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THE CROATIAN ASYLUM SYSTEM IN 2015

- NATIONAL REPORT -

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1. Introduction

The Croatian Law Centre (CLC) has been actively engaged in the Croatian asylum system since 2003 as the implementing partner of UNHCR.

The CLC systematically follows legislation and its implementation in practice in the field of asylum, on the basis of which it prepares its national reports on the asylum system. To date three reports have been prepared (for 2010-2012, 2013 and 2014). These reports are available on the CLC website.¹

The report for 2015 was prepared in the summer of 2016.

The previous year was marked, on the one hand, by the adoption of new legislation on asylum, and, on the other, by mass movements of refugees in transit across Croatian territory, as a result of which all the capacities of the public and private sectors were aimed at resolving and overcoming the refugee crisis. At the same time, the number of applicants for international protection fell in 2015. All this makes the assessment of the application of the new legislation in practice in 2015 more difficult. This may also be seen in this report in part 5.4, which, as a result, focuses primarily on the changes to the legislation, and not on the problems of its implementation in practice.

2. Mass movements of refugees through Croatian territory and a fall in the number of applications for protection

According to the UNHCR annual report on global trends,² 2015 was marked by a rise in the number of displaced persons at a global level. By the end of 2015, as many as 65.3 million people had been displaced, in comparison with 59.5 million in 2014. In other words, one in 113 people in the world was displaced, as an asylum seeker, an internally displaced person or a refugee. According to the report, the large rise in the number of displaced persons was the result of several things: the crisis points which cause major refugee movements are lasting longer (for example, Somalia and Afghanistan), new or repeated outbreaks of old crises often occur (primarily in Syria, but also in South Sudan, Yemen, Burundi, Ukraine, etc.) and it is becoming increasingly difficult and time consuming to find solutions for the refugee situation. The greatest generator of refugee movements is still the conflict in Syria – by the end of 2015 a total of 4.9 million people had fled from Syria, but also the situations in Afghanistan (2.7 million), Somalia (1.1 million), South Sudan (778,700 people), Sudan (628,800 people), Congo (541,500 people), etc. An increasing number of refugees are trying to find protection in Europe.

¹ See: www.hpc.hr/page.aspx?PageID=42

² UNHCR, *Global Trends: Forced Displacement in 2015*, June 2016, www.unhcr.org/576408cd7.pdf.

According to figures from the UNHCR, in 2015 more than a million people entered European territory over the Mediterranean Sea, of whom the majority (more than 850,000) came from Turkey to Greece across the Aegean Sea, and a quarter of the total were children. Mass movements of refugees and migrants then moved from Greece along the Balkan Route – through Macedonia and Serbia to Hungary – towards the countries of Western Europe.

After the Hungarian border was closed in the middle of September 2015, the wave of refugees was redirected towards Croatia, and by the end of 2015, a total of 559,761 refugees and migrants had crossed Croatian territory. In terms of their origin, most were citizens of the Middle East, that is, of Syria (246,013), Afghanistan (151,748), Iraq (78,935) and Iran (13,804).³ The largest number of refugees and migrants entered Croatian territory in the area of the Vukovar-Srijem Police Administration (553,053) and a smaller number (2,698) in the area of the Osijek-Baranja Police Administration.⁴

In the early days of the mass influx, after being received at the border, the refugees and migrants were transferred to the Reception Centre for Foreigners at Ježevo, where registration was undertaken, including the taking of fingerprints, and then also to the registration centres in Čepin, Beli Manastir, Luč, Torjanci and Sisak. After registration, the people were taken to the Reception Centre for Asylum Seekers in Zagreb, and additional accommodation was opened in pavilions at the Zagreb Trade Fair. Most refugees in that short period continued their journey independently towards Slovenia.

Since the main points of entry were the border crossings at Bapska and Tovarnik, in Opatovac, a village within the Municipality of Lovas in Vukovar-Srijem County, a camp was built of tents, which became the main accommodation facility for the refugees. From the reception centre in Opatovac, which could accommodate 4,000 people, the refugees and migrants were taken by bus and train towards the Hungarian border, until the border was closed in the middle of October 2015, when a corridor was established towards the border with Slovenia. At the beginning of November 2015 the temporary camp in Opatovac was transferred to Slavonski Brod, to a winter reception-transit centre, with the capacity to accommodate 5,000 persons.

From the beginning of the crisis, various national and international humanitarian organisations and agencies worked in the camps (in coordination with the Croatian Red Cross), providing various forms of assistance to refugees and migrants. However, since people as a rule stayed

³ Ministry of the Interior, Annual Report on Work in 2015, June 2016., <https://www.mup.hr/public/documents/Planovi%20i%20izvje%C5%A1%C4%87a%20rada/Godi%C5%A1nje%20izvje%C5%A1%C4%87e%20o%20radu%20za%202015.%20godinu.pdf>

⁴ Ministry of the Interior, Statistical Review of Fundamental Indicators and Results of Work in 2015, January 2016 <https://www.mup.hr/public/documents/Statistika/Pregled%20sigurnosnih%20pokazatelja%20u%202015.%20godini.pdf>

very briefly in the camps, with quick transfers across Croatian territory, the assistance primarily consisted of humanitarian aid and meeting their basic needs (food, water, clothing and footwear, urgent medical assistance, toiletries, etc.). Other services, such as legal aid, psychological counselling, work with victims of torture, etc., which are otherwise extremely important for refugees and migrants, although available, were of lesser importance, precisely on account of the quick transit through the camp, but also due to the refugees' and migrants' fear that remaining in the camp (for example due to fatigue, health or other needs) would slow down their onward journey towards their target destination, or make it completely impossible, due to the potential closure of state borders on the route.

Regarding registration of people who passed through Croatia during this wave of refugees, there are no precise or publicly available figures on how many people were registered, where their personal details and fingerprints were taken and then stored in an appropriate database. Precisely in relation to taking fingerprints and sharing such information with the central European database, Eurodac, proceedings were instituted against Croatia for a violation of European law (an infringement procedure) at the beginning of December 2015.⁵ Fingerprints entered into the Eurodac base are one of the grounds for returning people who passed through Croatia, as part of the Dublin Regulation.

During the wave of refugees in 2015, a total of 24 people filed applications for international protection, of whom three were granted asylum by the end of 2015, 14 applications were dismissed on the merits due to failure to meet the requirements, and two were dismissed on account of the responsibility of another Member State.⁶

In general, in 2015 a falling trend in the number of applicants for protection was recorded in Croatia: a total of 211 persons requested protection. This trend may be ascribed to the reduction in irregular migration⁷ across Croatian territory, but also the application of the Dublin Regulation, as a result of which foreigners, for whom Croatia was not their target destination, decided not to request asylum in Croatia.

⁵ See http://ec.europa.eu/dgs/home-affairs/what-is-new/eu-law-and-monitoring/infringements_by_policy_asylum_en.htm.

⁶ People's Ombudsperson: Report by the People's Ombudsperson for 2015, 31 March 2016 <http://ombudsman.hr/hr/component/jdownloads/send/67-2015/745-izvjesce-pp-2015-pdf>

⁷ According to figures from the Ministry of the Interior, in 2015 a total of 3,527 illegal crossings of the state border were recorded, of which 482 were by minors, and 149 of them were unaccompanied (email message by the Border Administration of 10 February 2016 – CLC documentation).

3. Public policies and legislation in the field of asylum

The Law on International and Temporary Protection (OG 70/15; hereinafter: LITP) was adopted at the 17th session of the Croatian Parliament on 12 June 2015, and has been in force since 2 July 2015. The LITP replaced the previous Asylum Act (OG 79/07, 88/10 and 143/13).

The LITP was adopted for the sake of alignment with the EU acquis, that is, the Directive on Temporary Protection (Articles 4, 6 and Chapter 6) and the Directive on the Right to Family Reunification (Article 4) and the new Qualification Directive (Articles 2, 4, 5, 7, 8, 21, 31, 34), the Asylum Procedures Directive (Articles 2, 14–17, 9, 31, 33, 36–39, 41, 42, 46) and the Reception Conditions Directive (Articles 5–20, 22, 23, 26). Implementation of the relevant provisions was also regulated, primarily those of the Dublin Regulation and the Eurodac Regulation. Other laws relevant for the asylum system in 2015 did not change.⁸

The more important amendments to the asylum system included in the LITP include: the widening of the definition of members of the family; the definition of the principle of the best interests of the child; the introduction of the concept of "international protection" which covers asylum and subsidiary protection, and the term "applicant for international protection" in place of "asylum seeker"; the introduction of the concept of subsequent application for international protection; a safe country of origin, a safe third country and a European safe third country; the division of the burden of proof; the definition of direct and indirect non-refoulement; the application of the principle of *sur place* in the case of a subsequent application; the assessment of the possibility of the provision of effective protection in the country of origin; the detailed regulation of the concept of internal displacement; the definition of the scope of assistance for integration into society; the acquisition of the status of applicant for international protection from the moment of the expression of intention to seek international protection; the treatment of children; rules for conducting interviews with applicants for international protection; how to identify applicants with special needs; the introduction of deadlines for regular and accelerated procedures; the manner and requirements for exercising the right to a remedy; the regulation of the right of freedom of movement and the manner and requirements for restricting that right; the definition of the content of the material reception conditions, and the requirements for their restriction or denial; the definition of a framework for the application of the concept of transfer of third-country citizens or stateless persons from third countries, or the reception of a certain

⁸ The General Administrative Procedure Act (Official Gazette, no. 47/09, hereinafter: GAPA); the Administrative Disputes Act (OG 20/10, 143/12, 152/14; hereinafter: ADA), the Aliens Act (OG 130/11, 74/13; hereinafter: AA).

number of persons from another member state who have been granted international protection, in order to share the burden based on the principle of solidarity within the EU.⁹

Pursuant to the LITP, in 2015 the following implementing regulations were adopted: Decision on the Transfer and Movement of Citizens of Third Countries or Stateless Persons who Meet the Requirements for Approval of International Protection (OG 78/2015); Decision on the Allocation of a Legal Person for the Provision of Services of Protection of Persons and Property at the Reception Centre for Asylum Seekers (OG 85/2015); Decision on the Amount of Financial Assistance for Applicants of International Protection (OG 135/2015); Ordinance on the Realisation of the Material Reception Conditions (OG 135/2015); and the Ordinance on Legal Aid in the Proceedings for Approval of International Protection (OG 140/2015).

4. Institutional capacities

In 2015, the main body for the implementation of asylum policy was still the Ministry of the Interior (Mol). Issues concerning foreigners, asylum seekers and asylees are under the competence of the Directorate for Administrative and Inspection Affairs, as part of which the Sector for Administrative Affairs, Foreigners and Citizenship was set up, and within that Sector, the Service for Foreigners and Asylum, with the following departments: the Department for Status Issues of Foreigners, the Asylum Department, the Visa Department, and the Reception Centre for Asylum Seekers. In view of the reduced number of asylum seekers in 2015, the capacities of Mol, especially regarding the number of decision makers, may be deemed satisfactory.

The planned training of officials working in asylum affairs, pursuant to international standards and in cooperation with the European Asylum Support Office (EASO), due to the refugee crisis and the increased volume of work in the field of European and international affairs, was not implemented in full. The number of workshops and seminars held to train officials was fewer than planned.¹⁰

It is possible to institute an administrative dispute against a decision by Mol before one of four administrative courts (Zagreb, Split, Rijeka and Osijek), and a sole judge rules on the dispute. There are still no judges in courts that are specialised in asylum law.

⁹ See the Proposal of the Act on International and Temporary Protection, with the Final Proposal of the Act, summary procedure, first and second reading, P.Z.E. no. 842. For a more detailed review of the changes to the LITP, see CLC, *Pregled važnijih novina iz Zakona o međunarodnoj i privremenoj zaštiti, Odabrane teme u području azila i migracija, Tema 2/2015* [Overview of the most important changes in the Law on International and Temporary Protection, Selected Topics in the Field of Asylum and Migration, 2/2015].

¹⁰ Mol Annual Report for 2015, p. 177, note 3.

5. Asylum in legislation and practice: access to the asylum system, establishment of status and the rights of asylum seekers

5.1. Access to the asylum system

5.1.1. The visa regime

The visa system of the RC is regulated by Government regulations from 2015¹¹ which establish the amount of funding necessary for maintenance during a short-term stay in Croatia, and for return to the state from which the foreigner came or for travel to a third country.¹² Holders of travel documents issued by the UN (Laissez-Passer) do not need a visa for entry into Croatia and for a stay of up to 90 days, or to travel across the Croatian state territory (Article 4). If a travel document for refugees, pursuant to the Convention of 1951, was issued by a third country (apart from Andorra, Japan, Canada, Monaco, San Marino, the USA or the Vatican), the refugee will need a visa for entry into Croatia, for a stay of up to 90 days and for travelling across its territory (Article 7).

According to figures from the Ministry of Foreign and European Affairs (MFEA),¹³ in 2015 a total of 57,042 Croatian visas were issued for transit or for intended stay in the territory of RC not exceeding 90 days in any 180 day period. Of the total number of visas issued, 57,037 were short stay visas (C), and 5 were air transit visas. Twenty-five appeals were lodged against decisions to refuse a visa, and the competent services of the MFEA rendered 23 decisions to dismiss the appeal, and two appeals by foreigners were partially granted and the applications were remanded to the first-instance body (diplomatic missions and consulate offices of the RC abroad) for a new decision.

In 2015 a total of 273 applications were received for the issue of a visa to Syrian citizens, and 229 visas were issued, of which 95 visas were issued for the purpose "other", which includes regulation of their first temporary stay in RC. Twelve visas were also issued to Syrian citizens as members of families of citizens of the RC, or members of the families of citizens of the EEA.

¹¹ Regulations on the Visa Regime, OG 55/15.

¹² The amount of funding is set as the equivalent value of €70 per day of the planned stay. If foreigners have a certified letter of guarantee from a natural or legal person from the RC, evidence of payment of a tourist package, or a similar document, during controls when crossing the state border, they must show proof of possession of funds in the amount of €30 per day of their planned stay in the RC. If they possess a certified letter of guarantee from a natural or legal person from Croatia, from which it may be seen that the guarantor takes on in full all costs related to the stay in and departure from Croatia, foreigners will be exempt from the obligation to provide evidence of the possession of funds.

¹³ Correspondence by the Ministry of Foreign and European Affairs, Directorate for European Law, International Law and Consular Affairs, no. 521-V-03-02/MZ-16-02, of 17.2.2016 (documentation of CLC).

Pursuant to Article 23 AA, for applications for visas, a decision is rendered within 15 days from the day of submission of the application.

5.1.2. Intentions to seek protection and applications for protection

Foreigners may express the intention to file an application for international protection orally or in writing, when undergoing border controls or in a police administration, or in the Reception Centre for Foreigners, if they are already in the territory of the RC. As an exception, in extraordinary circumstances, intention may be expressed at the Reception Centre for Asylum Seekers (Article 33, paragraphs 1–3 LITP). By expressing intention, a person acquires the status of an applicant for protection, and thus all the rights guaranteed by the LITP.

Before the LITP came into force, the status of applicant was only granted once the application for asylum had been taken. The new regulation has improved the position of applicants since already by expressing intention, the person is guaranteed various rights related to the status of applicants for international protection.

According to figures from Mol,¹⁴ up to the end of 2015 a total of 271 persons expressed intention to file an application for protection. Of that number of expressions of intention, applications were filed in 211 cases. The difference between the number of expressions of intention and the number of applications occurs because 32 persons voluntarily left the Reception Centre for Asylum Seekers (hereinafter: the Reception Centre) before their application was received, whilst on 31 December 2015 there were still 12 persons from whom applications for asylum needed to be taken. The remaining 6 persons gave up their intention to file an application for protection, and 10 did not appear at the Reception Centre.¹⁵ Intention was expressed by 213 men, 23 women, 18 children and 17 unaccompanied children. The highest number of expressions of intention was in the Zagreb Police Administration (138), then in the Krapina-Zagorje Police Administration (25), the Vukovar-Srijem Police Administration (19), the Istria Police Administration (17), the Primorje-Goransko Police Administration (12) and Karlovac (12). In the Reception Centre for Foreigners, 19 persons expressed intention to apply for protection.

A total of 211 persons filed an application for international protection, of whom 190 were men and 21 women. In terms of citizenship, most applicants were from Syria (24), Algeria (23),

¹⁴ Correspondence by the Ministry of the Interior, Directorate for Administrative and Inspection Affairs, no 511-01-204-6577/02-16, of 11.3.2016 (documentation of CLC)..

¹⁵ These were eight Syrian citizens who expressed intention in Ilok Police Station (4) and the Airport Police Station, Pleso (4), one citizen of BiH who expressed intention in Sisak Police Station and one citizen of Afghanistan, an unaccompanied minor, who expressed intention in the Border Police Station in Slavonski Brod (correspondence of Mol of 11.3.2016, note 14).

Morocco (14), Nigeria (14) and Kosovo (12), mostly in the age range from 18 to 34 years (see Table 1).

Table 1: Asylum Seekers by age range

Age range	Number of applicants for protection
0-13	13
14-17	7
18-34	129
35-64	60
65 and above	2
TOTAL	211

Source: Correspondence by the Mol of 11.3.2016

According to the new LITP, if intention is expressed but no application is filed with Mol, proceedings are instituted *ex officio* and a decision rendered to suspend the proceedings (Article 39, paragraphs 3 LITP). This regulation was introduced in order to resolve the frequent cases of failure to file an application, for example when, after a person expresses intention, they do not appear at the Reception Centre for Asylum Seekers or they leave it before they file an application. The new regulation makes it possible to suspend proceedings and revoke the status of applicant.

Repeated applications are an important new concept in the LITP. Previous legislation enabled applicants to file repeated applications for asylum, with the proviso that they needed to mention new facts or evidence, whereby they had the opportunity to remain in the territory of the RC until the conclusion of the procedure. Some applicants made use of this possibility several times, and in this way extended their stay for many years, and thereby also the rights they had as applicants. The LITP in that regard has tightened the criteria – it defines a subsequent application as repeated intention (Article 4, paragraph 1, point 12 LITP), so in the case of a second subsequent application (or the third in a row), it prescribes that the applicant no longer has the right to stay in Croatia.¹⁶

5.1.3. The Dublin Regulation and the Eurodac system

In 2015, under the Dublin Regulation, 23 persons were returned to Croatia originally from Albania (1), Algeria (10), Bangladesh (1), Bosnia and Herzegovina (1), Eritrea (1), Libya (1),

¹⁶ Article 54 paragraph 2 LITP.

Nigeria (1), Morocco (2), Kosovo (1), Mongolia (1), Pakistan (1) and Syria (1). People were returned from Austria (3), Denmark (1), France (3), Iceland (1), Iraq (1), Germany (4), Slovenia (1), Sweden (1), Switzerland (5) and the United Kingdom (1). Two people were transferred from Croatia, originally from Pakistan (to Bulgaria) and Syria (to Germany). In all these cases they were men.¹⁷

Pursuant to the LITP, the movements of a foreigner in transfer may be restricted only in order to ensure the enforcement of handover to another member state of the European Economic Area, if it is assessed that a risk of flight exists.

Since Mol still has only 2 LiveScan fingerprinting devices to implement the Eurodac procedure (one in the Reception Centre in Zagreb and the other in the Reception Centre for Foreigners), normal dactyloscopy is conducted at a police station. Fingerprints taken in this way serve only as a kind of backup copy and are sent to the Reception Centre, where fingerprints are also taken. Fingerprints, pursuant to the LITP, are taken from all applicants older than 14 years of age.

If it is temporarily not possible to take fingerprints for medical or other reasons, provided that these reasons were not caused deliberately by the applicant, fingerprints are taken as soon as possible after the reasons for which they could not be taken earlier cease to exist. If an applicant does not want to give their fingerprints for no justified reason, the fingerprints can be taken without their consent (Article 33 LITP).

5.2. Restrictions on freedom of movement

Pursuant to the LITP, applicants are guaranteed freedom of movement. The number of reasons why freedom of movement may be restricted, in comparison with the regulation from the previous Act, has been reduced and includes the following: 1) establishment of the facts and circumstances on which the application for international protection is based, which cannot be established without restriction of movement, especially if it is assessed that a risk of flight exists; 2) establishment and verification of identity or citizenship; 3) protection of national security or public order; 4) prevention of the abuse of the procedure, if there is a well-founded suspicion that intention was expressed during the procedure for expulsion in order to prevent the procedure from continuing (Article 54, paragraphs 1–2 LITP).¹⁸

¹⁷ Correspondence by Mol of 11.3.2016, note 14.

¹⁸ The following reasons for restriction of freedom of movement have been omitted: (1) the existence of reasons for exclusion from protection; (2) prevention of the spread of infectious diseases; (3) leaving or an attempt to leave the RC before the conclusion of the procedure; (4) prevention of causing danger to the lives and property of other persons (Article 74, paragraph 1 of the Asylum Act).

The new LITP also permits alternatives to detention for applicants, which are: compulsory reporting to the Reception Centre or handing in of travel documents or tickets as a deposit. Movement may be restricted by prohibition of movement outside the Reception Centre or outside a specific area, as well as by accommodation in the Reception Centre for Foreigners. The latter measure is only permitted if other measures cannot achieve the purpose of restriction of freedom of movement, and, in the case of a member of a vulnerable group or an unaccompanied minor in the Reception Centre for Foreigners, this will depend on an individual assessment of the personal circumstances and the necessity for this measure (Article 54, paragraphs 5–8 LITP). However, the obligation for a re-examination of the decisions on the restriction of freedom of movement by an administrative court, prescribed by the AA,¹⁹ is not included in the LITP.

As before, movement may be restricted for no longer than three months, but, for justified reasons, the measure may be extended for a further three months. Decisions on restriction of movement are rendered by Mol, a police administration, or a police station. A claim may be lodged against the decision with an administrative court, but the claim does not postpone the implementation of the decision. The administrative court shall render a decision on the claim on the restriction of movement after a personal interview, within 15 days from the day of receipt of the case file (Article 54, paragraphs 9, 11 - 12 LITP).

In 2015, the movement of 41 applicants was restricted by accommodation in the Reception Centre for Foreigners, for 23 of them pursuant to the AA,²⁰ and in 18 cases pursuant to the Asylum Act/LITP.²¹ Zagreb Administrative Court ruled on claims against the decisions on restriction of movement, and dismissed 16, granted five and suspended one case.²² The High Administrative Court of the RC ruled in 3 cases of restriction of movement, of which it dismissed one, and two decisions were overturned.²³

5.3. *Establishment of status*

¹⁹ Pursuant to Article 129, paragraph 4 AA, no later than 10 days before the end of three months from the day a foreigner is accommodated in the centre, the Reception Centre for Foreigners must send to an administrative court the case files on the accommodation of foreigners at the centre. The administrative court must decide within 10 days of receipt of the case files whether the foreigner should be released from the centre.

²⁰ As a rule, these are cases of people who were accommodated first in the Reception Centre for Foreigners, who only later expressed an intention to apply for asylum.

²¹ As a rule, these are cases of people who were accommodated first in the Reception Centre for Foreigners, who only later expressed an intention to apply for asylum.

²² Correspondence by Zagreb Administrative Court of 16.2.2016 (CLC documentation).

²³ Correspondence by the High Administrative Court of the RC of 03.02.2016 (CLC documentation).

In 2015, Mol resolved 211 applications, which also include applications from previous years (see Table 2).

Table 2: Statistical data on the resolution of applications for asylum (figures from January 2016)

Applications		2015		
		Applications resolved from 2013	Applications resolved from 2014	Resolved in the reporting period
Applications resolved in the first instance	Negative	2	40	61
	Positive	-	16	14
	Subsidiary	-	4	3
	Pending	-	-	22
	Suspended	1	18	63
	Dismissed	-	7	48
	Total	3	85	211

Source: Mol, Statistical Review of 2015

In 2015, in administrative proceedings Mol granted asylum to 36 persons and subsidiary protection to 7 persons (according to the number of approved applications). According to the countries of origin, asylum was granted to citizens of: Afghanistan (1), Azerbaijan (5), Bangladesh (1), Belarus (1), DR Congo (1), Eritrea (1), Ghana (1), Iraq (3), Iran (1), Kazakhstan (1), Kuwait (1), Morocco (1), Mauritania (2), Nigeria (5), Pakistan (1), Senegal (1), Somalia (1), Sudan (1), Turkey (5) and Ukraine (2). Subsidiary protection was granted to citizens of Pakistan (1), the Russian Federation (3), Syria (1) and Somalia (2). Most of these were men (see Table 3).

Table 3: Statistical data on protection granted by Mol, by gender and age

Type of protection	Gender	Age	2015
Asylum	M.	0-13	3
		14-17	-
		18-34	21
		35-64	7
	M total		31
	F	0-13	2
		14-17	-
18-34		2	

		35-64	1
	F total		5
Total asylum			36
Subsidiary Protection	M.	0-13	-
		14-17	-
		18-34	3
		35-64	2
	M total		5
	F	0-13	1
		14-17	-
18-34		-	
35-64		1	
F total		2	
Total subsidiary protection			7
GRAND TOTAL			43

Source: MoI, Statistical Review of Basic Security Indicators and Results of Work in 2015

Regarding the decisions of administrative courts in administrative disputes instituted against the decisions of MoI, most disputes were instituted before the Zagreb Administrative Court, which received 97 cases, of which 6 were suspended, 1 dismissed, 84 dismissed on the merits, and 5 granted. In one case, Zagreb Administrative Court decided on a claim against a decision of MoI which established the responsibility of another member state of the EEA for consideration of the application for protection. Rijeka Administrative Court rendered two decisions in 2015 in asylum cases, one to dismiss the claim on the merits, and one by which the court declared that it did not have territorial jurisdiction and ceded the case to Zagreb Administrative Court. Split Administrative Court ruled in two cases from 2014 and 2015, but CLC does not have any information on how those cases were resolved. Osijek Administrative Court did not rule on any cases in 2015 in the field of asylum.²⁴ From these figures it is clear that the practice continues to dismiss most claims by applicants for protection, that is, the first-instance decisions are upheld.

According to the amendments to the Administrative Disputes Act of December 2014 (OG 152/14), a claim against a judgment by an administrative court to the High Administrative Court of the RC postpones its implementation. In 2015, the High Administrative Court received 16 claims, of which 12 were dismissed on the merits, and in 3 the decision was overturned.²⁵

²⁴ Correspondence by the Administrative Courts in Zagreb (of 16.2.2016), Rijeka (of 3.2.2016), Split (of 11.2.2016) and Osijek (of 12.2.2016) (CLC documentation).

²⁵ Correspondence by the High Administrative Court of the RC of 03.02.2016 (CLC documentation).

Regarding the taking of evidence in proceedings to establish status, as far as CLC has learned, it is still the case that evidence is rarely taken by medical expertise, although the statements of some applicants indicate that they were allegedly victims of torture or inhumane or inhuman treatment.²⁶

5.4. The rights and obligations of asylum seekers pursuant to the Law on International and Temporary Protection (LITP)

Applicants for international protection have certain rights and obligations during the procedure to establish their status, guaranteed by Articles 52–62 LITP, which include: the right of stay, freedom of movement, provision of the appropriate material reception conditions, healthcare, elementary and secondary education, information, the right to legal counselling, free legal aid, freedom of religion, work and documents.

The LITP brings changes in relation to the material reception conditions, which are deemed to be accommodation in the Reception Centre, food and clothing provided in kind, an allowance for public transport for the needs of the procedure for the approval of international protection (which is new in relation to the previous legislation), and financial assistance (Article 55 LITP). The manner and requirements for the realisation of the material reception conditions for applicants are prescribed by the Ordinance on the Realisation of Material Reception Conditions. The material reception conditions may be restricted or denied for the following reasons: if the applicant is not resident in the Reception Centre allocated for accommodation, he/she stays outside the Reception Centre for longer than 24 hours without permission, he/she possesses means which provide him/her with an appropriate living standard, or he/she violates the House Rules of the Reception Centre. A decision on this is rendered by the Reception Centre, on the basis of individual assessment.

The right to healthcare has been extended and now covers, alongside emergency medical assistance, the necessary treatment of illness and serious mental disorders. Further, it is prescribed that 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 healthcare related to their specific condition, or the consequences of those offences Article 57 LITP).

The right to education has been further defined whereby an applicant who has begun to exercise the right to secondary education as a child applicant is permitted to continue secondary education even after coming of age (Article 58 LITP).

²⁶ CLC documentation.

Acquisition of the right to work has been shortened to nine months from the day of filing an application on which MoI has not rendered a decision, but still provided that the applicant, through his/her conduct, has not caused the reasons for the failure to render a decision (Article 61 LITP).

Alongside the right to legal aid, the right has been introduced to information and legal counselling (Article 59 LITP). Information on the procedure for the approval of international protection for persons who wish to express intention, and who are detained in the Reception Centre for Foreigners, at a border crossing, or in the transit area of an airport, sea port, or an inland water port, is provided by police officers in a language which it may justifiably be assumed that the person understands and in which he/she is able to communicate. Further, applicants have the right to receive legal and procedural information on the approval of international protection in a language they understand and in which they are able to communicate, and that information should be provided by organisations that deal with the protection of the rights of refugees, or by lawyers with whom MoI has signed a contract on the provision of legal counselling. However, in 2015 this right was not exercised in practice, and MoI did not publish a public call for providers of this information. In 2015, the Croatian Law Centre continued, as the implementing partner of UNHCR, to provide legal assistance to applicants accommodated in the Reception Centres in Porin and Kutina, as well as in the Reception Centre for Foreigners.

The right to humanitarian aid prescribed by the Asylum Act is no longer listed among the rights and obligations of applicants, but the LITP still prescribes the possibility that organisations which deal with the protection of the rights of refugees or humanitarian work in the Reception Centre may conduct educational, training and similar programmes, and provide other forms of assistance, with the prior consent of MoI (Article 56 LITP).

One of the additional obligations of asylum seekers is that applicants must appear at the Reception Centre within the deadline given, whilst the deadline for reporting changes of residence to MoI has been shortened from three to two days from the day of the change (Article 52 LITP).

6. Asylum in legislation and practice: asylees and foreigners under subsidiary protection

6.1. The rights and obligations of asylees and foreigners under subsidiary protection

Pursuant to the LITP, the rights of asylees and foreigners under subsidiary protection cover: stay, family reunification, accommodation, work, healthcare, education, freedom of religion,

legal aid, social welfare, assistance in integration into society, ownership of real property pursuant to the Convention relating to the Status of Refugees of 1951, and acquisition of Croatian citizenship, pursuant to the regulations on acquisition of citizenship.

Regarding the right to reunification of the family, an important change relates to the extended definition of the family whereby, apart from marital or unmarried partners, it also covers persons who are in a relationship with the applicant, the asylee, foreigner under subsidiary protection or foreigner under temporary protection, which, under Croatian regulations, may be deemed a life partnership or an informal life partnership. Further, members of the family are also deemed to be: a joint minor child of the marital or unmarried partners; their shared minor adopted child; the minor child or minor adopted child of a marital, unmarried or life partner who provides parental care for the child; an unmarried adult child who, due to his/her health, is not capable of taking care of his/her own needs, and a relative of the first degree in a direct blood line with whom he/she lived in a shared household, if it is established that he/she is dependent on the care of the applicant, asylee, foreigner under subsidiary protection or foreigner under temporary protection (Article 4 LITP).

In relation to earlier legislation, the LITP has introduced the right to ownership of real property, pursuant to the Convention of 1951, whereby the earlier practice should be abolished of requiring reciprocity in the acquisition of real property in relation to the country of origin. Under the Convention of 1951, refugees should be exempt from the application of the principle of reciprocity when acquiring real property after a stay of three years.

Regarding acquisition of citizenship, in Article 77 the LITP prescribes that if asylees or foreigners under subsidiary protection are not able for objective reasons to obtain official documents from their country of origin necessary to acquire Croatian citizenship (release from foreign citizenship), in the procedure to acquire Croatian citizenship official documents of the RC shall be taken into account, along with other documents they have available, on the basis of which it may be assessed whether they meet the requirements for acquisition of Croatian citizenship. Further security is found in the provision that a decision to refuse an application for Croatian citizenship may not be based exclusively on the fact that the official documents of the country of origin, necessary to acquire Croatian citizenship, have not been submitted.

Amongst the obligations of asylees and foreigners under subsidiary protection, there is an additional obligation that they must have their residence permit on their person and must allow persons authorised by law to examine it, and attend a course in the Croatian language, history and culture (Article 64 LITP).

6.2 Integration into Croatian society

Regarding the integration of asylees and foreigners under subsidiary protection into Croatian society, in 2015, as in previous years, the greatest problems still relate to learning Croatian language, healthcare, employment, education and accommodation.²⁷

After no official Croatian language course was held from 2011 to the beginning of June 2015, the Ministry of Science, Education and Sports organised a Croatian language course in the adult education institution *Svijet jezika* (World of Languages), but only 12 people enrolled for the first course. In 2015 only four people completed the beginners' level of Croatian language, and others gave up or left their place of residence. The Croatian Red Cross (CRC) continued, through its network of volunteers, to hold Croatian language lessons for some of the asylees and foreigners under subsidiary protection, and in 2015 the course was attended by 9 students.

Due to their lack of knowledge of the Croatian language, asylees and foreigners under subsidiary protection have difficulty communicating with institutions when exercising their right to social welfare and healthcare. Lack of knowledge of the language is an obstacle to employment.

The costs of medical treatment for asylees and foreigners under subsidiary protection are directly borne by the Ministry of Health, but health centres are frequently insufficiently informed about this, so problems arise in practice.

As in earlier years, problems exist in the enrolment of asylees and foreigners under subsidiary protection in institutions of higher education, since the IT system divides candidates into Croatian and foreign citizens, so demands are sent out for payment of tuition fees for foreigners, or the results of the state *matura* examination are required, as they are for Croatian citizens. Children who are not Croatian citizens do not have the right to scholarships.

The CRC still bears the costs of translation of certificates by court interpreters, in order for them to be recognised, to speed up the employment of people who have completed a certain level of education.

The Croatian Employment Service (CES) is responsible for the implementation of measures in the field of employment of foreigners, with particular emphasis on asylees and foreigners under subsidiary protection. According to figures from the CES,²⁸ on 31 December 2015 there was a total of 42 unemployed asylees registered in their records, of whom 32 were men and 10 women, where the largest number was registered in the Zagreb Office (36) and then in Kutina (2) and Pula (2). Two asylees were included in active employment policies in 2015. Forty-five beneficiaries were involved in individual counselling activities.

²⁷ Correspondence by the Croatian Red Cross of 16.3.2016 and CMS of 23.3.2016. (CLC documentation).

²⁸ Correspondence by the Croatian Employment Service of 11.2.2016. (CLC documentation).

After the right to accommodation for two years at the expense of the state budget expires, asylees and foreigners under subsidiary protection very often do not have any possibility of finding and paying for accommodation independently. Singles in this situation find a place in accommodation for the homeless, provided there are vacancies there. The livelihood of families with children, after the right to accommodation has expired, is generally threatened.

Some asylees became involved voluntarily in providing assistance to refugees and migrants in the field during the refugee crisis, with the CRC or other civil society organisations. Some were also employed under a contract.

The CRC has an important role in integration into Croatian society. In 2015, ninety people were involved in the CRC integration programme. Other civil society organisations (The Centre for Peace Studies, the Jesuit Refugee Service, the Association Attack! and others) have conducted activities which contribute to better integration into society. Workshops were organised on various subjects: getting to know Croatian culture and history, how to write a CV and present yourself to an employer, communication skills, how to exercise your rights. There has also been an increase in interest from citizens in providing support to refugees through voluntary work, especially after the refugee crisis broke out in the second half of 2015.²⁹

6. Conclusion

In 2015, with the adoption of the LITP, Croatian legislation was further aligned with the common European asylum system. Although in certain aspects the new legislation is a step forward, there is a visible trend towards a restriction of rights and prevention of abuse of the system. This approach may be seen, for instance, in relation to the regulation of subsequent applications, according to which the right of stay in the RC is restricted for applicants who file a new subsequent application, after a decision has already been rendered earlier on the inadmissibility of a subsequent application. At the same time, there is still no systematic approach to the problem of foreigners whose application for international protection has been denied, but their identity has not been established or they cannot be returned to their country of origin. With the increasingly strict protection of state borders, these people are condemned to remain in Croatia, with their status unregulated and without any rights.

In practice, 2015 was marked by the refugee crisis, during which more than 550,000 refugees and migrants passed through Croatia, of which only a negligible number requested international protection. In the context of the refugee crisis, the subject of asylum and migration is becoming increasingly important in political and social discourse.

²⁹ Correspondence by the Centre for Peace Studies of 23.3.2016 (CLC documentation).

The LITP prescribes a framework for implementing the institution of transfer of citizens of third countries or stateless persons, or the reception of a certain number of persons to whom another EU member state has granted international protection, for the purpose of solidarity in sharing the burden among EU member states. At the EU level, a European system has been adopted for transfer and movement, which relates to sharing the burden of refugee movements amongst member states according to a quota system. The key to distribution is based on the capacity of the member states to receive and integrate refugees, taking into account the size of the population, the total GDP, the average number of applications for asylum and the number of transferred refugees per million of the population from 2010 to 2014, and the unemployment rate. On the basis of a proposal by the European Commission, the Government of the RC rendered a decision to receive 550 people, but later it was decided to accept a further 568 applicants for international protection, and refugees from Greece and Italy, through a second relocation scheme. However, due to the refugee crisis in 2015 the decision was not implemented.