## G. Treatment of specific nationalities

### Indicators: Treatment of Specific Nationalities

1. Are applications from specific nationalities considered manifestly well-founded?  Yes  No  
❖ If yes, specify which: Syria
2. Are applications from specific nationalities considered manifestly unfounded?<sup>122</sup>  Yes  No  
❖ If yes, specify which:

In Croatia there are no official policies implemented with regard to nationals of particular countries, as every application is examined individually and on a case by case basis. However, there is currently a trend with regard to Syrian applicants: when applicants for international protection are identified as Syrian nationals (i.e. when they can prove their nationality) and in case they are still in Croatia by the end of the procedure, they are granted subsidiary protection.

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<sup>121</sup> Article 43(1)(2) LITP.

<sup>122</sup> Whether under the “safe country of origin” concept or otherwise.

## Reception Conditions

### A. Access and forms of reception conditions

#### 1. Criteria and restrictions to access reception conditions

##### Indicators: Criteria and Restrictions to Reception Conditions

1. Does the law make material reception conditions to asylum seekers in the following stages of the asylum procedure?
- |                           |   |   |                             |
|---------------------------|---|---|-----------------------------|
| ❖ Regular procedure       | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> Reduced material conditions            | <input type="checkbox"/> No |
| ❖ Dublin procedure        | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> Reduced material conditions            | <input type="checkbox"/> No |
| ❖ Admissibility procedure | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> Reduced material conditions            | <input type="checkbox"/> No |
| ❖ Border procedure        | <input type="checkbox"/> Yes            | <input type="checkbox"/> Reduced material conditions            | <input type="checkbox"/> No |
| ❖ Accelerated procedure   | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> Reduced material conditions            | <input type="checkbox"/> No |
| ❖ First appeal            | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> Reduced material conditions            | <input type="checkbox"/> No |
| ❖ Onward appeal           | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> Reduced material conditions            | <input type="checkbox"/> No |
| ❖ Subsequent application  | <input type="checkbox"/> Yes            | <input checked="" type="checkbox"/> Reduced material conditions | <input type="checkbox"/> No |
2. Is there a requirement in the law that only asylum seekers who lack resources are entitled to material reception conditions?  Yes  No

Before the entry into force of the new LITP, according to the previous Law on Asylum, asylum seekers in Croatia were entitled to the same level of material reception conditions during all asylum procedures and during both the first instance procedure and the appeal stage. However, this has changed with the new LITP, so for example material conditions may be restricted during the subsequent application procedure.

According to the LITP, applicants are entitled to accommodation at the Reception Centres for Applicants, but if they want, applicants are allowed to stay at any address in Croatia, subject to prior approval by the Ministry of Interior, at their own cost.<sup>123</sup> According to the Ordinance on accommodation, which was adopted based on the previous Law on Asylum, they are entitled to accommodation in the Reception Centre from the moment they express the intention to lodge an application for asylum.<sup>124</sup> However, new ordinances on the realisation of material reception conditions should be adopted within 180 days from the day LITP has come into force,<sup>125</sup> so only then it would be possible to see how the new LITP would reflect on material reception conditions.

During the examination of the Dublin procedure, asylum seekers are entitled to a place in the Reception Centres for Asylum Seekers, as well as to all other material rights as prescribed by the LITP.

According to the previous Law on Asylum and secondary legislation, asylum seekers were not entitled to financial support either if they were employed and received an income that was sufficient to ensure an adequate standard of living, or when they possessed financial means, or they received such financial means in any other way. However, the new LITP only specifies that financial aid is part of material reception<sup>126</sup> and that the manner and conditions for achieving the material reception conditions shall be established by the Ministry of Interior, while the Reception Centre shall decide on the right to financial assistance.<sup>127</sup> The amount of financial assistance should be established by the decision of the Minister of interior.<sup>128</sup> At the moment of writing the report, ordinances on the realisation of material reception conditions, decision on the amount of financial assistance for applicants; decision on the costs of accommodation at the Reception Centre and house rules of the Reception Centre have not yet been adopted.

<sup>123</sup> Article 55(4) LITP.

<sup>124</sup> Article 5(1) Ordinance on the accommodation of asylum seekers, asylees and aliens under temporary protection.

<sup>125</sup> Article 93(6) LITP.

<sup>126</sup> Article 55 (1) LITP.

<sup>127</sup> Article 55(2) LITP.

<sup>128</sup> Article 55(3) LITP.

In practice until now, it was difficult to determine that someone possesses sufficient financial means, and the majority of asylum seekers were not employed, so this provision was rarely applied in practice, to the knowledge of the Croatian Law Centre.

It is not prescribed in legislation that material reception conditions are tied to the issuance of a document by the relevant authorities. However, according to the Ordinance on the accommodation (still in force until new one will be adopted) a foreigner who has expressed his or her intention to lodge an application and is accommodated in the Reception Centre, will be issued an accommodation certificate that proves the date from which the person is accommodated in the Reception Centre.<sup>129</sup> Besides that, applicants will be given an identity card which should be issued within 3 days from the day of lodging the application and it shall serve as a residence permit in the Republic of Croatia.<sup>130</sup> According to the information available to the Croatian Law Centre, there were no delays in issuing the identity card.

Before the entry into force of the LITP, there were no particular obstacles which prevented applicants from accessing material reception conditions in practice. However, according to the information available to the Croatian Law Centre, there were certain delays in the payments of financial support by the competent Centres for Social Welfare. This could be due to the fact that they are issuing the decision on financial support once they are informed about a new asylum seeker (i.e. applicant) by the Ministry of Interior, and in practice it seems that from time to time the officials from the Ministry of Interior do not inform the competent Centres for Social Welfare in a timely manner. Another reason is work overload and lack of capacity within Centres for Social Welfare. Another problem reported is that if asylum seekers are not present in the centre when the postman delivers the financial allowance, they are left without allowance for that month.

A good practice observed is that in a few cases asylum seekers were allowed to stay in the centre even though their asylum procedure had finished and therefore the period during which they were entitled to accommodation had ceased.

However, with the entry into force of new LITP which restricted the right to accommodation of those applicants who lodge subsequent application the practice would definitely change.

## **2. Forms and levels of material reception conditions**

### **Indicators: Forms and Levels of Material Reception Conditions**

1. Amount of the monthly financial allowance/vouchers granted to asylum seekers as of 31 August 2015 (in original currency and in €): HRK 100 / €13.30

According to the LITP, material reception conditions are: accommodation in the Reception Centre, food and clothing provided in kind, remuneration of the cost of public transport for the purpose of the procedure for the approval international protection, and financial aid.<sup>131</sup>

The system granting material reception conditions to asylum seekers is separate from the general welfare system for nationals, and is less favourable for applicants as compared to nationals.

Monthly financial support to asylum seekers is very low, although the amount varies if there are dependent family members. At the time of writing of this report, the amount of financial support is HRK 100 per month for single persons (approximately €13.30) and it is given in cash. This amount is very limited and can serve only as pocket money. At the moment it is not known whether the new decision on the amount of financial aid increase this amount or it would stay the same.

<sup>129</sup> Article 6(1) and (3) Ordinance on the accommodation of asylum seekers, asylees and aliens under temporary protection.

<sup>130</sup> Article 62(1) LITP.

<sup>131</sup> Article 55(1) LITP.

### 3. Types of accommodation

#### Indicators: Types of Accommodation

1. Number of reception centres:<sup>132</sup> 2
2. Total number of places in the reception centres: 700
3. Total number of places in private accommodation: N/A
4. Type of accommodation most frequently used in a regular procedure:  
 Reception centre  Hotel or hostel  Emergency shelter  Private housing  Other
5. Type of accommodation most frequently used in an accelerated procedure:  
 Reception centre  Hotel or hostel  Emergency shelter  Private housing  Other

In Croatia there are 2 Reception Centres for Applicants which provide altogether 700 places.

- ❖ One is situated in **Zagreb**, the capital of Croatia; and
- ❖ One is situated in the small town of **Kutina**, approximately 80 km from Zagreb.

The centre in Kutina is aimed at the accommodation of vulnerable applicants. Both reception centres are managed directly by the Ministry of Interior. At the moment, no problems of overcrowding are reported in these centres, although there was reception crisis a few years ago which led to the opening of the mentioned Reception Centre in Zagreb. The Ministry of Interior encountered some difficulties also during 2012 and 2013 due to the increased number of asylum seekers, which led to a lack of accommodation places. A long waiting time and crowded accommodation was one of the reasons why many asylum seekers left Croatia during that period, most of them at the very beginning of asylum procedure. Following that, the Ministry of Interior managed to solve some organisational matters, therefore the situation has improved in this respect.

Separate premises are provided in the Reception Centre in Kutina for the accommodation of women and vulnerable groups. Families are kept together, while single women, unaccompanied children and traumatised applicants are accommodated in separate rooms.

In order to prevent gender-based violence and protect children from adults, Red Cross employees working in the Reception Centres are conducting workshops and also organise individual counselling to inform applicants about potential risks of exploitation, sexual violence and trafficking, with a specific focus on vulnerable groups.<sup>133</sup>

There is also a Reception Centre for Foreigners, which is also under the competence of the Ministry of Interior and which serves as a detention and deportation centre. This is primarily centre for irregular migrants, but among them are sometimes foreigners who express the intention to lodge an application for international protection while accommodated there, so they can stay there for a limited period of time, as prescribed by the LITP.<sup>134</sup> After this period elapses, they are transferred to the Reception Centre for Asylum Seekers (i.e. applicants for international protection).

At the moment there are still no specific facilities for applicants at the borders or in transit zones. However 2 transit centres for irregular migrants are foreseen (both still under construction), but it is not clear whether these centres would serve also for accommodating applicants for international protection during the border procedure, or only as transit accommodation centres for irregular migrants for the purpose of removal.

<sup>132</sup> Both permanent and for first arrivals.

<sup>133</sup> Croatian Red Cross, Information provided via email on 21 July 2014.

<sup>134</sup> Article 54 LITP.

#### 4. Conditions in reception facilities

##### Indicators: Conditions in Reception Facilities

1. Are there instances of asylum seekers not having access to reception accommodation because of a shortage of places?  Yes  No
2. What is the average length of stay of asylum seekers in the reception centres? 5.5 months
3. Are unaccompanied children ever accommodated with adults in practice?  Yes  No

Accommodation of asylum seekers was organised in the two reception centres for asylum seekers, but since September 2015 it has been organised only in Kutina. The Reception Centre in Kutina has been renovated and was reopened in June 2014. In both centres residents get three meals per day. Common cooking areas where applicants could prepare meals by themselves are at the moment provided only in the Reception centres in Kutina. If needed (for example in case of medical prescription, children, pregnant women or due to religious reasons), specific diets are available.

People in the reception centres are sharing rooms (in Kutina two persons share a room, while in Zagreb maximum four persons can share room). Families are accommodated in the same room. There are sufficient showers and toilets and facilities are cleaned on a regular basis.

Applicants can go outside whenever they want, but have to be back by 10 pm. If they want to leave the centre for a few days, they have to get permission from the Reception Centre.<sup>135</sup>

In the both reception centres, a medical nurse is available and a doctor visits weekly. However, applicants complain about the lack of interpretation services when accessing medical services.

The staff of the Ministry of Interior working in the reception centres is generally sufficient and most of them, but not all, are trained. In the past trainings were organized by UNHCR as well as through EU projects. From the moment Croatia has become an EU member state, the staff working in Reception Centre for Asylum Seekers participate to trainings organised by the European Asylum Support Office.

No problems are reported in connection to the possibility to practice religion. In the Reception Centre in Zagreb, there is a room for Muslim asylum seekers to pray. In Kutina, asylum seekers can practice their religion in their rooms. According to the Croatian Red Cross, since the reopening of the Centre in Kutina, no particular interest has been shown with regard to special premises for practicing religion, probably due to relatively low number of vulnerable asylum seekers who are accommodated there. However, employees have shown their intent to find appropriate spaces, should there be need and interest for that.

The social workers of the Croatian Red Cross are also present on a daily basis from Monday to Friday in the reception centres for asylum seekers. After an initial meeting, the Croatian Red Cross' social workers provide all asylum seekers with regular social support. The set of activities and assistance consist of the following: individual meetings; provision of necessary items (clothes, shoes, hygiene items, food); individual customized counselling and support; educational lectures (improvement of parenting skills, workshop on hygiene promotion and healthy lifestyles, social and communication skills); working on improving social interaction with other people in the reception centre as well as with people from the local community; monitoring of the above mentioned social interactions within the Centre and of the adjustment to living conditions in collective accommodation; social and educational activities (course of Croatian language, creative workshops for children and women); sport activities for men and women (basketball, table-tennis, football), indoor and outdoor; activities related to the organization of holidays for the children at the seaside; picnics for children; facilitation of family contact and restoring of family links.

<sup>135</sup> Article 56(6) LITP.

According to the information provided by the NGO Centre for Peace Studies,<sup>136</sup> their volunteers have also begun to implement psycho-social assistance activities for asylum seekers in the Reception Centre for Asylum Seekers in Zagreb since February 2014. Volunteers have attended trainings (which include lectures on international migration and asylum, the asylum system in the Republic of Croatia, work ethic, experience in working with asylum seekers, the importance of psychosocial support, solving conflicts). They are present in the Centre on Mondays and Wednesdays from 5.30 pm until 9.00 pm. The Ministry of Interior allows them to use one room for teaching asylum seekers Croatian language. Besides that, in March 2014 volunteers organized collection of books in various foreign languages and established a library in the Centre in Zagreb. One of the reasons for these activities to be carried out in the evening is that daily activities are provided by the Croatian Red Cross, and the intention of the Centre for Peace Studies is to complement the activities during the period when the employees of the Croatian Red Cross are not present in the Centre. It is important to note that the Centre for Peace Studies' volunteers are not professional teachers of Croatian language, therefore they use alternative methods that prove to be effective for learning the Croatian language (such as posters, flipchart, cards, boards, scripts created by volunteers, pantomime, interpretation, etc).

Sport activities for asylum seekers are provided in both Reception Centres for Asylum Seekers and are organised by the employees of the Croatian Red Cross working within Centres. In addition to that, supporters of a local football club organise football matches with asylum seekers once a week.

Also, from March 2015, the Centre for Children, Youth and Family (Modus), started providing free counselling and psychotherapy for asylum seekers and asylees in the Reception Centre. Support is provided by 8 educated counsellors and psychotherapists and 8 interpreters (Russian, Turkish, French, Arabic, Farsi, Hindi and Pashto). One meeting lasts from 45 to 60 minutes and includes all the usual rules of providing psychological support, such as confidentiality and the possibility to agree on the topics to be discussed.

There are no official data available on the average length of stay of applicants in the reception centres, but to the knowledge of the Croatian Law Centre, it could vary from a few months to more than a year (in only few cases in the past few years). According to the Ministry of Interior the average length of stay of asylum seekers in the reception centres is 5.5 months.<sup>137</sup> In the regular procedure, applicants can be accommodated in the Reception Centre until the completion of the procedure and a final decision is taken on the case (at first instance and during the administrative appeal). When a final negative decision on the asylum application has been taken and the time for executing the order to leave the country has elapsed, the right to receiving reception conditions ends.

In the past some humanitarian and other circumstances were reason for the prolongation of accommodation in the Reception Centre, but this was not prescribed by the law and it was decided on a case by case basis. However, a good practice was that some asylum seekers were allowed to stay in the centre even though they were not anymore entitled to accommodation. However with the new LITP, practice would change which is already visible for applicants who are trying to lodge subsequent applications and are not allowed to stay in Reception Centre.

## 5. Reduction or withdrawal of reception conditions

### Indicators: Reduction or Withdrawal of Reception Conditions

1. Does the law provide for the possibility to reduce material reception conditions?  
 Yes  No
2. Does the legislation provide for the possibility to withdraw material reception conditions?  
 Yes  No

Material reception conditions may be restricted or denied if the applicant:

<sup>136</sup> Information received by the Croatian Law Centre via e-mail from the Centre for Peace Studies on 14 July 2014.

<sup>137</sup> Information provided by the Ministry of Interior, Meeting of 9 November 2015.

- (1) Does not reside in the Reception Centre in which accommodation has been provided for him or her;
- (2) Stays outside the Reception Centre contrary the conditions referred in the LITP i.e. stays for longer than 24 hours without the prior consent of the Reception Centre;
- (3) Possesses means which provide him or her with an appropriate standard of living; or
- (4) Violates the provisions of the house rules of the Reception Centre.<sup>138</sup>

On the basis of a case by case assessment, the Reception Centre shall render a decision to restrict or deny some of the material reception conditions, which is proportionate to the aim pursued, taking into account the needs of applicants who require special procedural and/or reception guarantees and maintaining the dignity of the standard of living of the applicant. If the circumstances referred under above mentioned points (1) and (2) cease to exist, the Reception Centre has to render a decision to revoke the decision entirely or partially. An appeal may be brought before the Administrative Court within 8 days from the delivery of the decision. The Ministry has the right to request repayment of the costs of accommodation, including material damage incurred, in the cases prescribed in above mentioned points (3) and (4).<sup>139</sup>

Before the new LITP entered into force, the reduction or withdrawal of material reception conditions happened mostly in cases of disappearance of the asylum seeker (from the Reception Centre without authorisation). In the past, if a person came back within 3 days, he or she would still had right to material reception conditions. However, there was no uniform practice with regard to the accommodation of those asylum seekers who were caught crossing the border illegally during the ongoing asylum procedure, as some of them were detained while others (mostly vulnerable groups) were accommodated again in the Reception Centre for Asylum Seekers. To the knowledge of the Croatian Law Centre, asylum seekers who were then detained were not always given financial support. With the new LITP, practice would surely change in that respect.

Probably those provisions would be further elaborated in sub-regulations.

## 6. Access to reception centres by third parties

### Indicators: Access to Reception Centres

1. Do family members, legal advisers, UNHCR and/or NGOs have access to reception centres?  
 Yes                       With limitations                       No

Relevant legislation does not contain any specific provisions on the access of third parties to the Reception Centres for Applicants, but in practice family members, legal advisers, UNHCR and NGOs have access to these centres.

Also, both reception centres for applicants are open facilities and applicants may leave the centre according to the house rules and are able to meet anyone outside. According to the Law on Asylum, the Croatian Red Cross, UNHCR and other organisations involved in the protection of refugee rights or doing humanitarian work, may conduct pedagogical, educational and similar activities and provide other types of assistance at the reception centres, subject to prior authorisation by the Ministry of Interior.<sup>140</sup>

The social workers of the Croatian Red Cross, based on a cooperation agreement with the Ministry of Interior, are present on a daily basis, from Monday to Friday, in both Reception Centres for Applicants.

In practice, access to the centres by UNHCR and other relevant NGOs does not seem to be problematic. The Croatian Law Centre and the Legal Clinic of the Law Faculty in Zagreb both have cooperation agreements with the Ministry of Interior for the provision of legal assistance. In practice, the

<sup>138</sup> Article 55(5) LITP.

<sup>139</sup> Article 55(6)-(9) LITP.

<sup>140</sup> Article 56 (2) LITP.

Croatian Law Centre's lawyers are present in the reception centres for legal counselling twice a month. Both organisations should inform the Ministry of Interior of their visits in advance.

## 7. Addressing special reception needs of vulnerable persons

### Indicators: Special Reception Needs

1. Is there an assessment of special reception needs of vulnerable persons in practice?  
 Yes  No

In the past there were no special mechanisms laid down in the legislation to identify vulnerable persons for the purpose of addressing special reception needs.

The LITP enumerates as vulnerable persons: persons without legal capacity, children, unaccompanied children, elderly and infirm persons, seriously ill persons, disabled persons, pregnant women, single parents with minor children, persons with mental disorders and victims of trafficking, as well as victims of torture, rape or other forms of psychological, physical and sexual violence, such as victims of female genital mutilation.<sup>141</sup> The LITP introduced special procedural and reception guarantees (see section on Special Procedural Guarantees).

However, up until now the Ministry of Interior did not have a special unit dealing with vulnerable groups, but was accommodating their needs in the general reception system. In the past, trainings on how to deal with vulnerable cases were organised for staff, but since then new civil servants were employed, so there is a need for the continuation of such trainings.

When accommodating applicants in the Reception Centre, gender, age, position of vulnerable groups, applicants with special reception needs and family unity shall be particularly taken into account.<sup>142</sup> Whether or not further elaboration of the above mechanism would be prescribed by the sub-regulations it is hard to predict at the moment.

Separate premises are provided in the Reception Centre in **Kutina** for women and vulnerable groups.

No system for early identification of victims of torture or other forms of ill-treatment by competent authorities and professionals has yet been developed. According to the LITP, applicants who need special reception and/or procedural guarantees, especially victims of torture, rape or other serious forms of psychological, physical or sexual violence, shall be provided with the appropriate health care related to their specific condition or the consequences resulting from the mentioned acts.<sup>143</sup>

However until today in practice the system for addressing the consequences of torture among applicants has not been established. It is also unclear who can get treatment and under which conditions, and who should provide such treatments. That is why asylum seekers who were victims of torture, until 2010, when the project led by the Croatian Law Centre and financed by UN Voluntary Fund for Victims of torture<sup>144</sup> begun, did not receive any kind of special assistance with regard to their trauma, except for the prescription of medication by doctors in hospital on case to case basis.

With regard to unaccompanied children, the previous Law on Asylum prescribed that the Ministry of Interior shall take the necessary steps in order to find the parents of a child.<sup>145</sup> There was no evidence available that in practice the Ministry took steps to trace the parents. The new LITP prescribes that the guardian of an unaccompanied child shall undertake all the necessary activities, including contact and

<sup>141</sup> Article 4(1)(14) LITP.

<sup>142</sup> Article 56(4) LITP.

<sup>143</sup> Article 57(2) LITP.

<sup>144</sup> Project "Protection of Victims of Torture among Vulnerable Groups of Migrants" financed by UNV/FVT.

<sup>145</sup> Article 26(3) Law on Asylum.

cooperation with the competent ministries, other state and foreign bodies, and NGOs, in order to reunite the child with his or her family if this is in the best interests of the child.<sup>146</sup>

There is no monitoring mechanism in place with regards to measures for addressing special needs of asylum seekers (i.e applicants) accommodated in the centres. However, social workers of the Ministry of Interior and the Croatian Red Cross are available daily in the Reception Centres for Asylum Seekers and can provide support. In practice, during their regular work and communication with asylum seekers as well as on individual and group support, Red Cross employees can observe the needs of vulnerable groups and, where there is a need, can accordingly propose changes in the reception of particular asylum seekers to the Head of Reception Centre (for example, a person may need to be accommodated in a single room, or with other persons, or may need to be relocated to the Reception Centre for Asylum Seekers in Kutina, which is specifically designed for vulnerable asylum seekers). To the knowledge of the Croatian Law Centre those suggestions are taken into consideration.

## **8. Provision of information**

There are no specific rules for information to be provided to applicants on rights and obligations relating to reception conditions. The provisions in the LITP on information to applicants are formulated generally. The Ministry of Interior has to inform the applicants within 15 days of the expression of intention, about the procedure of approval of international protection, about rights and obligations they have in that procedure, the possibility of contact representatives of the UNHCR and other organisations who work to protect the rights of refugees, and the possibility of receiving free legal assistance.<sup>147</sup>

In practice, before the new LITP entered into force, according to the information available to the Croatian Law Centre, this information was given in writing during the submission of the asylum application. Having in mind new provisions specifying that the registration of the applicant should be done in the records of the Ministry of Interior, in principle, no later than 3 working days from the day the applicant expressed his or her intention,<sup>148</sup> while the application should be lodged within the shortest possible time and no later than 15 days from registration in the records of the Ministry of Interior,<sup>149</sup> the practice of giving information during the submission of application would probably change.

Applicants are informed about the House Rules of the reception centres and these rules are also displayed in a visible place in the premises of both Reception Centres for Asylum seekers. According to information provided by the Croatian Red Cross, the House Rules are available in Croatian, English, French, Arabic and Farsi. It is expected that the decision on the new House Rules would be adopted in the following months.

Upon their arrival in the Reception Centre for Asylum Seekers, applicants are also informed by social workers of the Croatian Red Cross about their rights and obligations, the House Rules and rules of conduct which must be adhered to while accommodated in the Reception Centre as well as other practical information e.g. the daily schedule of the distribution of linen, clothing and footwear, and hygiene items, laundry services, information on daily creative workshops and other activities available in the centre.

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<sup>146</sup> Article 10(3) LITP.

<sup>147</sup> Article 59(2) LITP.

<sup>148</sup> Article 33(9) LITP.

<sup>149</sup> Article 34(2) LITP.

## 9. Freedom of movement

### Indicators: Freedom of Movement

1. Is there a mechanism for the dispersal of applicants across the territory of the country?  
 Yes  No
2. Does the law provide for restrictions on freedom of movement?  Yes  No

Applicants who are not detained can freely move within the country, and generally no restrictions are applied with regards to the area of residence. In fact, applicants are allowed to stay – at their own cost – at any address in the Republic of Croatia, subject to prior approval by the Ministry of Interior. According to the sub-regulations adopted based on the previous Law on Asylum, in order to stay at some other address, the applicant must provide proof of sufficient means to support him or herself and a notarised copy of the rental agreement (or a notarised statement of the owner of the apartment that they accept to rent to the asylum seeker, or any other appropriate documentation proving accommodation).<sup>150</sup> A new ordinance on accommodation should be adopted at the beginning of the 2016, so at the moment there is no information whether some changes would be introduced in the future in that respect.

For those applicants who are accommodated in the Reception Centres for Asylum Seekers, there is an obligation to inform the Head of the centre if they want to stay out for one or more nights, as they have to return to the centre by 10pm.

There are only two reception centres for applicants in Croatia, so in the past relocation of applicants was possible from one centre to the other centre due to capacity/bed management issues or where special needs would arise. However, since the Reception Centre in Kutina was renovated and reopened in June 2014, it was decided that this centre would be primarily used for the accommodation of vulnerable groups.

According to the previous Law on Asylum, freedom of movement could be restricted by the prohibition to leave the Reception Centre, the prohibition to move outside a specific area, or the prohibition to leave a specific address.<sup>151</sup> The grounds for the restriction of movement were the following: (a) if there are reasons for exclusion from asylum<sup>152</sup> or subsidiary protection;<sup>153</sup> (b) to determine the asylum seeker's identity; (c) to prevent the spread of infectious diseases; or (d) upon suspicion that the lodging of the application for asylum represents a fraud and misuse of the asylum procedure.

The LITP specifies that the freedom of movement may be restricted by the following measures:<sup>154</sup>

- (1) Prohibition of movement outside the Reception Centre for applicants ;
- (2) Prohibition of movement outside a specific area;
- (3) Appearance in person at the Reception Centre for applicants at a specific time;
- (4) Handing over travel documents or tickets for deposit at the Reception Centre for applicants; or
- (5) Accommodation (i.e. detention) in the reception centre for foreigners.

LITP lists 4 grounds for restricting freedom of movement (which are also grounds for detention):<sup>155</sup>

- (a) To establish the facts and circumstances of the application which cannot be determined without limitation on freedom of movement, in particular where there is a risk of absconding;
- (b) To establish or verify identity or nationality;
- (c) To protect national security or public order; or

<sup>150</sup> Article 7(2) Ordinance on the accommodation of asylum seekers, asylees and aliens under temporary protection.

<sup>151</sup> Article 74(3) Law on Asylum.

<sup>152</sup> Pursuant to Article 6 Law on Asylum.

<sup>153</sup> Pursuant to Article 8 Law on Asylum.

<sup>154</sup> Article 54(5) LITP.

<sup>155</sup> Article 54(2) LITP.

- (d) To prevent abuse of process where, on the basis of objective criteria, which include the possibility of access to the procedure of approval of international protection, there is a well-founded suspicion that the intention to apply for international protection expressed during the procedure of forced return was aimed at preventing the procedure of removal.

Up until now, based on the previous Law on Asylum, the possibilities to restrict movement to a specific area or address were rarely used in practice, since in the majority of cases conditions stipulated by the Law on Asylum were met not for restriction of movement but for detention in the detention/deportation centre for irregular migrants (so called Reception Centre for Foreigners). The new LITP however specifies that detention in a Reception Centre for Foreigners may be imposed if, by individual assessment, it is established that other measures referred above would not achieve the purpose of restriction of freedom of movement.<sup>156</sup> As until now, the majority of detention decisions were uniform and largely the same (no individual assessment has been done), it remains to be seen whether the practice would change (see section on Grounds for Detention).

An additional difference compared to previous Law on Asylum, according to which the Ministry of Interior (which in practice meant the Reception Centre for Asylum Seekers) determined the restriction of movement by a decision,<sup>157</sup> is that according to the LITP the decision could be rendered by the Ministry of Interior, the police administration or the police station and they can decide on a particular measure and its duration.<sup>158</sup> Applicants may lodge a complaint to the Administrative Court against a decision within 8 days from the delivery of the decision. The Ministry of Interior, the police administration or the police station shall deliver the case file to the Administrative Court no later than within 8 days of the day of receipt of the decision by which the Administrative Court requests the case file. The Administrative Court shall render a decision on the claim after a personal interview within 15 days from the day of receipt of the case file.<sup>159</sup>

However, the complaint does not postpone the enforcement of the decision.<sup>160</sup>

Applicants are entitled to free legal assistance in these proceedings. However it seems that there are some problems in practice, as attorneys informed the Croatian Law Centre that Administrative Court did not approve free legal aid in some cases of detention and consequently were not being paid for their work. From the information available to the Croatian Law Centre, the practice of the Court is not uniform in that respect.

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<sup>156</sup> Article 54(6) LITP.

<sup>157</sup> Article 74(9) Law on Asylum.

<sup>158</sup> Article 54(11) LITP.

<sup>159</sup> Article 54(12) LITP.

<sup>160</sup> Article 51(1)(4) Law on Asylum.

## B. Employment and education

### 1. Access to the labour market

#### Indicators: Access to the Labour Market

1. Does the law allow for access to the labour market for asylum seekers?  Yes  No  
❖ If yes, when do asylum seekers have access the labour market? 9 months
2. Does the law allow access to employment only following a labour market test?  Yes  No
3. Does the law only allow asylum seekers to work in specific sectors?  Yes  No  
❖ If yes, specify which sectors:
4. Does the law limit asylum seekers' employment to a maximum working time?  Yes  No  
❖ If yes, specify the number of days per year
5. Are there restrictions to accessing employment in practice?  Yes  No

As of July 2015, applicants have the right to work after 9 months from the day of lodging the application, if the procedure has not been completed due to no fault of the applicant.<sup>161</sup> To this end, they do not need a residence or work permit, or a work registration certificate, until the decision on their application is final.<sup>162</sup>

The Ministry of Interior should issue a document at the request of an applicant to certify that the applicant has acquired the right to work. On the other side, if the applicant does not meet the conditions, the Ministry shall render a decision refusing to issue the certificate.<sup>163</sup>

However, as according to the previous Law on Asylum this time frame was 1 year, in practice asylum seekers did not work while staying in Croatia, as the majority of applications were decided within that time-frame. It remains to be seen whether the practice would change. In any case, it is quite difficult for them to find a job, due to the general difficulties resulting from their language skills, to the limited or no academic or professional background, as well as to the recession and the high national rates of unemployment. Asylum seekers do not have access to vocational training schemes.

Asylum seekers can work on a voluntary basis in both Reception Centres for Asylum Seekers. Since the beginning of 2014, a Job Centre was opened within the Reception Centre in Zagreb. In exchange for their work (cleaning the Centre and around it, cleaning the gym and helping with the cleaning in the restaurant, etc.), asylum seekers receive additional clothes, shoes, items for personal hygiene, etc.<sup>164</sup>

### 2. Access to education

#### Indicators: Access to Education

1. Does the law provide for access to education for asylum-seeking children?  Yes  No
2. Are children able to access education in practice?  Yes  No

The right to education is a constitutional right for all children staying in Croatia. According to the LITP, only child applicants (i.e. under 18) are entitled to primary and secondary education.<sup>165</sup> Applicants who have begun to exercise the right to secondary education are allowed to continue secondary education even after they turned 18.

<sup>161</sup> Article 61(6) LITP.

<sup>162</sup> Article 61(5) LITP.

<sup>163</sup> Article 61(2)-(3) LITP.

<sup>164</sup> The Croatian Red Cross provided information via e-mail on 21 July 2014.

<sup>165</sup> Article 58(1) LITP.

There have been obstacles to accessing education for asylum seeking children in the past. The major problem was the language and cultural barrier, but there has been progress in the last few years, and children are accessing the educational system more easily at the moment. In practice, schools now organise additional language courses according to the individual needs of children. As the number of children is low at the moment, it is hard to predict how the education system would address issues arising in case of asylum seeking children with special needs.

According to the LITP, the right to primary and secondary education is granted to child applicants under the same conditions as for Croatian nationals, and children can access education within 30 days of lodging an application.<sup>166</sup>

Child applicants are also entitled to special assistance to learn Croatian and to make up for the knowledge they might lack in some school subjects, in the form of preparatory and supplementary classes.<sup>167</sup> In November 2011, a Programme of Croatian for preparatory classes for primary and secondary school students who do not speak or speak Croatian insufficiently was adopted. This is an intensive 70-hour course of Croatian, spread over a maximum of one academic year.

### C. Health care

Indicators: Health Care			
1. Is access to emergency healthcare for asylum seekers guaranteed in national legislation?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	
2. Do asylum seekers have adequate access to health care in practice?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> Limited	<input type="checkbox"/> No
3. Is specialised treatment for victims of torture or traumatised asylum seekers available in practice?	<input type="checkbox"/> Yes	<input type="checkbox"/> Limited	<input checked="" type="checkbox"/> No
4. If material conditions are reduced or withdrawn, are asylum seekers still given access to health care?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Limited	<input type="checkbox"/> No

Applicants are entitled to health care. When the extent of health care provided was changed with the last amendments to the Law on Asylum in December 2013 it was stipulated that only emergency care was covered.<sup>168</sup> This prevented effective access to health care and led to numerous problems in practice (see below). Following the amendments, no doctor was available in the Reception Centres, there were problems in issuing prescriptions for medications, and referral to specialised doctors was not possible. In that period, the Croatian Red Cross paid from their budget for necessary medical examinations required by pregnant asylum seekers. From May 2014, the situation slightly improved, and a doctor was available on a weekly basis in the Reception Centre for Asylum Seekers in Zagreb and Kutina, although there was still a need for better and more effective health care.

However, the new LITP which entered into force in July 2015 prescribes that health care includes emergency care and necessary treatment of illnesses and serious mental disorders.<sup>169</sup>

One additional obstacle to accessing health care is the language barrier, as Croatian authorities do not provide free services of an interpreter, and most of the applicants are not able to pay for such assistance on their own.

Medical assistance is being provided on a daily basis by a nurse in the Reception Centre for Asylum Seekers in Zagreb. She also makes regular visits to the Reception Centre in Kutina.

<sup>166</sup> Article 58(3) LITP.

<sup>167</sup> Article 58(4) LITP; Article 43 Law on Education in Primary and Secondary Schools (Official Gazette 87/08, 86/09, 92/10, 90/11, 5/12, 16/12, 86/12, 126/12, 94/13).

<sup>168</sup> Article 31(1) Law on Asylum.

<sup>169</sup> Article 57(1) LITP.

Applicants who need special reception and/or procedural guarantees, especially victims of torture, rape or other serious forms of psychological, physical or sexual violence, shall be provided with the appropriate health care related to their specific condition or the consequences resulting from the mentioned acts.<sup>170</sup>

According to the previous Law on Asylum these vulnerable applicants should have access to so called “necessary treatment”. However, in practice it was not clear what “necessary treatment” should cover and this provision was not applied, as the system for addressing the consequences of torture among asylum seekers has not been established. Since 2010 the Croatian Law Centre has been implementing the project “Protection of Victims of Torture among Vulnerable Groups of Migrants” (*Zaštita žrtava mučenja među ranjivim skupinama migranata*) funded by the UN Voluntary Fund for Victims of torture. Through the project, legal assistance (provided by the Croatian Law Centre), psychosocial support (provided by the Croatian Red Cross) and psychological counselling (provided by external experts – psychologists) are provided to asylum seekers and refugees. Until 2010, when the project begun, applicants who were victims of torture did not receive any kind of special assistance with regard to their trauma, except for prescription of medication by doctors in hospital, on case to case basis. In practice, persons suffering mental health problems were directed on case by case basis to a psychiatric hospital. It remains to be seen whether the new legislative solution would lead to change in the practice.

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<sup>170</sup> Article 57(2) LITP.

## Detention of Asylum Seekers

### A. General

#### Indicators: General Information on Detention

1. Total number of asylum seekers detained in 2015 (1 January – 15 October): <sup>171</sup>	20
2. Number of asylum seekers in detention at the end of 2015: <sup>172</sup>	Not available
3. Number of detention centres:	1
4. Total capacity of detention centres:	116

Detention reform has been one of the main elements brought about by the LITP adopted in July 2015. Under the previously applicable Law on Asylum, according to the Ministry of Interior, 16 asylum seekers were detained in Croatia in 2015, while in total 81 asylum seekers were detained in 2014.<sup>173</sup> Under the new LITP, 4 applicants were detained as of 15 October 2015.

During the asylum procedure, detention is possible under all types of procedures, where the conditions prescribed by the LITP are met. However, the majority of asylum seekers are not detained but are accommodated in open centres. In that sense, it is not likely that any category of applicants would spend the whole status determination procedure in detention. The main reasons for the detention of applicants are situations where they request international protection after having been issued with a deportation order and situations where they left or attempted to leave Croatia before the completion of the procedure for international protection.

At the moment Croatia has 1 detention centre, the Reception Centre for Foreigners, with a total capacity of 116 places.

### B. Legal framework of detention

#### 1. Grounds for detention

#### Indicators: Grounds for Detention

- |   |                                     |  |
|---|-------------------------------------|--|
| 1. In practice, are most asylum seekers detained                        |                                     |  |
| ❖ on the territory:   | <input type="checkbox"/> Yes        | <input checked="" type="checkbox"/> No     |
| ❖ at the border:  | <input type="checkbox"/> Yes        | <input checked="" type="checkbox"/> No     |
| 2. Are asylum seekers detained in practice during the Dublin procedure? | <input type="checkbox"/> Frequently | <input checked="" type="checkbox"/> Rarely |
|   | <input type="checkbox"/> Never      |  |
| 3. Are asylum seekers detained during a regular procedure in practice?  | <input type="checkbox"/> Frequently | <input checked="" type="checkbox"/> Rarely |
|   | <input type="checkbox"/> Never      |  |

The LITP lays down the grounds for restricting the freedom of movement of applicants and foreigners under transfer, including through detention in Reception Centres for Foreigners.<sup>174</sup> Detention may be ordered for 4 reasons,<sup>175</sup> if it is established by individual assessment that other measures (see section on [Alternatives to Detention](#)) would not achieve the purpose of restriction of freedom of movement:

<sup>171</sup> Including *both* applicants detained in the course of the asylum procedure and persons lodging an application from detention.

<sup>172</sup> Estimation based on conservative calculation of AO Annual Report figures.

<sup>173</sup> Letter from the Ministry of Interior dated 28 January 2015.

<sup>174</sup> Article 54(5) LITP.

<sup>175</sup> Article 54(2) LITP.

- (1) To establish the facts and circumstances of the application which cannot be determined without limitation on freedom of movement, in particular where there is a risk of absconding;
- (2) To establish and verify identity or nationality;
- (3) To protect national security or public order; or
- (4) To prevent abuse of procedure where, on the basis of objective criteria, which include the possibility of access to the procedure of approval of international protection, there is a well-founded suspicion that the intention to apply for international protection expressed during the procedure of forced return was aimed at preventing the procedure of removal.

Whereas the Law on Asylum previously contained grounds such as preventing situations where the lives or possessions of others are put in danger, or the temporary impossibility of taking fingerprints,<sup>176</sup> the LITP has reduced the number of grounds.

In practice, however, detention is not used systematically. Although most applicants do not possess any identity documents, up to now this was rarely used as a ground to restrict their freedom of movement.

Moreover, Article 54(3) explicitly provides for the possibility to restrict freedom of movement or detain a foreigner for the purposes of transfer to another Member State under the Dublin Regulation only in cases where there is a “risk of absconding”. It should be noted that the LITP does not refer to a “*significant* risk of absconding” in accordance with Article 28(2) of the Dublin III Regulation, however.

The existence of a “risk of absconding” is determined on the basis of all the facts and circumstances of the concrete case, especially with regard to:<sup>177</sup>

- Previous attempts to abscond;
- Refusal to submit to verification and establishment of identity;
- Concealing or providing false information on the identity and/or nationality;
- Violation of the reception centre’s house rules;
- A Eurodac ‘hit; and
- Opposition to a Dublin transfer.

In practice, however, detention is rarely used during the Dublin procedure.

The new LITP specifies that detention in Reception centre for Foreigners may be imposed if, by individual assessment, it is established that other measures would not achieve the purpose of restriction of freedom of movement.<sup>178</sup> As up until now, the majority of detention decisions were uniform i.e. pretty much the same and based on the same grounds (therefore no individual assessment had been done), it remains to be seen whether the practice would change. An additional difference compared to previous Law on Asylum, according to which the Ministry of Interior (which in practice meant the Reception Centre for Asylum Seekers) determined the detention by its decision,<sup>179</sup> is that according to the LITP, the decision could be rendered by the Ministry of Interior, the police administration or the police station and they can decide on a particular measure and its duration.<sup>180</sup>

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<sup>176</sup> Article 74 Law on Asylum.

<sup>177</sup> Article 54(4) LITP.

<sup>178</sup> Article 54(6) LITP.

<sup>179</sup> Article 74(9) Law on Asylum.

<sup>180</sup> Article 54(11) LITP.

## 2. Alternatives to detention

### Indicators: Alternatives to Detention

1. Which alternatives to detention have been laid down in the law?  Reporting duties  
 Surrendering documents  
 Financial guarantee  
 Residence restrictions  
 Other
2. Are alternatives to detention used in practice?  Yes  No

Whereas there was no requirement under the Law on Asylum that detention be applied as a measure of last resort, Article 54(6) LITP explicitly states that detention is only permissible where less coercive alternatives cannot be applied.

The alternatives to detention are the other measures listed in Article 54(5) LITP for the restriction of asylum seekers' freedom of movement:<sup>181</sup>

- (1) Prohibition of movement outside the Reception Centre for applicants;
- (2) Prohibition of movement outside a specific area;
- (3) Appearance in person at the Reception Centre for applicants at a specific time;
- (4) Handing over travel documents or tickets for deposit at the Reception Centre for applicants;

It remains to be seen how these alternatives would be used in practice.

## 3. Detention of vulnerable applicants

### Indicators: Detention of Vulnerable Applicants

1. Are unaccompanied asylum-seeking children detained in practice?  Frequently  
 Rarely  
 Never
- ❖ If frequently or rarely, are they only detained in border/transit zones?  Yes  No
2. Are asylum seeking children in families detained in practice?  Frequently  
 Rarely  
 Never

Prior to July 2015, detention was in general not used in case of vulnerable asylum seekers. However, the LITP now allows for the detention of vulnerable applicants, if detention is suited to their special needs.<sup>182</sup> Moreover, it provides for detention of unaccompanied children, although for as short a period as possible.<sup>183</sup>

In the past, asylum seeking children staying on the territory of Croatia with members of their family were placed in detention together with accompanying adults. To the knowledge of the Croatian Law Centre, this was not happening last few years, although the completion of a facility for the accommodation of children and other vulnerable groups of irregular migrants within the detention centre is expected soon.

In practice, up to now most unaccompanied foreign children were placed in children and young people's homes as an alternative to detention. Although this is an open facility, its primary function is to treat children with behavioural difficulties, so the conditions of their stay cannot be considered suitable for this group, especially when taking into account the specific needs of these children. When a child accommodated in children and young people's home expresses the intention to lodge an application for

<sup>181</sup> See also Article 74a(1) Law on Asylum.

<sup>182</sup> Article 54(7) LITP.

<sup>183</sup> Article 54(8) LITP.

asylum, he or she is transferred to the Reception Centre for Asylum Seekers (i.e. applicants) and not to a detention centre.

#### 4. Duration of detention

##### Indicators: Duration of Detention

- |  |          |
|--|----------|
| 1. What is the maximum detention period set in the law (incl. extensions): | 6 months |
| 2. In practice, how long in average are asylum seekers detained?           | 3 months |

Article 54(9) LITP provides a maximum detention time-limit of 3 months, which may be extended by another 3 months. Where detention is applied in a Dublin procedure, however, it cannot exceed 6 weeks from the establishment of the responsibility of another Member State of the European Economic Area. If an administrative dispute has been initiated, the time limit of 6 weeks shall be counted from the time the decision on dismissal becomes final.<sup>184</sup>

In practice up to now, detentions were usually ordered for 3 months (although the Law on Asylum prescribed “up to 3 months”) and were rarely prolonged for an additional 3 months.

### C. Detention conditions

#### 1. Place of detention

##### Indicators: Place of Detention

- |  |                              |  |
|--|------------------------------|--|
| 1. Does the law allow for asylum seekers to be detained in prisons for the purpose of the asylum procedure (i.e. not as a result of criminal charges)? | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| 2. If so, are asylum seekers ever detained in practice in prisons for the purpose of the asylum procedure?   | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |

Applicants for international protection are detained in the same premises as irregular migrants.<sup>185</sup>

In addition to the existing detention centre, 2 transit centres for irregular migrants are expected to be opened in **Trilj** and **Tovarnik**, close to the Serbian and Bosnian borders. At the moment, it is not clear whether these facilities would also be used for the detention of applicants for international protection in the border procedure.<sup>186</sup> Both centres are considered as reception centres for foreigners. The completion of construction is planned by the end of 2015. Each centre can accommodate 62 migrants. Within the accommodation part of these centers, there would be rooms for the reception and daily activities of migrants, health care, isolation, a library room for psychologists as well as sleeping areas and room for children to play. Outside the centres there would be space for recreation.<sup>187</sup>

<sup>184</sup> Article 54(10) LITP.

<sup>185</sup> Article 54(5)-(6) LITP.

<sup>186</sup> At the meeting held on 9 November 2015 with the Asylum Department, this information was repeated.

<sup>187</sup> Information provided by Border Directorate via email on 14 October 2015.

## 2. Conditions in detention facilities

### Indicators: Conditions in Detention Facilities

- |   |   |  |
|---|---|--|
| 1. Do detainees have access to health care in practice? | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No                                  |
| ❖ If yes, is it limited to emergency health care?       | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No                                  |
| 2. Is access to detention centres allowed to            |   |  |
| ❖ Lawyers:  | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> Limited <input type="checkbox"/> No |
| ❖ NGOs:   | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> Limited <input type="checkbox"/> No |
| ❖ UNHCR:  | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> Limited <input type="checkbox"/> No |
| ❖ Family members:                                       | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> Limited <input type="checkbox"/> No |

The Ministry of Interior is in charge of the management of the detention centre and the staff working within the centre are mainly police officers. There is a social worker working in the Centre. There is a need for continuous specialised training for the staff working at the Centre in order to better address the needs of those detained.

Conditions in the detention centre are satisfactory. Every person has his or her own bed and there is sufficient space and separation between beds, as well as sufficient space to store personal possessions. Men and women are separated. Detainees are provided with clothes.

There is a library within the centre so detainees have access to books in various languages. However, no internet access is available. The centre is cleaned on a regular basis and there are sufficient showers and toilets. There is a spacious common room with a TV available and migrants can spend most of the day there, watching TV or playing cards. There is also a facility for buying cigarettes and drinks. There are two public phones available to migrants at the Centre that can be used at their own cost. However, to the knowledge of the Croatian Law Centre, detained migrants are not allowed to use their mobile phones, which are seized upon admission to the Centre.

According to the Rules of Stay in the Reception Centre for Foreigners, during the stay there, foreign nationals are provided with urgent medical care and three meals a day, of which at least one must be a warm meal. Specific diets can be prepared upon request or when ordered by a doctor (for religious or other reasons, e.g. for pregnant women). Quality of food is generally reported to be of a satisfactory level.

They are entitled to stay outdoors for at least two hours a day in a specially designated area within the Centre (there is a football playground serving as an outdoor exercise area). Migrants are entitled to freedom of religion and one room is used for this purpose.

After being placed in the Centre, they are entitled to one free phone call with their country's diplomatic mission or consular office, and to another private phone call lasting up to 3 minutes. Aliens are allowed to receive visits at least twice a week, so there is no maximum limit to the number of visits. If an alien is in possession of any cash, it will be temporarily seized and safeguarded by an authorised officer. While staying in the Centre, aliens may use the seized cash, but may not have an amount exceeding HRK 300 (approximately €30) on them.

The cost of accommodation of an alien in the Centre amounts to HRK 150 per day and these costs are borne by the aliens themselves. According to the decision on the manner of calculation of deportation costs, stay at the Center will be charged also to applicants accommodated there.<sup>188</sup> In the case of families, the costs are borne by the person who holds the funds. If they do not possess any funds to cover these expenses, the costs of their stay in the Centre are paid from the state budget.

The Croatian Law Centre has unlimited access to the Centre for the purpose of assisting applicants for international protection. In practice, the lawyers are usually available at least once a month. However, migrants detained contact the Croatian Law Centre by phone on a daily basis. Other NGOs working

<sup>188</sup> Official Gazette 66/13.

with migrants and asylum seekers, such as the Croatian Red Cross and the Centre for Peace Studies, are also from time to time present at the Centre. UNHCR and attorneys representing applicants also have unlimited access to the Centre. Media or politicians can also access the detention centre. However, every visit should be announced in advance.

In the past, NGOs working in the field received several complaints from detainees concerning the behaviour of the staff and the quantity and variety of the food. Some complaints were referred to the Ombudsman office, as in 2011 the Croatian Parliament adopted the Law on the Preventive Mechanism for Suppression of Torture and Other Cruel, Inhuman and Degrading Treatment which entrusted the Ombudsman with the task of running a National Preventive Mechanism. As the main task of the National Preventive Mechanism is to regularly examine the treatment of persons deprived of their liberty in places of detention, the Ombudsman also monitors complaints of persons detained in the Reception Centre for Foreigners, when such complaints have been referred thereto. However, there are no credible reports of abuse by staff in detention in recent years. In particular, in the Ombudsman's reports there is no information on the possible well-foundedness of the complaints against the behaviour of the staff in the detention centres. Therefore, it can be concluded that no such instances were assessed.

There is no special mechanism in the detention centre to identify persons with special reception needs. Although vulnerable asylum seekers were rarely detained in the past few years, when that happened, vulnerable asylum seekers were usually transferred to open centres upon request from lawyers working in NGOs. However, within the Centre a special facility has been built for vulnerable groups. Although its opening was not planned by the end of 2015, it was used as accommodation facility for a few days at the beginning of refugee crisis during September 2015.

This facility is an integral part of the Reception Centre for Foreigners, which is an organisational unit of the Border Directorate. The facility will be opened after being fully furnished, probably at the beginning of 2016. Its capacity is 24 places. Beside rooms for accommodation, the facility has a living room and a playroom for children, and facilities for education, health care, isolation, psychologists and educators.<sup>189</sup>

Foreigners in detention have access to emergency health care. However, to the knowledge of the Croatian Law Centre and according to information provided by the staff working within the Centre, although a doctor is present twice a week in the Centre, the level of health care provided is not satisfactory.

## D. Procedural safeguards

### 1. Judicial review of the detention order

#### Indicators: Judicial Review of Detention

1. Is there an automatic review of the lawfulness of detention?  Yes  No
2. If yes, at what interval is the detention order reviewed?

Asylum seekers are informed orally by the staff of the Ministry of Interior about the reasons of their detention. In practice, the interpreter present at the delivery of the decision reads decision to them. As decisions are written in complex legal language, the majority of asylum seekers do not understand the reasons for their detention. Neither the Law on Asylum nor the LITP provide for automatic review of the lawfulness of detention.

<sup>189</sup> Information provided by Border Directorate via email on 14 October 2015.

Applicants may lodge a complaint to the Administrative Court against a detention decision within 8 days after its delivery. The authority that has issued the decision i.e. Ministry of Interior, the police administration or the police station, shall submit the case file to the Administrative Court no later than within 8 days of the day of receipt of the decision by which the Administrative Court requests the case file. The Administrative Court shall render a decision after a personal interview within 15 days from the day of receipt of the case file.

However, there are no legal consequences for not respecting the 15-day time-limit prescribed by the relevant legislation. The complaint does not suspend the decision.

Detention does not impair the quality and effectiveness of the asylum procedure, as it does not have an impact on the organisation of the personal interview, the availability of interpretation or the speed of the procedure.

## 2. Legal assistance for review of detention

### Indicators: Legal Assistance for Review of Detention

1. Does the law provide for access to free legal assistance for the review of detention?  
 Yes  No
2. Do asylum seekers have effective access to free legal assistance in practice?  
 Yes  No

In detention cases, applicants are entitled to free legal aid. However there seem to be obstacles to legal assistance in practice, as attorneys informed the Croatian Law Centre that the Administrative Court did not approve free legal aid in some cases of detention and consequently lawyers were not paid for their work. At the moment the Croatian Law Centre does not have more precise information.

Applicants often approach NGO lawyers for legal advice in relation to their detention. However, NGO lawyers are not entitled to represent them before courts, and cannot provide such assistance to every applicant in need thereof. Lawyers from the Croatian Law Centre visit detention centres at least once a month, certainly not frequently enough to respond to protection seekers' needs. However, lawyers and legal representatives can contact their clients easily and meet with them.

## ANNEX I – Transposition of the CEAS in national legislation

### Directives and other measures transposed into national legislation

Directive	Deadline for transposition	Date of transposition	Official title of corresponding act	Web Link
<b>Directive 2011/95/EU</b> Recast Qualification Directive	21 December 2013	22 November 2013	Amendment to the Law on Asylum Official Gazette 79/07, 88/10, 143/13	< <a href="http://bit.ly/1MRraQ5">http://bit.ly/1MRraQ5</a> > (HR) < <a href="http://bit.ly/1loghC1">http://bit.ly/1loghC1</a> > (EN unofficial translation) < <a href="http://bit.ly/1J7yrxu">http://bit.ly/1J7yrxu</a> > (HR) < <a href="http://bit.ly/1logkxD">http://bit.ly/1logkxD</a> > (HR)
<b>Directive 2013/32/EU</b> Recast Asylum Procedures Directive	20 July 2015 Article 31(3)-(5) to be transposed by 20 July 2018	2 July 2015	Law on International and Temporary Protection Official Gazette 70/15	< <a href="http://bit.ly/1hlaq3Q">http://bit.ly/1hlaq3Q</a> > (HR)
<b>Directive 2013/33/EU</b> Recast Reception Conditions Directive	20 July 2015	2 July 2015	Law on International and Temporary Protection Official Gazette 70/15	< <a href="http://bit.ly/1hlaq3Q">http://bit.ly/1hlaq3Q</a> > (HR)
<b>Regulation (EU) No 604/2013</b> Dublin III Regulation	Directly applicable 20 July 2013	2 July 2015	Law on International and Temporary Protection Official Gazette 70/15	< <a href="http://bit.ly/1hlaq3Q">http://bit.ly/1hlaq3Q</a> > (HR)