

Teo Giljević, Tatjana Holjevac, Anamarija Kovač,
Kristina Petrovečki, Lana Tučkorić

THE INTEGRATION OF REFUGEES INTO CROATIAN SOCIETY:

LEGISLATION AND REALIZATION
IN PRACTICE

Croatian Law Centre
2020.

Copyright © 2020.

Teo Giljević, Tatjana Holjevac, Anamarija Kovač, Kristina Petrovečki, Lana Tučkorić
(All rights reserved)

PUBLISHER

Croatian Law Centre, Zagreb, Hebrangova 21

FOR THE PUBLISHER

Goranka Lalić Novak
President of the Croatian Law Centre

EDITOR Vesna Grubić

TRANSLATION INTO ENGLISH AND PROOFREADING

Zlata Pavić, Mark Davies

REVISION, LAYOUT AND PROOFREADING

D.S.M. Grafika

ISBN 978-953-6635-20-7 (electronic version)

This publication has been prepared and published within the project “Legal Support in the Asylum System” carried out by the Croatian Law Centre in 2020, in the capacity of an implementation partner and financially supported by UNHCR in Croatia.

FOREWORD

The integration policy of the Republic of Croatia, given the relatively low number of migrants who largely arrive from the surrounding countries, mostly involves the refugee population. The integration of persons who have been granted international protection is a complex task requiring the simultaneous actions of various actors, public organizations at different territorial levels partnering with civil society organizations, and those belonging to the private sector. The Croatian Law Centre believes that various aspects of the integration of refugees should be placed on the agenda of scientific and professional meetings in a comprehensive and systematic manner.

This booklet contains six chapters. The first text lays out an introductory framework for the integration of persons granted international protection and deals with various dimensions and levels of integration, the rights of refugees in international law, the European framework for integration and the policy of integrating those who have been granted international protection in Croatia. All the other texts may be classified in two groups. The first group consists of three texts dealing with the social and economic dimensions of the integration of persons granted international protection into Croatian society – including the fields of education, labor and social protection. The second group contains two texts describing the legal and political dimensions of integration, family reunification and the provision of free legal aid.

The chapter on the recognition of previously acquired qualifications of refugees defines this as a prerequisite for the successful integration of refugees into the labor market and their inclusion in the education system. Indeed, education is essential to save economically and socially marginalized adults and children from poverty and to help them take part in local communities as full members. The author gives an overview of international, European and national documents for the recognition of educational and other professional qualifications of refugees. The text dealing with the right to employment highlights the importance of work for the successful integration of refugees because it makes them financially independent and capable of satisfying their basic needs and the needs of their families. It also helps them regain self-confidence, the feeling of being useful and

recover from their previous traumatic experiences. These are all key elements that help people to preserve human dignity. In addition, the employment of refugees reduces their dependence on the State and decreases the resources that are necessary for their integration. They thus become a new potential in the labor market, which is of particular importance for countries like Croatia, which are facing an insufficient labor force and the consequences of emigration. The author also analyses the impact of the COVID-19 pandemic.

The following chapter analyses certain locally organized social programs in four Croatian cities, where persons granted international protection have been accommodated (Karlovac, Sisak, Zadar and Zagreb). The author analyses the impact of the place of accommodation on the level of social rights and gives recommendations on how to enhance the social welfare system at the local level to improve the position of those granted international protection. Until recently, the place of accommodation of persons granted international protection did not seem to cause any social inequalities in practice because most persons granted protection were only accommodated in Zagreb. However, since the number of those granted international protection has increased, and there have been many relocations and resettlements, there are increasing numbers of persons accommodated in other Croatian cities. Therefore, it is possible that, in the future, the place of accommodation may bring some inequalities because different cities in Croatia allocate different funds for various social programs whose organization, as a result, is also different.

The second group of texts deals with the right to family reunification under inter-national, European or Croatian legislation and reveals the most frequent problems and challenges arising in practice. Only the close family members of persons granted international protection are entitled to this right and they may also exercise all other rights laid down in the country where international protection was granted. The concept of family reunification provides for the unity of the families of those who have been granted such protection.

Another text in this second group analyses the concept of free legal aid in civil matters at international, European and national levels, and presents an overview of the conditions under which those granted international protection may exercise the right to free legal aid. The purpose of this right is to provide equal access to justice for indigent persons, many of whom have been granted international protection but cannot exercise their statutory right due to their indigence.

The further development and enhancement of the integration of refugees in Croatia largely depends on a proper understanding of the importance of integrating those granted international protection in Croatia. It also depends on the cooperation of various political and administrative entities, at all territorial levels, with civil society organizations in the provision of diverse integration

Foreword

activities. This booklet is meant to help all those who work in different administrative bodies, as well as politicians, scientists and members of civil society organisations who offer assistance in the process of the integration of persons granted international protection into Croatian society.

We would like to express our gratitude to all our CLC colleagues, as well as to all those who have contributed to the creation of this booklet. We are particularly grateful to the UNHCR for their support in the project “Legal Support in the Asylum System” within which this publication was drafted in 2020.

For the CLC team:
TEO GILJEVIĆ

Zagreb, 6 November 2020

CONTENTS IN BRIEF

- I. Framework for the Integration of Refugees into Croatian Society..... 1
Anamarija Kovač
- II. The Provision of Social Services to Persons Granted International Protection
at the Local Level in Croatia.....18
Teo Giljević
- III. An Overview of the Standards Regarding the Right to work and Access to
the Labor Market of Persons Granted International Protection.....43
Lana Tučkorić
- IV. An Overview of International, European and National Standards of the
Recognition of Qualifications of Refugees.....68
Anamarija Kovač
- V. The Concept of Family Reunification in the Republic of Croatia.....93
Tatjana Holjevac
- VI. Access to Free Legal Aid for Persons Granted International Protection.....112
Kristina Petrovečki

CONTENTS

Foreword.....	III
---------------	-----

I.

FRAMEWORK FOR THE INTEGRATION OF REFUGEES INTO CROATIAN SOCIETY

Anamarija Kovač

Summary.....	1
1. Dimensions and Levels of Integration of Migrants and Refugees into Croatian Society.....	2
2. The Rights of Refugees under International Law.....	3
3. The European Framework for the Integration of Migrants and Refugees.....	5
4. The Integration Policy in Croatia.....	9
5. Conclusion.....	13
Literature.....	13
Summary in English.....	17

II.

THE PROVISION OF SOCIAL SERVICES TO PERSONS GRANTED INTERNATIONAL PROTECTION AT THE LOCAL LEVEL IN CROATIA

Teo Giljević

Summary.....	18
1. Introductory Remarks.....	19
2. Social Welfare Activities in Croatia.....	20
2.1. A Centralized Approach to Social Welfare Activities in Croatia.....	20

Contents

2.2. Social Welfare for Persons Granted International Protection.....	23
2.2.1. Monetary Compensation.....	24
2.2.2. Accommodation and Housing.....	24
2.2.3. Nourishment in Soup-Kitchens.....	25
3. An Analysis of the Form of Social Assistance Provided by Cities– Studies Carried out in Four Croatian Cities (Zagreb, Karlovac, Sisak and Zadar).....	26
3.1. Introductory Remarks Regarding Social Assistance at the Local Level.....	26
3.2. The City of Karlovac.....	27
3.2.1. Housing.....	27
3.2.2. The Protection of Children and Young People.....	28
3.2.3. Other Social Rights Provided by the City of Karlovac.....	29
3.3. The City of Sisak.....	30
3.3.1. Housing.....	30
3.3.2. The Protection of Children and Young People.....	30
3.3.3. Other Social Rights Provided by the City of Sisak.....	31
3.4. The City of Zadar.....	32
3.4.1. Housing.....	33
3.4.2. The Protection of Children and Young People: Subsidies for Kindergartens and After-School Programs.....	33
3.4.3. Other Social Rights Provided by the City of Zadar.....	33
3.5. The City of Zagreb.....	34
3.5.1. Housing.....	35
3.5.2. The Protection of Children and Young People.....	36
3.5.3. Other Social Rights Provided by the City of Zagreb.....	37
4. Current Situation and Challenges Connected with the Provision of Social Services in the Process of Integration of Refugees in Croatia and the Recommendations for Improvement.....	37
Literature.....	40
Summary in English.....	41

III.

AN OVERVIEW OF STANDARDS RELATED TO THE RIGHT TO WORK AND ACCESS TO THE LABOR MARKET OF PERSONS GRANTED INTERNATIONAL PROTECTION

Lana Tučkorić

Summary.....	43
1. Introduction.....	44

Contents

2. International Standards.....	45
3. European Standards.....	47
4. National Standards.....	54
5. The Impact of COVID-19 on the Access of Migrants and Refugees to the Labor Market.....	59
6. Conclusion.....	63
Literature.....	63
Summary in English.....	67

IV.

AN OVERVIEW OF INTERNATIONAL, EUROPEAN AND NATIONAL STANDARDS OF THE RECOGNITION OF QUALIFICATIONS OF REFUGEES

Anamarija Kovač

Summary.....	68
1. Introduction.....	69
2. International Standards.....	70
3. The European Framework for the Recognition of Educational and Professional Qualifications.....	72
3.1. European Convention on the Academic Recognition of University Qualifications.....	72
3.2. Acquis Communautaire.....	74
3.3. The Council Recommendation on the Validation of Non-Formal and Informal Learning.....	75
3.4. The Council Recommendation on Key Competencies for Lifelong Learning.....	76
3.5. EU Policies in the Area of Recognition of Qualifications.....	76
3.6. The European Qualifications Framework and Tools for the Recognition of Academic Qualifications.....	79
3.7. European Tools Supporting the Recognition of Qualifications of Migrants and Refugees.....	80
4. National Legislation and Practice.....	81
4.1. Documentation Requirements for the Recognition of Migrants' and Refugees' Qualifications.....	83
4.2. The Process of Recognition of Non-Formal and Informal Learning of Adults.....	86
4.3. National Integration Policies.....	87
5. Conclusion.....	88
Literature.....	88
Summary in English.....	91

V.

THE CONCEPT OF FAMILY REUNIFICATION IN THE REPUBLIC OF CROATIA

Tatjana Holjevac

Summary.....	93
1. Introduction.....	94
2. The Concept of Family Reunification in international and European Law.....	95
3. The Right to Family Reunification in Croatian Law.....	97
3.1. The Conditions for Granting the Right to Family Reunification.....	97
3.2. Exclusion of the Right to Family Reunification.....	98
3.3. The Special Position of Children in the Procedure of Family Reunification.....	99
3.4. Reunification of Family Members of a Person Granted Temporary Protection.....	100
4. The Procedure of Family Reunification in the Republic of Croatia.....	100
4.1. Application for Temporary Stay.....	100
4.1.1. General.....	100
4.1.2. Evidence to Justify the Purpose of Stay.....	102
4.1.3. Supplements to the Application.....	103
4.1.4. Exemptions from the Requirements for Granting Temporary Stay.....	103
4.1.5. The Reasons for not Granting Temporary Stay.....	104
4.1.6. Validity of a Temporary Visa.....	104
4.2. The Issuance of a Visa.....	105
4.2.1. General.....	105
4.2.2. Admissibility of a Visa.....	106
4.2.3. Residence Permit.....	106
5. Challenges of Exercising the Right to Family Reunification.....	107
Literature.....	110
Summary in English.....	110

VI.

ACCESS TO FREE LEGAL AID OF PERSONS GRANTED INTERNATIONAL PROTECTION

Kristina Petrovečki

Summary.....	112
1. Introduction.....	113

Contents

2. The Right to Free Legal Aid – International Framework.....	113
3. The Right to Free Legal Aid – European Framework.....	114
4. The Right to Free Legal Aid – Croatian Legislation.....	116
4.1. The Forms of Providing Free Legal Aid.....	116
4.1.1. Primary Legal Aid.....	116
4.1.2. Secondary Legal Aid.....	117
4.2. Beneficiaries and Providers of Free Legal Aid.....	120
4.3. The Procedure of Exercising Free Legal Aid.....	120
4.4. The Scope of Providing Secondary Legal Aid and the Procedure of Reimbursement.....	121
5. The Right to Free Legal Aid of Persons Granted International Protection.....	123
5.1. Persons Granted International Protection and the Concept of International Protection.....	123
5.2. International and European Frameworks.....	123
5.3. Croatian Legislation.....	124
6. Conclusion.....	125
Literature.....	126
Summary in English.....	127



FRAMEWORK FOR THE INTEGRATION OF REFUGEES INTO CROATIAN SOCIETY*

SUMMARY

In the past few years, the integration of refugees has reached a very high position on the scale of political and social priorities of EU institutions. The successful integration of refugees is in the interest of all Member States. In Croatia, we are witnessing a trend of increasing numbers of refugees who need to be successfully integrated into Croatian society.

The proper integration of migrants and refugees leads to their independence in a new environment where they become full members of society and who must also respect the host country's fundamental values.

In order to offer a broader picture of the rights to which refugees and foreigners under subsidiary protection are entitled, the author analyses the rights guaranteed by the Convention Relating to the Status of Refugees of 1951 and its Protocol of 1967. Furthermore, she analyses the EU framework for the integration of migrants and refugees containing the most important regulations and soft law documents of the EU. There is also an overview of the integration policies of Croatia. The conclusion is reached that the future development of these policies depends on the different types of migration and on the EU's attitude to irregular migration. It is therefore necessary to develop integration policies for different categories of migrants.

Keywords: asylum, integration, refugees, subsidiary protection

* Author: Anamarija Kovač, mag. iur, legal counselor at CLC. Written in March 2017 and updated in September 2020.

1. Dimensions and Levels of Integration of Migrants and Refugees into Croatian Society.¹

Integration is a multidimensional process of accepting and including migrants and refugees* in society, and as a rule, includes at least the following dimensions: legal/political, socio-economic and cultural/religious. The legal and political dimensions of integration includes legal status and political rights, such as residence, family reunification, political participation (formal and informal) and access to citizenship, as well as less formal opportunities for political participation. The socio-economic dimension of integration is focused on the position of migrants on the labor market, including the right to work and access social and other rights, such as healthcare, education and housing. The third dimension refers to the cultural and religious rights of migrants, particularly their perceptions and practices, which are different from the cultural, ethnic and religious views of the receiving society (Penninx, 2007:20).

Integration is manifested at different levels – the individual, collective and institutional (Garcés-Mascreñas, Penninx, 2016:15).

From a refugee perspective, integration requires a preparedness to adapt to the lifestyle of the host society without having to lose one's own cultural identity. From the point of view of the host society, this requires a willingness of public institutions to adapt to the changes in the population profile, accept refugees as part of the national community and take action to facilitate access to resources and decision-making processes. From a psychological perspective, integration begins at the time of arrival in the country of final destination and ends when a refugee becomes an active member of that society from a legal, social, economic, educational and cultural perspective (ECRE, 1999).

Integration is a lengthy process that includes, apart from the active participation of the immigrants themselves, an interdepartmental approach of government bodies, local administration and civil society. Finally, integration helps migrants and refugees gain independence in a new environment where they become full members of society who also need to respect the host country's fundamental values.

¹ According to the 1951 Convention, a refugee is anyone who, owing to well-founded fear of being persecuted for reasons of race, religion, nationality or membership of a particular social group or political opinion, is outside the country of their nationality and is unable or, owing to such fear, is unwilling to avail him/herself of the protection of that country; or who, not having a nationality and being outside the country of their former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it. The term migrant includes everyone who relocate to another country with the intention of permanently settling there and the first generation of their descendants (persons with one parent with a migrant background). The topic of this paper is refugees.

* Certain terms are given in the masculine gender in this paper and are used as neutral for masculine and feminine genders.

2. The Rights of Refugees under International Law

On an international level, the rights of refugees in the country of refuge are regulated by the 1951 Convention Relating to the Status of Refugees² and the 1967 Protocol relating to the Status of Refugees³ (hereinafter: the 1951 Convention). The Convention represents the cornerstone of modern international refugee law (Hathaway, 2005:91) and remains the sole international agreement that fully regulates the rights and obligations of refugees.

The scope and nature of the rights afforded to a particular refugee in their host country depends on the relationship the refugee has with that host country (Hathaway, 2005:154). There are four types of relationships that a refugee can realize with the host country: only the jurisdiction of the host country without being physically present within its territory; physical (de facto) presence within the territory of the host country; lawful (de iure) presence within the host country and permission to stay (e.g. under international protection) in the host country. In this context, it is possible to recognize four different minimum standards in relation to the host country: (a) 'regular foreigner standard', when a refugee is granted a certain right at least to the extent that it is enjoyed by all foreigners; (b) 'most-favored foreigner', when a refugee is granted a certain right at least to the extent that it is enjoyed by nationals of the country to whom the most favored status is otherwise granted in the host country (e.g. on the basis of some international agreement); (c) 'own nationals standard', equalizing the position of the refugee with that of its own nationals; (d) 'absolute protection standard', which is not dependent on the treatment of the host country towards foreigners and that is guaranteed to refugees without any restrictions (Lapaš, 2008: 24–30). These are considered the minimum standards as the host country may guarantee a person rights to a greater extent than provided for in the 1951 Convention.

A refugee with permission to stay enjoys a relationship of the highest degree, on the basis of obtaining asylum or some other form of permission to stay (Lapaš, 2008: 14), which is decided by the competent authorities of the host country. As the system of international legal protection for refugees is multi-layered, the rights of refugees with permission to stay also include all the rights afforded to refugees with a lower degree of relationship with the host country, together with some additional guaranteed rights (Lapaš, 2008: 54). In principle, a refugee

2 Konvencija o statusu izbjeglica, UNTS vol. 189, pp 137, 28 July 1951; OG SFRY: IA 15/1960; entered into force on 21 April 1954. According to the Decision on the publication of multilateral international agreements to which the Republic of Croatia is a party based on the notification on succession, OG IA 12/93 the Republic of Croatia became a party to the Convention Relating to the Status of Refugees.

3 Protocol relating to the Status of Refugees, UNTS vol. 606, pp 267, 31 January 1967, OG SFRY: IA 15/67: entered into force on 4 October 1967. According to the Decision on the publication of multilateral international agreements to which the Republic of Croatia is a party based on the notification on succession, OG IA 12/93 The Republic of Croatia became a party to the Convention Relating to the Status of Refugees.

with a permission to stay will be able to remain in the territory of the host country until the circumstances that forced them to leave the country of origin have ceased to exist. The permission to stay also grants refugees rights to a greater extent than those provided for in the 1951 Convention.

According to the 1951 Convention, refugees with permission to stay have the right to self-employment (Art. 18), the acquisition of movable and immovable property (Art. 13), practicing liberal professions (Art. 19), housing (Art. 21) and middle and higher education (Art. 22, Par. 2), which the host country must guarantee to refugees at least to the extent accorded to foreigners in the same circumstances. The right to non-political association (Art. 15) and the right to wage-earning employment (Art. 17 Par. 1) is accorded to refugees to the same extent as to most-favored foreigners.

The issue of integration assistance (Art. 34 of the 1951 Convention) is particularly important due to the special circumstances and vulnerability of the refugee population. Unlike other migrants, refugees are unable to return to their country of origin and in that respect, host countries should work proactively on creating opportunities for the local integration of refugees into the social life of the community (UNHCR, 2003). Moreover, refugees often lack the support networks, language skills and resources to start real integration and a new life in the host country. Article 34 of the 1951 Convention should therefore be understood in this context, where their special situation impresses upon host countries the need to accord refugees rights and measures beyond those normally granted to other foreigners (UNHCR, 2006).

The rights and obligations guaranteed to recognized refugees is especially important in the context of local integration as one of the means for determining durable solutions to refugee issues. Local integration could be an appropriate solution in cases where refugees were born in the host country who might otherwise become stateless; refugees who, due to their personal circumstances, are unlikely to be able to repatriate to their country of origin in the foreseeable future; and refugees who have established close family, social, cultural and economic links with their country of asylum.

Local integration includes several distinct but interrelated dimensions: legal, which entails the host country granting refugees a progressively wider range of rights; economic, whereby refugees are gradually less reliant on state and humanitarian aid, are increasingly enabled to become self-sufficient and can contribute to the local economy of the host country; social and cultural, as refugees adapt to the local environment through the acceptance of the local communities, enabling refugees to co-exist with the local population and actively contribute to the social life of the host country (UNHCR, 2005).

3. The European Framework for the Integration of Migrants and Refugees

The mass migrant and refugee movements in 2015 and 2016 further contributed to the need to develop systematic policies for the integration of migrants and refugees into society. At the same time, the integration of migrants continues to pose a challenge across Europe, with many burning issues such as low employment, inability to find adequate accommodation, increased risk of poverty or social exclusion, but also the concerns of local populations related to their integration into the local community (Giljević, Lalić Novak, 2019: 164).

The Charter of Fundamental Rights of the European Union⁴ guarantees individuals a full range of rights and freedoms. It is safe to say that the Charter is the foundation on which the European Union has built its integration policy. The Lisbon Treaty is the first founding treaty to contain a legal basis for the issue of integration at the EU level in Art. 79⁵ Par. 4, empowering the European Parliament and the Council to establish measures in accordance with the ordinary legislative procedure to provide incentives and support for the action of Member States with a view to promoting the integration of third-country nationals residing legally in their territories, excluding any harmonization of the laws and regulations of the Member States.

At the EU level, the migrant integration policy, which includes refugees, is based on the founding treaties, the European Council programs and the Europe 2020 strategy. Although integration policies are the responsibility of the Member States, the EU has developed a common framework for the integration of third-country nationals.

There are several key policy documents that point to the EU's perspective on the integration of migrants.

At the Tampere summit in 1999, the European Council reached conclusions⁶ highlighting the need for a common approach to the integration of third-country nationals into societies within the EU, while the goal of integration policies is to grant third-country nationals rights and obligations comparable to those of EU citizens.

The integration of third-country nationals reappeared on the EU agenda in 2003. The European Commission issued a Communication on Immigration, Integration

4 Charter of Fundamental Rights of the European Union, OJ C 303, 14 December 2007. Available at: https://fra.europa.eu/sites/default/files/charter-of-fundamental-rights-of-the-european-union2007-c_303-01_en.pdf (25 February 2017)

5 Consolidated versions of the Treaty on European Union and the Treaty on the Functioning of the European Union, OJ C 83, 30 March 2010.

6 Tampere European Council 15 and 16 October 1999, Presidency Conclusions, http://www.europarl.europa.eu/summits/tam_en.htm (3. March 2017.)

and Employment⁷ identifying the areas of integration and integration measures that need to be taken. At that point, a common integration policy for all EU member states was not yet being considered, unlike a common migration policy.

The Common Basic Principles for Integration were adopted by the Council in 2004⁸ and reaffirmed in 2014, serving as the basis for all future EU initiatives in the field of migrant integration. These principles provide guidance to Member States in formulating and implementing national policies, emphasizing a holistic approach to integration, cooperation between European, national, regional and local authorities in the development and implementation of integration policies. The principles include: 1) integration as a dynamic, two-way process; 2) respect for the basic values of the EU; 3) employment; 4) learning the language, history and culture; 5) education; 6) access to institutions, public and private services; 7) interaction between migrants and citizens of Member States; 8) practice of religion and culture; 9) the participation of migrants in the democratic process; 10) including integration policies and measures in all relevant policy portfolios and levels of government and public services; and 11) evaluating the progress of integration policies. The first edition of the Handbook on Integration⁹ was published that same year.

The common program for the integration of third-country nationals in the European Union¹⁰ from 2005 contains proposals for a series of measures to implement the Common Basic Principles for Integration, but makes a clear distinction between measures at the European and the national levels, the latter being only indicative and leaving it to the Member States to set priorities and choose activities and their implementation in the context of national traditions and situations.

The Stockholm Program,¹¹ adopted for the period from 2010 to 2014, highlights the need to support Member States in the full implementation of integration policies and the importance of coordinating integration policies with other relevant areas such as employment, education and social inclusion.

7 Communication on Immigration, Integration and employment (COM(2003) 336). Available at: <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TeXT+RePORT+A5-2003-0445+0+DOC+XML+V0//eN> (3 March 2017)

8 Council of the EU, Common Basic Principles for Immigrant Integration Policy in the European Union, 14615/04 (Presse 321), 19 November 2004. Available at: https://www.consilium.europa.eu/ueDocs/cms_Data/docs/pressData/en/jha/82745.pdf (3 March 2017)

9 Handbook on Integration for Policy Makers and Practitioners. Available at: <https://ec.europa.eu/mi-grant-integration/librarydoc/handbook-on-integration-for-policy-makers-and-practitioners-3rd-edition-2010> (6 March 2017)

10 Communication from the Commission to the Council, the European Parliament, the European economic and Social committee and the Committee of the Regions, A Common Agenda for Integration – Framework for the Integration of Third-Country Nationals in the European Union, COM/2005/0389 final, 1 September 2005.

11 The Stockholm Program. Available at: [http://eur-lex.europa.eu/legal-content/eN/TXT/HTML/?uri=CeLeX:52010XG0504\(01\)&from=eN](http://eur-lex.europa.eu/legal-content/eN/TXT/HTML/?uri=CeLeX:52010XG0504(01)&from=eN) (6 March 2017)

I. Framework for the Integration of Refugees into Croatian Society

The 2011 European Agenda for the Integration of Third-Country Nationals¹² was adopted on the basis of the Europe 2020 Strategy. The program calls for a strengthened and balanced approach to integration in different policy areas and at different levels, and focuses on measures to increase the economic, social, cultural and political participation of migrants, emphasizing the important role the local level has for integration. The European Commission Staff Working Paper¹³ adopted with the Agenda contains a list of measures promoting the integration of migrants in the EU.

The Action Plan on the Integration of Third-Country Nationals from 2016¹⁴ states that, despite the efforts made, third-country nationals across the EU continue to fare worse than EU citizens in terms of employment, education and social inclusion outcomes. Emphasis is placed on the Member States with less experience with integration to develop effective integration strategies as a result of the large number of people in need of protection, including measures on relocation and resettlement. The Action Plan recognizes that individual integration needs vary widely depending on the person's reason for coming to the EU and on the expected length of stay, as well as their skills, level of education and working experiences, and that refugees face problems due to their vulnerability resulting from traumas suffered, lack of documentation, inactivity prior to and during the procedure for granting international protection, but also cultural and language barriers and risks of stigmatization in education and on the labor and the housing markets. The planned measures include pre-departure and pre-arrival measures, as well as preparing migrants and local communities for integration; education; labor market integration and access to vocational training; access to basic services such as housing and healthcare; active participation and social inclusion, including the design and implementation of integration policies, promoting exchange with the host societies, combating discrimination and promoting a positive approach to diversity.

In its 2016 Conclusions of the Council on the Integration of Third-Country Nationals, the Council of the EU reiterates the importance of integrating migrants into European society, invites Member States to adopt integration measures in different areas of public policy, invites the Commission to support Member States'

12 Communication from the Commission to the Council, the European Parliament, the European Economic and Social Committee and the Committee of the Regions, European Agenda for the Integration of Third-Country Nationals, COM/2011/455 final. Available at: <https://eur-lex.europa.eu/legal-content/eN/TXT/HTML/?uri=CeLeX:52011DC0455&from=eN> (7 March 2017)

13 Commission Staff working Paper, EU initiatives supporting the integration of third-country nationals, SeC(2011) 957 final. Available at: https://ec.europa.eu/home-affairs/sites/homeaffairs/files/doc_centre/immigration/docs/2011_commission_staff_working_paper_on_integration.pdf (7 March 2017)

14 Komunikacija Komisije europskom parlamentu, Vijeću, europskom gospodarskom i socijalnom odboru i Odboru regija, Akcijski plan za integraciju državljana trećih zemalja, COM/2016/377 final. Available at: https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/policies/european-agenda-migration/proposal-implementation-package/docs/20160607/communication_action_plan_integrati-on_third-country_nationals_en.pdf (7 March 2017)

efforts by providing them with technical and financial support and to ensure better coordination between the national and European levels and the various actors working in the field of integration (Giljević, Lalić Novak, 2019:¹⁵ 168).

The European legal framework in the field of refugee integration consists of several directives,¹⁶ which Member States are obliged to incorporate into their national legislation. The most important of these directives is the Qualification Directive¹⁷ regulating the rights of persons granted international protection. The Directive also provides for assistance with integration into society, whereby Member States shall ensure access to integration programs that they consider to be appropriate taking into account the specific needs of refugees or create pre-conditions that guarantee access to such programs.

At the end of 2019, the European Web Site on Integration (EWSI)¹⁸ conducted a survey entitled "What measures are in place to ensure the long-term integration of migrants and refugees in Europe?".¹⁹ The research included 27 Member States and the United Kingdom. The purpose of the research was to examine whether EU Member States and the United Kingdom have implemented policies and measures across various areas of life that aim to promote the long-term integration of beneficiaries of international protection and other third-country nationals. Key findings include:

- Almost all EU countries have a strategic framework that addresses the integration of the beneficiaries of international protection and other third-country nationals, but few perform systematic evaluation of integration outcomes;
- National government authorities see the importance of supporting language learning, but in many countries, there is a clear drop-off in support for intermediate and advanced courses;

15 Conclusions of the Council and the Representatives of the Governments of the Member States on the Integration of Third-Country Nationals Legally Residing in the EU, Council document 15312/16. Available at: <https://data.consilium.europa.eu/doc/document/ST-15312-2016-INIT/en/pdf> (7 March 2017)

16 Council Directive 2001/55/EC of 20 July 2001 on the Minimum Standards for Giving Temporary Protection in the Event of a Mass Influx of Displaced Persons and on Measures Promoting a Balance of Efforts Between Member States in Receiving Such Persons and Bearing the Consequences Thereof (OJ L 212, 7 August 2001), Council Directive 2003/86/EC of 22 September 2003 on the Right to Family Reunification (OJ L 251, 3 October 2003), Directive 2013/32/EU of the European Parliament and of the Council of 26 June 2013 on Common Procedures for Granting and Withdrawing International Protection (recast), (OJ L 180, 29 June 2013) and Directive 2013/33/EU of the European Parliament and Council of 26 June 2013 Laying Down Standards for the Reception of Applicants for International Protection (recast) (OJ L 180/96, 29 June 2013).

17 Directive 2011/95/EU of the European Parliament and of the Council of 13 December 2011 on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted (recast), OJ C 337, 20 December 2011, <https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CeLeX:32011L0095&qid=1608209419300&from=EN> (16 March 2017)

18 European web Site on Integration, <https://ec.europa.eu/migrant-integration/home> (20 March 2017)

19 Research "What measures are in place to ensure the long-term integration of migrants and refugees in Europe?". Available at: <https://ec.europa.eu/migrant-integration/feature/what-measures-are-in-place-to-ensure-the-long-term-integration-of-migrants-and-refugees-in-europe> (7 September 2020)

I. Framework for the Integration of Refugees into Croatian Society

- There is inconsistent availability of services or vocational training opportunities that are tailored to migrants' needs;
- There is uneven support for migrant children's needs in education and a lack of systematic support for access to higher education;
- Access to healthcare and housing requires more attention from policymakers;
- There is a need for the improved enforcement of anti-discrimination laws;

In conclusion, the research shows the EU countries generally have a strategic framework for integration, as well as a legal framework for anti-discrimination, but there is a need for the evaluation of these frameworks and strengthening resources for the enforcement of anti-discrimination laws, as well as increasing their attention to long-term outcomes.

4. The Integration Policy in Croatia

The Croatian legal framework for the integration of refugees consists of the Act on International and Temporary Protection²⁰ (hereinafter: AITP), which includes a set of rights guaranteed to refugees (right to residence, family reunification, accommodation, work, health care, education, freedom of religion, free legal aid, social welfare, assistance in integration into society, property ownership and acquisition of Croatian citizenship).

With regards to policy documents, one notable document is the Migration Policy of the Republic of Croatia for the period 2013-2015²¹ adopted as part of the EU accession process, which also includes measures for the integration of foreigners into Croatian society. The purpose of the Migration Policy is to ensure that migration in Croatia benefits the economic, social and cultural development of the state and society. All state authorities, as well as other stakeholders, are obliged to act in a timely and coordinated manner to find effective answers to the positive and negative effects of migration. According to the Migration Policy, the integration of foreigners implies a dynamic, two-way process of mutual adjustment of both foreigners and Croatian citizens to the consequences of post-migration processes. Measures regarding integration include: drafting a proposal for the appointment of the Permanent Commission for the implementation of the integration of foreigners into Croatian society; appointing a Working Group for the operative implementation of the tasks of the Permanent Commission; developing an action plan for removing obstacles to the exercise of rights in the field of integration; activities aimed at raising public awareness of various aspects and cause-and-effect phenomena of migration; implementing the Croatian Language Curriculum for persons over 15 years of age at the level of all counties.

20 OG 70/15, 127/17.

21 OG 27/13.

I. Framework for the Integration of Refugees into Croatian Society

The migration policy as laid out above does not involve a comprehensive approach, but rather a departmental one (the Ministry of the Interior). It is not included in the long-term, strategic development plan of the Republic of Croatia as its component, as well as the identified migration policy priorities. The objectives of the policy are unclear, as well as the implementation deadlines. The same applies to progress indicators within the given deadlines and quantitative and qualitative measures of expected results. Croatia has not adopted a migration policy for the period after 2016.

In April 2013 the Croatian government appointed the President (Director of the Office for Human Rights and the Rights of National Minorities) and members of the Permanent Commission for the implementation of the integration of foreigners into Croatian society (representatives of relevant bodies responsible for education, health, social policy, labor and employment, culture, housing, internal affairs, foreign affairs, regional development and European Union funds and the Central State Office for Croats Abroad). In 2014, the Permanent Commission was expanded by appointing representatives from the State Office for Reconstruction and Housing Care and from the Government of the Republic of Croatia Office for Cooperation with NGOs.

The Working Group of the Permanent Commission was established in the first half of 2013, which drafted an Action Plan for the elimination of obstacles to the realization of certain rights in the area of the integration of foreigners for the 2013-2015 period. Given that refugees and foreigners under subsidiary protection are a particularly vulnerable category of foreigners, the measures from the Action Plan are aimed more at regulating their position and integration into Croatian society. Measures for the integration of foreigners were intended to ensure their equal status in economic, social and cultural life in relation to Croatian citizens.

Special emphasis was placed on education, work, employment and housing. Measures are also planned to prevent and combat discriminatory actions and behavior towards foreigners and encourage active cooperation between all competent state administration bodies and local and regional self-government units, which are required to ensure an appropriate legal framework and its effective and consistent implementation at the national, regional and local levels. The measures of the Action Plan also refer to proactive policies and campaigns for the promotion and protection of human rights, the right to equal treatment and the right to diversity.

One of the measures from the Action Plan was designing a leaflet that promotes the integration of foreigners into Croatian society. The ad hoc working group of the Permanent Commission on the integration of foreigners into Croatian society, with the support of the Office for Human Rights and the Rights of National Minorities (hereinafter: OHRRNM), drafted the Guide through the Integration of Foreigners

into Croatian Society²² in 2015. The Guide contains basic information about the Republic of Croatia and an overview of the rights that foreigners have in the field of social welfare, health care, education, work and employment, and accommodation and housing. The amended edition of the Guide was published in 2019, prepared by the Working Group for the operative implementation of the tasks of the Permanent Commission for the implementation of the integration of foreigners into Croatian society and translated into English, French, Ukrainian, Arabic, Urdu and Farsi.²³

The interdepartmental Permanent Commission for the implementation of the integration of foreigners into Croatian society was responsible for monitoring the implementation of the Action Plan, and the OHRNM coordinated the work of all ministries, non-governmental organizations and other bodies involved in the integration of refugees.

In May 2017, a new Action Plan for the integration of persons granted international protection for the period from 2017 to 2019 was adopted²⁴. The Working Group included representatives of all relevant bodies, ministries, public institutions, non-governmental organizations and others. The Working Group was coordinated by the OHRNM. The reason for drafting the new Action Plan was the refugee-humanitarian crisis from 2015 and the particular vulnerability of persons granted international protection. The aim of the Action Plan was to provide them with assistance and protection in order to more easily overcome the difficult situation after the crisis, which affected almost all EU member states. It is focused on the areas of social welfare and health care, accommodation and housing, language learning and education, employment, interdepartmental cooperation and the sensitization of the public and professionals about persons who have been granted international protection. The Report on the implementation of measures from the Action Plan for the integration of persons granted international protection for the period from 2017 to 2019 and for 2017 and 2018²⁵ shows that the development of a single document such as the Action Plan and the establishment of the Permanent Commission and its Working Group contributed to a more systematic and organized approach to the integration of foreigners into Croatian society. Furthermore, most of the measures from the Action Plan were implemented as planned.

22 Vodič kroz integraciju – osnovne informacije za integraciju stranaca u hrvatsko društvo. Available at: <https://pravamanjina.gov.hr/UserDocImages/dokumenti/Vodi%C4%8D%20kroz%20integraciju%20-%20Osnovne%20informacije%20za%20integraciju%20stranaca%20u%20hrvatsko%20dru%C5%A1tvo.pdf> (20 March 2017)

23 Dopunjeno izdanje Vodiča kroz integraciju, available at: <https://ljudskaprava.gov.hr/vijesti/objavljeno-dopunjeno-izdanje-vodica-kroz-integraciju/853> (7 September 2020)

24 Akcijski plan za integraciju osoba kojima je odobrena međunarodna zaštita za razdoblje od 2017. do 2019. godine. Available at: <https://pravamanjina.gov.hr/UserDocImages/dokumenti/AKCIJSKI%20PLAN%20ZA%20INTEGRACIJU%202017-2019.pdf> (7 September 2020)

25 Izvješće o provedbi mjera iz Akcijskog plana za integraciju osoba kojima je odobrena međunarodna zaštita za razdoblje od 2017. do 2019. godine za 2017. i 2018. godinu. Available at: <https://pravamanjina.gov.hr/UserDocImages/dokumenti/Izve%C5%A1e%20o%20provedbi%20mjera%20iz%20AP%20za%20integraciju-2017.%20i%202018.pdf> (7 September 2020)

I. Framework for the Integration of Refugees into Croatian Society

The adoption of a new document for the integration of beneficiaries of international protection is expected.

Among other policy documents, two noteworthy documents include the Strategy for Combating Poverty and Social Exclusion of the Republic of Croatia (2014-2020)²⁶, in which refugees are also recognized as one of the most vulnerable groups in the population, as well as among the poorest groups, and potentially excluded from access to fundamental rights given their economic status, and the National Program for the Protection and Promotion of Human Rights in the 2013-2016 Period²⁷, which states among its objectives the improvement of the integration of refugees and foreigners under subsidiary protection and the training of officials and employees directly involved in the implementation of asylum policy.

In April 2019, the OHRNM reached the Decision on the establishment of a working group for the development of the national program for the protection and promotion of human rights for the 2019-2024 period.²⁸ The working group includes representatives of the ministries, the OHRNM, the Office of the Ombudsperson for Children, the Office of the Ombudsperson, the Office for Cooperation with NGOs, the Office for Gender Equality, the Office of the Ombudsperson for Persons with Disabilities, the representative of higher education institutions and two representatives of civil society organizations dealing with the protection and promotion of human rights.

The integration system in Croatia has been significantly improved through the implementation of various project activities financed from EU funds. Among the most important are the development of the Framework for the integration of persons granted international protection at the local level, the development of the criteria for creating the Relocation Plan and a survey of citizens' attitudes and the preparedness of Croatian local communities (Giljević, Lalić Novak, 2019: 178).

The framework for the integration of persons granted international protection at the local level²⁹ was developed as part of the "Support for migrant integration policy implementation"³⁰ project, funded by the European Union through the IPA 2012 instrument.

26 Strategija borbe protiv siromaštva i socijalne isključenosti Republike Hrvatske (2014. – 2020.) Available at: <https://vlada.gov.hr/UserDocImages/ZPPI/Strategije/Strategija%20borbe%20protiv%20siroma%C5%A1tva.pdf> (8 September 2020)

27 Nacionalni program zaštite i promicanja ljudskih prava 2013.–2016. Available at: <https://pravamanjina.gov.hr/UserDocImages/dokumenti/Nacionalni%20program%20za%20a1tite%20i%20promicanja%20ljudskih%20prava%20za%20razdoblje%20od%202013.%20do%202016.%20godine.pdf> (8 September 2020)

28 Odluka o osnivanju radne skupine za izradu Nacionalnog programa za zaštitu i promicanje ljudskih prava za razdoblje od 2019. do 2024. godine. Available at: https://udruga.gov.hr/UserDocImages/dokumenti/Odluka_NAP%202019_2024.pdf (8 September 2020)

29 Okvir za integraciju osoba kojima je odobrena međunarodna zaštita na lokalnoj razini. Available at: <https://www.irh.hr/dokumenti/50-okvir-za-integraciju-osoba-kojima-je-odobrena-medunarodna-zasti-ta/file> (9 September 2020)

30 <https://judskaprava.gov.hr/vijesti/poziv-na-uvodnu-konferenciju-ipa-2012-frac-potpora-provedbi-politike-za-integraciju-migranata/703> (9 September 2020)

As part of the "Support for third-country nationals granted international protection"³¹ project implemented by the OHRNM in 2018 and funded through the Asylum, Migration and Integration Fund (AMIF) National Program, criteria were developed for the creation of the Relocation Plan, as one of the measures from the 2017 Action Plan. The project also included a survey of the attitudes of Croatian citizens towards persons granted international protection and the willingness of local units to accept integration in their communities. Based on the results of the research, lists have been created to assess the needs and challenges of the integration of local and regional units, which can serve as a tool for local and regional units to identify the needs and challenges of the integration of third-country nationals in need of international protection (Giljević, Lalić Novak, 2019: 179).

5. Conclusion

Mixed migration trends during 2015 and 2016 significantly influenced the development of EU integration policies. At the EU level, the successful integration of migrants who are third-country nationals is considered an issue of common interest for all Member States with the aim of developing an integration policy that will enable the comprehensive and long-term integration of refugees into the Member States' societies, as well as encouraging the faster development of integration policies through available funds.

After analyzing national regulations and policy documents, it is possible to conclude that the Croatian integration policy is evolving under the influence of the EU, as well as other factors, such as the increased number of people who need to be integrated into society. An effort is also made to develop integration policies on the local level.

Since the development of integration policies will depend on the type of migration and the EU's attitude to irregular migration, it is necessary to develop integration policies for different categories of migrants.

Literature

Garcés-Mascreñas, B., Penninx, R. (2016) The Concept of Integration as an Analytical Tool and as a Policy Concept. In: Penninx, R., Garcés-Mascreñas, B. (eds.) *Integration Processes and Policies in Europe. Contexts, Levels and Actors*. Cham: Springer Open, pp 11-29.

Giljević, T., Lalić Novak, G. (2019) Pravno i institucionalno uređenje integracije migranata u Republici Hrvatskoj – prema europskom modelu, *Godišnjak Akademije pravnih znanosti Hrvatske*, X (1), pp 163–184.

Hathaway, J. C. (2005) *The Rights of Refugees under International Law*. Cambridge: Cambridge University Press.

³¹ <https://ljudskaprava.gov.hr/projekti/fond-za-azil-migracije-i-integraciju-amif/podrska-integraciji-drzav-ljana-trecih-zemalja-kojima-je-potrebna-medjunarodna-zastita/939> (9 September 2020)

I. Framework for the Integration of Refugees into Croatian Society

Lapaš, D. (2008) Međunarodnopravna zaštita izbjeglica, Zagreb: Hrvatski pravni centar
Penninx, R. (2007) Integration Processes of Migrants: Research Findings and Policy Challenges, *Migracijske i etničke teme*, 23(1-2), pp 7–32.

Documents and regulatory texts

Akcijski plan za integraciju osoba kojima je odobren međunarodna zaštitu za razdoblje 2017. – 2019. Available at: <https://pravamanjina.gov.hr/UserDocsImages/dokumenti/AKCIJSKI%20PLAN%20ZA%20INTEGRACIJU%202017-2019.pdf> (7 September 2020)

Akcijski plan za uklanjanje prepreka za ostvarivanje određenih prava na području integracije stranaca za razdoblje 2013. – 2015. godine. Available at <https://ljudskaprava.gov.hr/integracija-stranaca-u-hrvatsko-drustvo/643> (20 March 2017)

Charter of Fundamental Rights of the European Union, OJ C 303, 14 December 2007. Available at: https://fra.europa.eu/sites/default/files/charter-of-fundamental-rights-of-the-european-union2007-c_303-01_en.pdf (25 February 2017)

Commission of the European Communities, Communication from the Commission to the Council, the European Parliament, the European economic and Social committee and the Committee of the Regions, A Common Agenda for Integration – Framework for the Integration of Third-Country Nationals in the European Union, COM/2005/389, 1 September 2005. Available at: <https://eur-lex.europa.eu/legal-content/eN/TXT/PDF/?uri=CeLeX:52005DC0389&from=eN> (5 March 2017)

Commission Staff working Paper, EU initiatives supporting the integration of third-country nationals, SeC(2011) 957 final. Available at: https://ec.europa.eu/home-affairs/sites/homeaffairs/files/doc_centre/immigration/docs/2011_commission_staff_working_paper_on_integration.pdf (7 March 2017)

Communication on Immigration, Integration and employment (COM(2003) 336). Available at: <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//eP//TeXT+RePORT+A5-2003-0445+0+DOC+XML+V0//eN> (3 March 2017)

Communication from the Commission to the European Parliament, the Council, the European economic and Social Committee and the Committee of the Regions: Action Plan on the integration of third country nationals. Available at: https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/policies/european-agenda-migration/proposal-implementation-package/docs/20160607/communication_action_plan_integration_third-country_nationals_en.pdf (7 March 2017)

Consolidated versions of the Treaty on European Union and the Treaty on the Functioning of the European Union, OJ C 83, 30 March 2010.

Conclusions of the Council and the Representatives of the Governments of the Member States on the integration of third-country nationals legally residing in the EU, Council document 15312/16. Available at: <https://data.consilium.europa.eu/doc/document/ST-15312-2016-INIT/en/pdf> (7 March 2017)

Council of the EU, Common basic principles for immigrant integration policy in the European Union, 14615/04 (Presse 321), 19 November 2004. Available at: <https://>

I. Framework for the Integration of Refugees into Croatian Society

www.consilium.europa.eu/ueDocs/cms_Data/docs/pressData/en/jha/82745.pdf
(3 March 2017)

Direktiva Vijeća 2001/55/EZ od 20. srpnja 2001. o minimalnim standardima za dodjelu privremene zaštite u slučaju masovnog priljeva raseljenih osoba te o mjerama za promicanje uravnoteženih napora država članica pri prihvatu i snošenju posljedica prihvata tih osoba, OJ C 212, 7 August 2001. Available at: <https://eur-lex.europa.eu/legal-content/HR/TXT/HTML/?uri=CeLeX:32001L0055&qid=1603897950850&from=HR> (16 March 2017)

Direktiva Vijeća 2003/86/EZ od 22. rujna 2003. o pravu na spajanje obitelji, OJ C 251, 3 October 2003. Available at: <https://eur-lex.europa.eu/legal-content/HR/TXT/HTML/?uri=CeLeX:32003L0086&qid=1603898032989&from=HR> (16 March 2017)

Direktiva 2013/32/EU europskog parlamenta i Vijeća od 26. lipnja 2013. o zajedničkim postupcima za priznavanje i oduzimanje međunarodne zaštite (preinačena), OJ C 180, 29 June 2013. Available at: <https://eur-lex.europa.eu/legal-content/HR/TXT/HTML/?uri=CeLeX:32013L0032&qid=1603898141630&from=HR> (16 March 2017)

Direktiva 2013/33/EU europskog parlamenta i Vijeća od 26. lipnja 2013. o utvrđivanju standarda za prihvata podnositelja zahtjeva za međunarodnu zaštitu (preinačena), OJ C 180/96, 29 June 2013. Available at: <https://eur-lex.europa.eu/legal-content/HR/TXT/HTML/?uri=CeLeX:32013L0033&qid=1603898245662&from=HR> (16. 3. 2017.)

Direktiva 2011/95/EU europskog parlamenta i Vijeća od 13. prosinca 2011. o standardima za kvalifikaciju državljanina trećih zemalja ili osoba bez državljanstva za ostvarivanje međunarodne zaštite, za jedinstveni status izbjeglica ili osoba koje ispunjavaju uvjete za supsidijarnu zaštitu te za sadržaj odobrene zaštite (preinačena), OJ C 337, 20 December 2011. Available at: <https://eur-lex.europa.eu/legal-content/HR/TXT/HTML/?uri=CeLeX:32011L0095&qid=1608209419300&from=HR> (16 March 2017)

ECRE (1999). Good Practice Guide on the Integration of Refugees in the European Union. Available at: <https://www.refworld.org/docid/4652feff2.html> (10 February 2017)

European web Site on Integration. Available at: <https://ec.europa.eu/migrant-integration/home> (20. 3. 2017.)

European Commission, Communication from the Commission to the Council, the European Parliament, the European Economic and Social committee and the Committee of the Regions, European Agenda for the Integration of Third-Country Nationals, COM/2011/455 final. Available at: <https://eur-lex.europa.eu/legal-content/eN/TXT/HTML/?uri=CeLeX:52011DC0455&from=eN> (7 March 2017)

Handbook on Integration for Policy Makers and Practitioners. Available at: <https://ec.europa.eu/migrant-integration/librarydoc/handbook-on-integration-for-policy-makers-and-practitioners-3rd-edition---2010> (6 March 2017)

Research "Koje sve mjere postoje da bi se osigurala dugoročna integracija migranata i izbjeglica u Europi?". Available at: <https://ec.europa.eu/migrant-integration/feature/what-measures-are-in-place-to-ensure-the-long-term-integration-of-migrants-and-refugees-in-europe> (7 September 2020)

Izvješće o provedbi mjera iz Akcijskog plana za integraciju osoba kojima je odobrena međunarodna zaštita za razdoblje od 2017. do 2019. godine za 2017. i 2018. godinu. Available at: <https://pravamanjina.gov.hr/UserDocsImages/dokumenti/>

I. Framework for the Integration of Refugees into Croatian Society

Izvjede%20C5%A1%C4%87e%20o%20provedbi%20mjera%20iz%20AP%20za%20integro-ciju-2017.%20i%202018.pdf (7 September 2020)

Komunikacija Komisije europskom parlamentu, Vijeću, europskom gospodarskom i soci-jalnom odboru i Odboru regija, Akcijski plan za integraciju državljana trećih zemalja, COM/2016/377 final. Available at: https://ec.europa.eu/home-affairs/sites/home-affairs/files/what-we-do/policies/european-agenda-migration/proposal-implementation-package/docs/20160607/communication_action_plan_integration_third-coun-try_nationals_en.pdf (7 March 2017)

Konvencija o statusu izbjeglica, UNTS 189, 28 July 1951, OG SFRY – IA 15/1960
Migracijska politika Republike Hrvatske za razdoblje 2013.–2015., NN 27/13.

Nacionalni program zaštite i promicanja ljudskih prava 2013.– 2016. Available at: <https://pravamanjina.gov.hr/UserDocImages/dokumenti/Nacionalni%20program%20za%20a1tite%20i%20promicanja%20ljudskih%20prava%20za%20razdoblje%20od%202013.%20do%202016.%20godine.pdf> (8 September 2020)

Odluka o osnivanju radne skupine za izradu Nacionalnog programa za zaštitu i promicanje ljudskih prava za razdoblje od 2019.–2024. godine. Available at: https://udruge.gov.hr/UserDocImages//dokumenti/Odluka_NAP%202019_2024.pdf (8 September 2020)

Okvir za integraciju osoba kojima je odobrena međunarodna zaštita na lokalnoj razini. Available at: <https://www.irh.hr/dokumenti/50-okvir-za-integraciju-osoba-kojima-je-odobrena-medunarodna-zastita/file> (8 September 2020)

Protokol o statusu izbjeglica, UNTS 606, 31 January 1967, OG SFRY – IA 15/1967.

Strategija borbe protiv siromaštva i socijalne isključenosti Republike Hrvatske (2014. – 2020.). Available at: <https://vlada.gov.hr/UserDocImages/ZPPI/Strategije/Strategija%20borbe%20protiv%20siroma%C5%A1tva.pdf> (8 September 2020)

Tampere European Council 15 and 16 October 1999, Presidency Conclusions. Available at: http://www.europarl.europa.eu/summits/tam_en.htm (3 March 2017)

The Stockholm Program, OJ C 115, 4 May 2010. Available at: [http://eur-lex.europa.eu/legal-content/eN/TXT/HTML/?uri=CeLeX:52010XG0504\(01\)&from=eN](http://eur-lex.europa.eu/legal-content/eN/TXT/HTML/?uri=CeLeX:52010XG0504(01)&from=eN) (6 March 2017)

UNHCR (2003). General Conclusion on International Protection, No. 95 (LIV). Available at: <https://www.refworld.org/docid/3f93aede7.html> (20 February 2017)

UNHCR (2006). Rights of Refugees in the Context of Integration: Legal Standards and Recommendations, POLAS/2006/02. Available at: <https://www.unhcr.org/44bb90882.pdf> (20 February 2017)

UNHCR (2005). Conclusion Local Integration, No. 104 (LVI). Available at: <https://www.refworld.org/docid/4357a91b2.htm> (20 February 2017)

Vodič kroz integraciju – osnovne informacije za integraciju stranaca u hrvatsko društvo. Available at: <https://pravamanjina.gov.hr/UserDocImages/dokumenti/Vodi%C4%8D%20kroz%20integraciju%20-%20Osnovne%20informacije%20za%20integraciju%20strana-ca%20u%20hrvatsko%20dru%C5%A1tvo.pdf> (20 March 2020)

Zakon o međunarodnoj i privremenoj zaštiti, NN 70/15 i 127/17.

I. FRAMEWORK FOR THE INTEGRATION OF REFUGEES INTO CROATIAN SOCIETY

Anamarija Kovač

SUMMARY

In the past few years, the integration of refugees has reached a very high position on the scale of political and social priorities of EU institutions. The successful integration of refugees is in the interest of all Member States. In Croatia, we are witnessing a trend of increasing numbers of refugees who need to be successfully integrated into Croatian society.

The proper integration of migrants and refugees leads to their independence in a new environment where they become full members of society and who must also respect the host country's fundamental values.

In order to offer a broader picture of the rights to which refugees and foreigners under subsidiary protection are entitled, the author analyses the rights guaranteed by the Convention Relating to the Status of Refugees of 1951 and its Protocol of 1967. Furthermore, she analyses the EU framework for the integration of migrants and refugees containing the most important regulations and soft law documents of the EU. There is also an overview of the integration policies of Croatia. The conclusion is reached that the future development of these policies depends on the different types of migration and on the EU's attitude to irregular migration. It is therefore necessary to develop integration policies for different categories of migrants.

keywords: asylum, integration, refugees, subsidiary protection

II.

THE PROVISION OF SOCIAL SERVICES TO PEOPLE GRANTED INTERNATIONAL PROTECTION AT THE LOCAL LEVEL IN CROATIA*

SUMMARY

The Croatian Social Welfare Act lays down that a person granted international protection and his or her family members who legally stay in Croatia are entitled to social welfare rights under the same conditions and to the same extent as Croatian nationals. Initially, the place of accommodation of people granted international protection did not appear to be a possible cause of inequality in practice because most people under international protection were accommodated in Zagreb. However, an increase in the number of those granted international protection due to the implementation of the program of relocation and resettlement resulted in many of them being accommodated in other Croatian cities (e.g. in 2018, a number of people granted international protection were accommodated in Zadar and Slavonski Brod, and in 2019 in Sisak and Karlovac as well). In the future, the place of accommodation may cause social inequality for those granted international protection because different cities allocate different resources to finance various social programs, which are then also organized differently.

The author analyses social programs in four Croatian cities where people granted international protection are accommodated (Karlovac, Sisak, Zadar and Zagreb) and the impact of the place of accommodation on the level of their social rights. Finally, the author makes recommendations on how to upgrade the social welfare system at the local level to improve the position of people granted international protection.

Keywords: social welfare, place of accommodation, people granted international protection, cities

* Author: Teo Giljević, PhD, Assistant Professor at the Department of Administrative Science, University of Zagreb Faculty of Law.

1. Introductory Remarks

The Constitution of the Republic of Croatia defines the Republic of Croatia as a welfare state and it defines social justice, equality and respect for human rights as some of the highest values of the constitutional order. The Republic of Croatia (also referred to as Croatia) aims to secure a certain level of social security for all citizens, while for special categories of citizens in a more vulnerable position, the state provides assistance to meet basic subsistence needs through the social welfare system, which is governed by the Social Welfare Act (hereinafter: the SWA)¹ and regulations. Social welfare activity is defined in Article 3, which specifies that social welfare is an organized activity of public interest for the Republic of Croatia² with the aim of providing assistance to socially vulnerable people and people in unfavorable personal or family circumstances, which includes prevention, promotion of change, assistance in meeting basic subsistence needs, as well as support for individuals, families and groups with the aim of improving the quality of life and empowering the beneficiaries to meet their basic subsistence needs independently, as well as to participate actively in society. Croatia is a highly centralized country, where the largest number of social welfare rights are exercised through the basic institution of the social welfare system – the social welfare center (hereinafter: SWC) – founded by the Republic of Croatia and primarily funded from the State budget.

The rights and obligations of people under international protection³ in the Republic of Croatia are determined by the Act on International and Temporary Protection⁴ (hereinafter: AITP). Refugees have the following rights: right to residence in the Republic of Croatia, family reunification, accommodation, work, health care, education, freedom of religion, free legal aid, social welfare, assistance in integration into society, property ownership and the acquisition of Croatian citizenship pursuant to the regulations governing the acquisition of citizenship (Art. 64 of the AITP). The Ministry of the Interior is required to provide people under international protection with general information on the rights and obligations that they acquire when they are granted international protection within eight days of the service of the decision, in a language that they may justifiably be assumed to understand and in which they are able to communicate. The AITP also prescribes the obligations people under international protection are required to comply with: to respect the Constitution, laws and other regulations of the Republic of Croatia, to register their place of domicile within 15 days from the service of the decision granting international protection, to have their residence

1 Official Gazette 157/2013, 152/2014, 99/2015, 16/2017, 130/2017, 98/2019, 64/2020, 133/2020, 138/2020

2 Social welfare is a public service regardless of the fact that the legislator does not use that term but instead refers to an activity of particular interest to the Republic of Croatia.

3 The terms “refugee”, “person granted international protection”, “asylee” and “person under subsidiary protection” are used synonymously in this paper.

4 Official Gazette 70/2015, 127/2017.

permit on their person and allow people authorized by law to examine it, to attend a course in the Croatian language, history and culture (Article 64).⁵

The level of social entitlements in the Republic of Croatia depends, among other things, on the place of residence, both for Croatian citizens and for people under international protection, which is contrary to the fundamental principle of the equality of citizens in the exercise of social rights in the entire territory of the Republic of Croatia. Cities, municipalities and counties may allocate funds for monetary compensation and social services to residents in their area to a greater extent than set out in the SWA, in the manner stipulated in their general acts, if the funds are provided in their budget.⁶ The place of accommodation as a potential cause of social inequality in practice did not initially seem to be a problem for the refugee population as the majority of refugees were placed in the City of Zagreb. However, after the increase in the number of approved applications for international protection and the implementation of relocation and resettlement programs, an increasing number of refugees have been placed in other cities in the Republic of Croatia. In the future, the place of accommodation may cause social inequality for refugees because different cities allocate different resources to finance various social programs, which are then also organized differently.

2. Social Welfare Activities in Croatia

2.1. A Centralized Approach to Social Welfare Activities in Croatia

Article 6 of the 1997 Social Welfare Act prescribes that social welfare activity is performed by social welfare institutions, local and regional self-government units, associations, religious communities, other legal people, small businesses and other natural people engaged in social welfare activity, under the conditions and in the manner prescribed by that Act, special laws and implementing regulations. The adoption of this Act also marks the beginning of decentralization in the social welfare system, seeing as Article 7 requires that municipalities, cities and the City of Zagreb provide in their budget funds for social welfare using at least 5% of their income, which will primarily be used for housing allowance benefits.⁷ Local self-government units may also provide funds in their budget for exercising

5 The legislator prescribes much more restrictive rights for applicants for international protection. Article 52. of the AITP stipulates that applicants for international protection have the right to residence, freedom of movement within the Republic of Croatia, the provision of appropriate material reception conditions, health care, elementary and secondary education, information, legal counselling, and free legal assistance, freedom of religion, work and documents.

6 Article 117, par. 5. OF THE SWA.

7 Official Gazette 73/97. Article 96 of the previous Social Protection Act (Official Gazette 314/1991) prescribed that funds for exercising rights, meeting needs and promoting interests in the area of social protection were provided and allocated to the Republic Fund from the Republic budget.

II. The Provision of Social Services to Persons Granted International Protection

a broader scope of rights in the area of social welfare and for the provision of other types of assistance, on which they shall adopt their own general acts. Social welfare centers are funded from the State budget and the budget of the local and regional self-government unit in whose territory the center operates. The system of social assistance and social welfare services was based on the principle of subsidiarity, which affirmed the responsibility of individuals and families for their own social security.⁸ Amendments to the 2001 Act prescribed the obligation for cities and municipalities (local self-government units) to allocate funds in their budgets for housing allowances, as well as the obligations for counties to allocate funds in their budgets for heating allowances (Article 7).⁹ Large cities and county seats are also required to provide funding for soup kitchens and homeless shelters, while cities, municipalities and counties may provide greater funding for monetary compensation for socially vulnerable populations and social services to a greater extent than the minimum prescribed by law (see Babić, 2018).

Articles 116 and 117 of the current SWA provide for the funding of the social welfare system in Croatia in such a way that most of the funds are to be provided in the State budget, while a portion of the funds is to be provided in the local and county budgets. The Republic of Croatia provides funds in the State budget for the following rights and activities:

- right to monetary compensation in the social welfare system,
- right to social services,
- funding the operation of social welfare centers,
- funding social welfare homes and community service centers established by the Republic of Croatia.

On the other hand, cities, municipalities and counties allocate funds for the performance of social welfare activities pursuant to the SWA and a special regulation, in accordance with the social plan and the social services network in their territories. Furthermore, local and regional self-government units allocate funds for the operation of the social welfare institutions that they established, for servicing and maintenance costs relating to the facilities, equipment and means of transportation of those institutions, as well as for servicing and maintenance costs relating to IT equipment and other communication equipment.

Cities and county seats are also required, in accordance with their financial capacity, to promote and provide other forms of material assistance and support for the citizens in their area, such as:

- meals in soup kitchens,
- temporary accommodation in homeless shelters,

8 http://www.iusinfo.hr/AppendixextCro/RDOCSB_HR//ent_id_9230.pdf

9 Act on Amendments to the Social Welfare Act 51/2001

II. The Provision of Social Services to Persons Granted International Protection

- accommodation for people receiving the guaranteed minimum allowance in social housing,
- subsidies for certain social and other services in accordance with their general acts and the SWA,
- support for the work of associations and volunteer work in social welfare
- and the development of other forms of social welfare in their territory (Art. 122, par. 1 of the SWA).

If cities and county seats are unable to provide funds for the above forms of assistance and services, counties will also participate in funding those forms of assistance and services, in accordance with their financial capacity (Art. 122, par. 2 of the SWA). In crisis situations, when families with minor children lose their homes and are unable to ensure their own accommodation, local and regional self-government units are required to provide them with temporary accommodation in a social housing unit or in another manner, in order to prevent the separation of children from adult family members (Art. 122, par. 3 of the SWA).

As regards granting social welfare rights, the Social Welfare Center¹⁰ decides on granting the following rights:

- guaranteed minimum allowance,
- personal allowance for accommodation beneficiaries,
- one-time allowance,
- education allowances,
- personal disability allowance,
- assistance and care allowance,
- status of a parent-caretaker or status of a caretaker,
- unemployment benefits,
- and social services.¹¹

Local self-government units and the City of Zagreb only decide on the granting of rights to housing allowance, whereas regional self-government units and the City of Zagreb decide on the granting of rights to heating allowance.

All of the above shows that the social welfare activity in the Republic of Croatia is highly centralized regardless of the constitutional provision stipulating that local self-government units should carry out the activities of social services within the scope of self-government.

¹⁰ The competent social welfare center is the center where the party has their permanent residence (Art. 100, par. 4. of the SWA).

¹¹ Article 100 of the SWA.

2.2. Social Welfare for People Granted International Protection

The Social Welfare Act¹² stipulates that, in addition to Croatian citizens with domicile in the Republic of Croatia, social welfare rights are also granted to stateless people with permanent residence in the Republic of Croatia. Foreigners under subsidiary protection, foreigners with the established status of victim of trafficking in human beings, refugees and members of their families lawfully residing in the Republic of Croatia are granted social welfare rights under the conditions prescribed by the above Act and special regulation.¹³ The AITP also states that refugees have the right to assistance in integrating into Croatian society, which includes drawing up a plan of integration in view of their individual needs, knowledge, abilities and skills; providing assistance for the implementation of the plan; and supervising the implementation of the plan. The Ministry of the Interior is in charge of conducting the above activities (Art. 76, par. 3); however, in reality, due to the lack of administrative capacity of the Ministry, this task is not carried out in an adequate manner that would facilitate integration for individuals by providing clear guidelines (see Lalić Novak and Giljević, 2019). The Evaluation of the implementation framework for the integration of migrants states that it is not realistic to expect the Ministry of the Interior to draw up individual integration plans as it lacks adequate administrative capacities.¹⁴

According to the Action Plan for the Integration of People Granted International Protection for the Period from 2017 to 2019 (hereinafter: Action Plan)¹⁵ of the rights from the social welfare system, refugees most often exercise the right to guaranteed minimum allowance, one-time allowance, housing allowance, assistance and care allowance, and allowance for fuel and meals in soup kitchens. In addition to financial entitlements, refugees are entitled to social services, which provide individuals with information about social welfare rights, and which help them to overcome difficulties and develop personal opportunities and a responsible attitude towards themselves, their families and society. Experts responsible for working with people under international protection have been appointed in all social welfare centers and social welfare center branches, thereby implementing Measure 2.1. provided for in the Action Plan.

The social rights most often exercised by refugees according to the Action Plan are summarized below.

12 Article 22, par. 2 of the SWA.

13 By way of derogation, a person not included in any category referred to in Article 22 of the SWA may be granted the right to a one-time allowance and temporary accommodation under the conditions prescribed by this Act, provided this is necessary due to the person's circumstances at the time (Art. 22, par. 3).

14 Available at: <https://www.irh.hr/dokumenti/50-okvir-za-integraciju-osoba-kojima-je-odobrena-medunarodna-zastita/file> (22 September 2019)

15 Action Plan for the Integration of People Granted International Protection for the Period from 2017 to 2019 Available at: <https://pravamanjina.gov.hr/UserDocsImages/dokumenti/AKCIJSKI%20PLAN%20ZA%20INTEGRACIJU%202017-2019.pdf> (11 October 2019)

2.2.1. Monetary Compensation

The guaranteed minimum allowance is an entitlement to a cash sum for meeting the basic subsistence needs of an individual person or household that do not have sufficient funds to meet basic subsistence needs. It is recognized from the date of the submission of the request to the competent social welfare center, or from the date of initiating the procedure *ex officio*, and it is paid monthly. The basis on which the amount of the guaranteed minimum allowance is calculated is decided by the Government of the Republic of Croatia and is currently HRK 800.00.¹⁶ Refugees do not have the right to a guaranteed minimum allowance while staying at a Reception Centre for Asylum Seekers, in the period from being granted international protection to being housed in private accommodation (Art. 29, par. 2 of the SWA).

A one-time allowance is granted to an individual or household that, due to current financial difficulties, is not able to meet basic subsistence needs pertaining to the birth or schooling of a child, the illness or death of a family member, a natural disaster and the like. It can also be granted for the provision of basic household items or the provision of necessary clothing and footwear if these items cannot be sourced in cooperation with humanitarian organizations. A one-time allowance is granted as a right to a cash benefit or a right to compensation in kind¹⁷ (Art. 46-47 of the SWA).

2.2.2. Accommodation and Housing

Article 67 of the AITP states that people under international protection have the right to accommodation for a maximum period of two years from the date on which the decision approving international protection is served, if they do not possess financial means or property to support themselves. The provision of accommodation includes the process of finding, adapting, furnishing, maintaining, and the settlement of utility costs and rent for the housing unit provided (Art. 67a, par. 5).

The procedure for granting the right to accommodation is initiated by the refugee submitting an application with the competent social welfare center.¹⁸ If the SWC established that the person under international protection has the financial means or property that would allow them to participate in the payment of accommodation costs, the SWC will determine that the person under international protection shall participate in the payment of accommodation costs by making payments into the account of the Central State Office for Reconstruction and Housing Care.¹⁹

¹⁶ Decision on the Basis for Calculating the Amount of the Guaranteed Minimum Allowance, OG 114/14.

¹⁷ A one-time allowance may only exceptionally be granted to refugees staying in a Reception Centre for Asylum Seekers because, as a rule, it is not granted to beneficiaries of organized housing (Art. 46, par. 5).

¹⁸ The competent Center is determined according to the domicile of the refugee and foreigner under subsidiary protection.

¹⁹ If the SWC establishes that a refugee, during the period he or she is granted accommodation in accordance with the Act, has the means according to Article 4, paragraph 1, item 19 of the SWA, which would allow him or her to pay for accommodation costs, he or she is required to participate in the payment of accommodation costs (Art. 3 of the Ordinance on the Participation of Refugees, Foreigners under Subsidiary Protection and Foreigners under Temporary Protection in the Payment of Accommodation Costs, OG 59/2018).

II. The Provision of Social Services to Persons Granted International Protection

A refugee's right to accommodation ceases: after the expiry of two years from the date of service of the decision granting international protection, at the personal request of the person granted international protection, if he or she refuses provided accommodation without a justifiable reason, if he or she does not reside at the registered address continuously for more than 30 days without a justifiable reason, if it is determined that he or she is not eligible to be granted the right to accommodation, if it is determined that he or she does not take proper care of the provided accommodation, and if it is determined that he or she uses the provided accommodation contrary to its purpose.

After the expiration of two years, the responsibility for the provision of accommodation is transferred to local self-government units, which, in accordance with Article 41 of the SWA, are required to allocate funds for housing allowance in their budgets.

The Action Plan assumes the annual adoption of the Relocation Plan for People Granted International Protection in the Republic of Croatia in line with the identified needs of people granted international protection and with current possibilities. To date, the Relocation Plan has not been adopted and the relocation is still being done ad hoc, with available, habitable and furnished state-owned housing units at the disposal of the CSORH as the primary criterion. Consequently, local self-government units and their administrative bodies are not afforded sufficient time to prepare for the arrival of a new population with specific needs, which they have mostly never encountered before.

Pursuant to Article 41 of the SWA, local self-government units are required to allocate funds in their budgets for housing allowances, which refer to rent, charges for municipal services, electricity, gas, heating, water, sewage and other housing costs pursuant to special regulations. The right to housing allowance is granted to a single person or household – beneficiary of guaranteed minimum allowance.

2.2.3. Nourishment in Soup Kitchens

Pursuant to Article 117, paragraph 4. of the SWA, large cities and county seats are required to allocate funds in their budgets for meals in soup kitchens.. The Ministry of Demographics, Family, Youth and Social Policy sent a recommendation to soup kitchens to plan a menu that is appropriate for the cultural and religious convictions of people under international protection, fulfilling Measure 2.4 of the Action Plan.²⁰

²⁰ Report on the Implementation of the Measures of the Action Plan for the Integration of People who have been Granted International Protection for the Period from 2017 to 2019 Available at <https://vlada.gov.hr/UserDocsImages/2016/Sjednice/2019/Stu-deni/190%20sjednica%20VRH/190%20-%208%20b.docx>

3. An Analysis of the Form of Social Assistance Provided by Cities – Studies Carried out in Four Croatian Cities (Zagreb, Karlovac, Sisak and Zadar)

3.1. Introductory Remarks on Social Assistance at the Local Level

Significant differences in the level of economic development between individual parts of Croatia not only affect the differences in the social position of inhabitants of Croatian counties and cities, but also the fiscal capacities of local and county budgets for funding social programs. Less developed Croatian cities face a number of social problems such as unemployment and poverty, which is why they need more complex social programs to tackle major social problems in their area. Due to the low level of economic activity, the fiscal capacity of these units is limited and unable to ensure funds for the necessary social programs on the level of the City of Zagreb, which is the most economically developed part of the Republic of Croatia. In this way, the insufficient economic development of a certain area leads to the social inequality of citizens, which then increases over time (cf. Šućur *et al*, 2016; Babić, 2018).

The author analyzes four cities in which refugees have been placed – Karlovac, Sisak, Zadar and Zagreb. Three of these are county seats, with the status of city²¹, while the City of Zagreb, as the capital of the Republic of Croatia, is a special and unique territorial and administrative unit governed by the City of Zagreb Act²² and has the status of both a city and county.

Table 1. Funds allocated to social protection per capita in 2011 and 2015 in select cities in which refugees were placed

	2011	2015
Karlovac	HRK 161	HRK 148
Sisak	HRK 464	HRK 357
Zadar	HRK 167	HRK 127
Zagreb	HRK 563	HRK 582

Source: <http://www.udruga-gradova.hr/usporedba-gradova/>

The table shows that there are significant differences between the cities in terms of the funds allocated from the budget to social protection. With HRK 582.00,

21 Act on Local and Regional Self-Government, (OG 33/2001, 60/2001, 129/2005, 109/2007, 36/2009, 125/2008, 36/2009, 150/2011, 144/2012, 123/2017, 98/2019, 144/20).

22 The City of Zagreb Act OG 62/2001, 125/2008, 36/2009, 119/2014, 98/2019, 144/20.

II. The Provision of Social Services to Persons Granted International Protection

the City of Zagreb allocates the most out of all cities in Croatia by far, while its social program is the most developed and comprehensive. In 2015, the national average investment of cities in social protection amounted to HRK 182.00, which is less than what Karlovac and Zadar allocate to social protection. On the other hand, the City of Sisak allocates substantial funds to social protection, almost double the amount of the national average.

Social programs of all Croatian cities consist of the legally required activities and the municipal program through which they ensure monetary compensation and social services to residents in their area to a greater extent than set out in the SWA, in the manner stipulated in their general act – the Decision on Social Welfare. The Decision on Social Welfare is analyzed for each city, with special emphasis on the right to housing and social services for children and young people.

3.2. The City of Karlovac

Article 5 of the Decision on Social Welfare²³ states that a social welfare beneficiary is an individual person, family member or family that does not have sufficient funds to meet basic subsistence needs and is unable to secure them through work or income from assets or other sources. The rights established by this Decision may be exercised by Croatian citizens who have their domicile in the territory of the City of Karlovac and stateless people or foreign nationals with permanent residence in the territory of the Republic of Croatia, which means that refugees may also exercise these rights.²⁴

3.2.1. Housing

The Decision on the Requirements and Criteria for Renting Apartments Owned by the City of Karlovac²⁵ establishes Croatian citizenship as one of the requirements, as well as having continuous domicile in the territory of the City for at least 10 years. The continuous 10-year domicile is not required if the applicant is under the age of thirty-five and applies for the Youth Priority List. Thus, refugees do not meet the general requirements and cannot exercise the right to rent a social housing unit owned by the City of Karlovac, either on the General Priority List or on the Youth Priority List. However, there is an exception to the above requirements, where the mayor may at the suggestion of the Housing Commission, allocate an apartment without an official tender to: people of particular importance to

23 Official Gazette of the City of Karlovac 7/14, 13/15, 15/15, 13/17.

24 In addition to domicile and the total income of the population, the Housing Subsidies and Other Forms of Social Assistance Program for 2020 (Official Gazette of the City of Karlovac 19/19) also specifies Croatian citizenship as a requirement for exercising the right to assistance, contrary to the Decision on Social Welfare, which stipulates in Article 6 that social welfare rights may be exercised by a Croatian citizen who has his or her domicile in the territory of the City of Karlovac and a stateless person or a foreign national with permanent residence in the territory of the Republic of Croatia. For the purpose of ensuring legal certainty, the implementing act should be amended and aligned with the Decision on Social Welfare.

25 Official Gazette of the City of Karlovac 11/19.

II. The Provision of Social Services to Persons Granted International Protection

the City, people working in shortage occupations, and people exercising their right to renting an apartment owned by the city on the basis of the law or final decision or enforcement decision of the court, as well as in other socially justified cases. A rental agreement for these categories of people can be concluded for a period of up to 3 years, and a new rental agreement may be concluded after the expiry of this term. The provision on granting an apartment outside a priority list opens up the possibility of renting a municipal apartment to refugees after the two years of their paid accommodation expire, if they do not have sufficient funds to rent an apartment and they face difficulties in finding an apartment on the market for families with two or more young children. In such a situation, the mayor could grant the rental of a municipal apartment to a refugee family for justified reasons, but this is only an exception to the general rule and cannot be accepted as a valid solution for addressing the housing issues of refugees.

All of the above leads to the conclusion that it would be socially fair to amend the Decision on the Requirements and Criteria for Renting Apartments Owned by the City of Karlovac in the near future to provide for the possibility of refugee populations being granted municipal apartments through the regular procedure.

3.2.2. The Protection of Children and Young People

Subsidy for Kindergarten Costs

Children in households that meet the total income criteria have the right to subsidized placement in an institution for preschool education in an amount equal to 50% of the fees.²⁶ Parents with three or more children also have special privileges when it comes to subsidized housing costs. The City of Karlovac subsidizes 50% of kindergarten fees for the children of beneficiaries of the city social program and 100% for foster children.²⁷

Meal assistance for pupils in elementary schools

Pupils whose households meet the total income criteria (see household income for kindergartens), as well as children with disabilities or serious health issues, are entitled to free meals in elementary schools.

Summer vacation for children at the "Karlovac" hostel

Pre-school children placed in the "Karlovac" kindergarten or the "Četiri rijeke" kindergarten, as well as other children aged 6 and first- to seventh-grade elementary school pupils, whose households meet the total income criteria referred to in Chapter II, item 2 of the Housing Subsidies and Other Forms of Social Assistance Program of the City of Karlovac for 2020, are entitled to a free summer vacation at the "Karlovac" hostel in Selce, for up to 10 days in the period from June to August of the current year.

²⁶ Housing Subsidies and Other Forms of Social Assistance Program of the City of Karlovac for 2020, Official Gazette of the City of Karlovac 19/19.

²⁷ <https://mdomsp.gov.hr/istaknute-teme/demografija/demografske-mjere-na-lokalnoj-i-zupanijskoj-razini/10177>

Food assistance – milk for infants

Milk for infants is granted based on reports from visiting nurses of the Karlovac Health Center, according to the criteria and the total household income threshold, and based on the particular social circumstances in the household.

3.2.3. Other Social Rights Provided by the City of Karlovac

As a rule, refugees are not entitled to subsidies for an annual public transport pass given that, in addition to the household income requirement, an additional eligibility requirement must also be met (people over the age of 60, people with disabilities, people with serious illnesses, companions to blind people).

Special forms of assistance in extraordinary or emergency situations, which are not regulated by the Housing Subsidies and Other Forms of Social Assistance Program for 2020 of the City of Karlovac, may be granted by an Order or a Decision of the mayor. Assistance on the basis of a special decision may be granted in the following situations:

- sudden and especially difficult circumstances in the household, with a view to preventing more serious consequences,
- involvement of the City of Karlovac in humanitarian, traditional and extraordinary activities
- assisting citizens in covering the costs of particularly expensive treatment for very serious diseases,
- assisting citizens in the necessary repair of extremely bad, unhygienic or dangerous housing conditions,
- giving gifts to children and the most socially disadvantaged households (Easter, Christmas and other appropriate occasions).

Financial support for each newborn child in the amount of HRK 1,500.00 is granted to the parents of the child who have their registered domicile in the territory of the City of Karlovac.²⁸

The Administrative Department of Social Activities of the City of Karlovac, in cooperation with the Karlovac Social Welfare Centre, is campaigning against the stigmatization of marginalized groups with the aim of informing and educating young people about the needs and inclusion of marginalized groups (including the refugee population). This is a positive example of local measures and activities aimed at informing citizens and raising awareness, as well as improving the inclusion of all marginalized groups, including refugees, in the local community.²⁹

²⁸ <https://mdomsp.gov.hr/istaknute-teme/demografija/demografske-mjere-na-lokalnoj-i-zupanijskoj-razini/10177>

²⁹ See Youth Support Mechanisms – Social Policy, Health Care and Reproductive Health (Official Gazette of the City of Karlovac 19/19).

3.3. The City of Sisak

The Decision on Social Welfare of the City of Sisak³⁰ stipulates that the social welfare rights defined by this Decision are afforded to Croatian citizens with domicile in the territory of the City of Sisak and to foreigners and stateless people with permanent residence in the territory of the City of Sisak. This provision shows that refugees can also exercise the same rights, provided that they have permanent residence in Sisak. The Decision on Social Welfare defines the following social welfare rights provided by the City of Sisak: housing allowance, meals in soup kitchens, one-time allowance and allowance for funeral costs, allowance for pre-school institutions, school canteens, work with pupils with developmental disabilities - teaching assistants, summer vacations for children from socially disadvantaged families, temporary accommodation during extreme weather conditions, transportation for certain categories of citizens and the transportation of people with disabilities using a specialized van (Article 8). The Program of Public Needs in Social and Health Care of the City of Sisak in 2019³¹ includes activities in accordance with the SWA, as well as activities beyond the legal minimum.

The soup kitchen in Sisak is organized by Caritas of the Diocese of Sisak and the humanitarian organization Merhamet - Red Crescent Sisak, which determine the right to the food assistance program and keep records of beneficiaries, with financial support from the City of Sisak.

3.3.1. Housing

The renting of social housing units in the City of Sisak is regulated by the Decision on Renting Apartments,³² of which Article 2 establishes that an apartment may be rented to a person with (in addition to other requirements) continuous domicile of five years in the territory of the City of Sisak. Refugees are therefore unable to exercise this right.

3.3.2. The Protection of Children and Young People

Subsidy for Kindergarten Costs

Parents who meet the social requirement or the income requirement have the right to subsidies for kindergartens and nurseries. Article 34 of the Decision on Social Welfare prescribes that parents - service beneficiaries granted the right to the guaranteed minimum allowance under the Social Welfare Act, parents of children with developmental disabilities and guardians of children without parental care - are exempted from participating in payment for kindergartens.

30 Official Gazette of the Sisak-Moslavina County 33/20.

31 Official Gazette of the Sisak-Moslavina County 35/18.

32 Official Gazette of the Sisak-Moslavina County 10/10, 4/12, 21/12, 9/13, 23/15 and 13/16, 27/19.

After-school care

An after-school care program, which is an extracurricular program for lower-grade children, which includes organized stay, meals and learning on the school premises after or before school, is implemented in elementary schools that have the necessary space and if parents are sufficiently interested in such a program. The after-school care program may facilitate the learning of Croatian enabling the faster integration of refugee children, and may be rated positively.

Civic education

The Civic Education Program was introduced in all Sisak elementary schools for fifth-grade pupils from the 2018/19 school year, and from 2019/20, the program was expanded to include sixth grades as well, with the aim of developing in pupils human values based on understanding and acceptance, respect for diversity and human rights, as well as their active involvement in civil society. This or a similar program may be proposed to other local units to facilitate the integration of refugees into local communities. Pupils with disabilities are provided with teaching assistants, while a similar model may be suggested for refugee children to facilitate initial integration and the faster learning of Croatian.

The Ordinance on Student Scholarships and Other Forms of Support for Pupils and Students of the City of Sisak³³ stipulates that a scholarship may be awarded to full-time college students who are citizens of the Republic of Croatia and have domicile in the territory of the City of Sisak, so it follows that refugee pupils and college students who have domicile in the territory of the City of Sisak are not eligible because they are not Croatian citizens. It is therefore suggested to amend the Decision and eliminate Croatian citizenship as a requirement.

School meals

The City of Sisak covers the full costs of school meals in all nine elementary schools for pupils living in a household that was granted the guaranteed minimum allowance under the SWA and pupils who, according to the assessment of their homeroom teacher, live in difficult material circumstances.³⁴

Summer vacations for children from socially disadvantaged families

Twenty socially disadvantaged fifth-grade and sixth-grade Sisak elementary school pupils who have not yet visited the seaside are provided with free transportation to and accommodation in a commercial building in Zaoštrog.³⁵

3.3.3. Other Social Rights Provided by the City of Sisak

Public transportation in the City of Sisak is free for pensioners, people over the age of 65, unemployed people, beneficiaries of the guaranteed minimum

33 Official Gazette of the Sisak-Moslavina County 22/2019.

34 Article 36 of the Decision on Social Welfare.

35 Article 39 of the Decision on Social Welfare.

II. The Provision of Social Services to Persons Granted International Protection

allowance, beneficiaries of the assistance and care allowance, and beneficiaries of the personal disability allowance, people with disabilities and blind people with a companion.³⁶ The City of Sisak also funds the transportation of people with disabilities with a specialized van for transporting people with disabilities.

Financial support for each newborn child in the amount of HRK 3,000.00 is granted to the parents of the child who have a registered domicile in the territory of the City of Sisak, provided that at least one of the new-born child's parents or guardians has a registered domicile in the territory of the city of Sisak for at least a year before the child is born. It is suggested that having registered domicile for at least one year be eliminated as a requirement for the refugee population.

3.4. The City of Zadar

In accordance with the Decision on Social Welfare, Croatian citizens who at the time of the request have their domicile in the territory of the City of Zadar have access to the rights and other forms of assistance from the social and health care network.³⁷ In addition, certain rights prescribed by the Decision on Social Welfare may exceptionally be temporarily granted to people who do not have domicile in the territory of the City of Zadar if this is required by their life circumstances, which include: homeless people, foreign nationals with the established status of a victim of trafficking in human beings, refugees and their families, etc., provided that they lawfully reside in the territory of the City of Zadar (Article 5, paragraph 2). This provision does not take due account of refugees, given that this category of people may have domicile in the territory of the City of Zadar as was the case with refugees placed in the City of Zadar during the 2018 resettlement program. It is therefore suggested to amend Article 5, paragraph 2 so that it clearly prescribes that social welfare rights defined by this decision may be exercised by citizens of the Republic of Croatia domiciled in the City of Zadar, by refugees and foreigners under subsidiary protection domiciled in the City of Zadar, and by family members of refugees and foreigners under subsidiary protection lawfully residing in the Republic of Croatia who have been granted international protection in accordance with the AITP, modelled on the Decision on Social Welfare of the City of Zagreb. The Decision establishes the following social welfare rights:

1. housing allowance
2. heating allowance
3. meals in soup kitchens
4. temporary accommodation in homeless shelters

³⁶ Article 42 of the Decision on Social Welfare.

³⁷ Official Gazette of the City of Zadar 15/17.

II. The Provision of Social Services to Persons Granted International Protection

5. financial assistance for equipment for a newborn child
6. financial assistance to cover the costs of pre-school institutions
7. in-home care and assistance
8. public transportation allowance
9. one-time financial allowance for pensioners at Easter
10. early intervention services for children with developmental disabilities
11. financial assistance with funeral costs
12. one-time financial assistance
13. temporary accommodation in shelters for victims of domestic violence
14. access to social supermarkets
15. promotion of the work of associations and volunteer work in social welfare.³⁸

Article 14 of the Decision on Social Welfare stipulates that the right to meals in soup kitchens may be exercised by beneficiaries who exercise the right to a guaranteed minimum allowance through the competent social welfare center, as well as those who do not exercise that right, but who do not have sufficient means to meet basic subsistence needs due to unemployment or total incapacity for work.

The City of Zadar funds five programs with the main objective of reducing the risk of poverty and social exclusion among the most socially underprivileged categories of the population, empowering the most vulnerable groups of citizens of the City of Zadar, as well as devising population policy measures.^{39*}

3.4.1. Housing

The right to municipal apartments owned by the City of Zadar is conditioned on Croatian citizenship, as well as continuous domicile in the territory of the City of Zadar for the duration of 10 years prior to the request. The above requirements exclude refugees from accessing municipal housing.

3.4.2. The protection of children and young people – subsidy for kindergarten costs and after-school care

Parents domiciled in the territory of the City of Zadar who are beneficiaries of the right to a guaranteed minimum allowance and children from families with four or more children may be exempted from the payment of full-day kindergarten costs.⁴⁰ The right to subsidies for pre-school institutions in accordance with the Decision

³⁸ Article 6 of the Decision on Social Welfare.

³⁹ The Program of Social Welfare and Healthcare Needs of the City of Zadar for 2020 (Official Gazette of the City of Zadar 15/19)

⁴⁰ <https://mdomsp.gov.hr/istaknute-teme/demografija/demografske-mjere-na-lokalnoj-i-zupanijskoj-razini/10177>

II. The Provision of Social Services to Persons Granted International Protection

on Social Welfare is granted to parents depending on the social status of the family or the number of children in the family attending a pre-school institution.

3.4.3. Other Social Rights Provided by the City of Zadar

According to the Decision on Social Welfare and the Ruling determining the amount for the exercise of certain rights from the Decision on Social Welfare, the following categories of citizens can use public transportation free of charge: pensioners receiving up to HRK 2,750.00 in pension, people over the age of 65 not exercising their pension rights, members of certain citizens' associations and children from socially vulnerable families. Additionally, pupils in elementary schools also have the right to free public transportation and there is an on-demand transportation service for people with disabilities using a specialized van. One of the parents of a newborn child may exercise the right to a cash benefit for equipment for the newborn child, provided that he or she is a citizen of the Republic of Croatia having continuous registered domicile in the territory of the City of Zadar for at least one year immediately prior to the birth of the child and provided that the new-born child also has registered domicile in the territory of the City of Zadar.⁴¹ Like Sisak, it is suggested that having registered domicile for at least one year be eliminated as a requirement for the refugee population, as a particularly vulnerable group.

3.5. The City of Zagreb

The Decision on Social Welfare prescribes that social welfare rights may be exercised by citizens of the Republic of Croatia domiciled in the City of Zagreb, by refugees and foreigners under subsidiary protection domiciled in the City of Zagreb, and by family members of refugees and foreigners under subsidiary protection lawfully residing in the Republic of Croatia who have been granted international protection in accordance with the AITP.⁴² Article 4 of the Decision on Social Welfare establishes social welfare rights according to the following categories:

1. financial assistance,
 - a) financial assistance for pensioners;
 - b) financial assistance for the payment of supplementary health insurance premiums for beneficiaries of financial assistance for pensioners;
 - c) financial assistance for beneficiaries of the assistance and care allowance and beneficiaries of the personal disability allowance;
 - d) financial assistance for people granted the status of a parent-caretaker or the status of a caretaker; e) personal allowance for beneficiaries of retirement homes;
 - f) housing allowance;

⁴¹ Article 16 of the Decision on Social Welfare.

⁴² Official Gazette of the City of Zagreb 26/2014, 19/2015, 6/2016, 16/2016, 23/2016, 4/2019, 6/20.

II. The Provision of Social Services to Persons Granted International Protection

2. assistance in kind

- a) assistance for children in the form of dairy products;
- b) assistance in the form of family care packages;
- c) summer vacation;
- d) meals in soup kitchens;
- e) free annual pass for public transportation in Zagreb (ZET) for:
 - pensioners,
 - beneficiaries of guaranteed minimum allowance who are unable to work and provide for themselves,
 - unemployed people with disabilities,
 - people granted the status of a parent-caretaker or the status of a caretaker,
 - people over the age of 65,
 - voluntary blood donors,
 - family members of a killed, captive or missing Croatian Homeland War veteran;
- f) free annual or monthly pass for public transportation in Zagreb (ZET) for:
 - pupils and college students;
- g) free monthly pass for public transportation in Zagreb (ZET) for:
 - unemployed people

3. temporary accommodation

4. other forms of assistance

- a) in-home assistance;
- b) counseling and assistance;
- c) financial assistance with funeral costs.

3.5.1. Housing

The Decision on Renting Apartments⁴³ prescribes having continuous domicile in the City of Zagreb for at least 10 years as a requirement for the right to rent an apartment. This excludes refugees from accessing the right to rent municipal apartments.

Article 7 of the Decision on Renting Apartments establishes that an apartment may be rented outside the priority list to a person without adequate housing,

43 Official Gazette of the City of Zagreb 22/2009, 3/2012, 15/2012, 22/2013.

II. The Provision of Social Services to Persons Granted International Protection

or the possibility of acquiring it otherwise, if he or she is in an extremely difficult social or health situation and meets the requirement regarding the period of domicile, which automatically eliminates refugees from exercising the right to a municipal apartment outside the priority list.

3.5.2. The Protection of Children and Young People

Subsidy for kindergarten costs

The share in the economic price of a regular 10-hour program for children domiciled in the City of Zagreb paid by parents is determined according to the income threshold.⁴⁴ Parents may be entitled to payment reductions based on the number of children in the family - beneficiaries of regular programs, single parenthood, disability and the family's entitlement to a guaranteed minimum allowance in the social welfare system. Individual programs are provided for refugee children in kindergartens.

Primary education

Funds for the following programs were allocated in the budget of the City of Zagreb for the Program of Public Needs in Primary Education of the City of Zagreb for 2019⁴⁵:

1. after-school care
2. procurement of textbooks and school uniforms
3. subsidized meals
4. extracurricular and other activities
5. outdoor lessons
6. weekends in sports centers
7. teaching assistants/professional communication intermediary
8. school meal program containing fruit, vegetables, milk and dairy products.

After-school care

After-school care is provided for pupils in the first, second, third and, exceptionally, fourth grade in elementary schools. Prescribed exemptions from the obligation to participate in payment for this program that may be relevant to refugees include the provision that a child or his or her family are exempted from the obligation to participate in payment for the program if any of them exercise the right to a guaranteed minimum allowance in the social welfare system. In addition, the City Office for Education may, based on a reasoned request from the school in cooperation with social welfare centers, healthcare

⁴⁴ Decision on the Priority Enrollment of Children in Kindergarten and the Criteria for Collecting Payment from Parents – Service Beneficiaries for the Services of Kindergartens in the City of Zagreb (Official Gazette of the City of Zagreb 6/11, 19/11 and 15/12).

⁴⁵ Official Gazette of the City of Zagreb 28/18.

and other competent institutions, grant parents the right to an exemption from participating in payment for the program, or to a reduction of their share, in special cases outside the defined system of reductions.

Meal subsidies for pupils

In Zagreb elementary schools, a free light meal, lunch and snack are provided for pupils or families who are beneficiaries of the guaranteed minimum allowance, as well as pupils with unemployed parents, which would also include refugees, especially in the beginning until family members find paid work.

Summer vacations for children from disadvantaged families

During the summer holidays, the City of Zagreb organizes free vacations for children from disadvantaged families who are registered with the City Office for Social Protection and People with Disabilities and the Social Welfare Center in Zagreb as assistance beneficiaries⁴⁶.

3.5.3. Other Social Rights Provided by the City of Zagreb

The City of Zagreb provides a free ZET pass to pupils and students with domicile in the City of Zagreb whose total monthly income per household member is equal to or less than HRK 2,000.00, as well as to beneficiaries of the guaranteed minimum allowance who are unable to work and provide for themselves.⁴⁷ The City of Zagreb covers the membership fees for Zagreb City Libraries for children and pupils up to 15 years old.

The Decision on Financial Assistance for Equipment for a Newborn Child⁴⁸ establishes that a parent who is a Croatian citizen with domicile in the City of Zagreb for at least five years prior to the birth of the child is eligible for financial assistance. Refugees are therefore not eligible for this type of assistance.

4. Current Situation and Challenges Connected with the Provision of Social Services in the Process of Integration of Refugees in Croatia and Recommendations for Improvement

The Republic of Croatia is an extremely centralized country, where most social welfare rights are exercised through the social welfare centers established by the Republic of Croatia and funded from the State budget. On the other hand, the local and regional levels are responsible for providing a smaller number of social

46 Article 27-28 of the Decision on Social Welfare.

47 Article 32 of the Decision on Social Welfare.

48 Official Gazette of the City of Zagreb 17/2017.

II. The Provision of Social Services to Persons Granted International Protection

welfare rights. Regional self-government units – counties and the City of Zagreb – ensure, for example, the right to a heating allowance, while local self-government units – cities, municipalities and the City of Zagreb – ensure the right to housing allowance. Larger cities and county seats are also required to allocate funds in their budgets for the provision of meals in soup kitchens, as well as accommodation in homeless shelters for homeless people. Furthermore, a certain number of larger Croatian cities and local and regional self-government units with greater financial capacity have developed additional social programs. Some of these additional social programs are implemented in parallel to programs existing at the central level, but most often they are complementary programs that cover social problems specific to a particular local environment (for more details, see Babić, 2018).

The complex and confusing social welfare system in Croatia requires considerable commitment and is not user-friendly, making it difficult to navigate even for Croatian citizens who know the language and have at least a basic understanding of the administrative structure in Croatia, and even more difficult for refugees who, as a rule, do not speak Croatian and have no knowledge of the responsibilities of different territorial levels providing different public services in Croatia.

Towns and cities in Croatia are insufficiently involved in the integration process of refugees, which will need to be addressed going forward seeing as local communities are key to the successful integration of people granted international protection. Social and cultural integration, i.e. adapting to a new environment, occurs precisely at the local level, through co-existing with the local population and actively contributing to the social life of the community.

So far, most of the people granted international protection have been placed in Zagreb. This started to change in 2018, when a certain number of refugees were placed in Zadar, while later that year, some were placed in Slavonski Brod, and in 2019, refugees were placed in Sisak and Karlovac. This practice is expected to continue, as an increasing number of refugees will be placed in other cities and municipalities in Croatia. For this reason, it is of the utmost importance to inform local units in a timely manner about the integration policy and their role and obligations in the forthcoming period so that, in the future, they can become a partner to the central government in the creation and implementation of integration policies and thus strengthen the local institutional capacity for implementing integration policies.

Regarding the integration and provision of social services for refugees at the local level, the initial step for cities was including refugees as beneficiaries in the Decision on Social Welfare – the general act determining the social services provided by cities and their beneficiaries. The analysis of the Decisions on Social Welfare shows that the four selected cities have included refugees in their Decisions on Social Welfare. However, the Decision on Social Welfare of the City of Zadar includes refugees as beneficiaries of social welfare rights, stating that people who do not have domicile in the territory of the City of Zadar may

II. The Provision of Social Services to Persons Granted International Protection

exceptionally be granted certain social welfare rights, provided this is necessary due to their circumstances at the time, regardless of the fact that refugees may have their domicile in the territory of the City of Zadar. The City of Zadar should therefore amend the Decision to reflect the other cities analyzed.

The four cities selected have significant differences in the extent and structure of social spending. The City of Zagreb provides and funds a significantly higher level of social rights compared to all the other cities in Croatia. In 2015, the City of Zagreb earmarked HRK 582.00 per capita for social welfare, three times the national average of HRK 182.00, which accounts for the fact that the social program in Zagreb is the most developed and comprehensive. Of the remaining three cities, Sisak is ahead with double the amount earmarked for social welfare than Karlovac and Zadar. The City of Sisak also implements a Civic Education Program for fifth- and sixth-graders in Sisak elementary schools, with the aim of developing human values based on understanding and acceptance, respect for diversity and human rights, and their active involvement in civil society. This program may be proposed to other local units to facilitate the integration of refugees in local communities.

None of the cities analyzed provide the opportunity of renting municipal social housing to refugees as one of the requirements is continuous domicile in the territory of the city for a longer period of time (5 or 10 years). Refugee populations are unable to meet this requirement and, thus, the specific situation of this vulnerable group should be taken into account and regulations should be adjusted accordingly so that refugees could also meet the requirement to even be included on the social housing lists. In addition, some cities (Zadar) also have Croatian citizenship as a requirement, which immediately eliminates the refugee population. In the case of assistance for a newborn child, all cities require that the parents have a continuous domicile in the territory of the city for a certain period of time (in Sisak for one year prior to the birth of the child, in Zagreb for five years before the birth of the child). It is therefore suggested that having registered domicile for at least one year should be eliminated as a requirement for the refugee population.

Recommendations for improving the social welfare system at the local level:

1. Amendments to the Decision on Social Welfare to afford the refugee population the right to municipal social housing after the expiry of two years during which accommodation is paid for by the Republic of Croatia if this is required by the unfavorable social circumstances of the family;
2. Amendments to the Decision on Renting Apartments so that the categories of people in an extremely difficult social and health situation also include people under international protection who cannot pay rent from their own funds, and that these people are not subject to the requirement of having continuous residence in the territory of the city for a longer period of time;
3. The introduction of civic education as an extracurricular activity by other local units for elementary school pupils in order to promote respect for diversity

II. The Provision of Social Services to Persons Granted International Protection

and human rights and to actively involve them in civil society, following the example of the City of Sisak;

4. The financial allowance for each newborn child granted to the parents of the child should not depend on the specific period in which the parent(s) must have had registered domicile in the territory of the local unit that provides the allowance, as this adversely affects the refugee population;
5. Scholarships for students and support for pupils should not depend on having Croatian citizenship;
6. The adoption of a Relocation Plan for refugees so that cities can prepare in advance and ensure integration measures taking account of specific local factors.

Literature

- Babić, Z. (2018). Decentralizacija socijalne skrbi i socijalne nejednakosti: slučaj Hrvatske. *Revija za socijalnu politiku*, 25 (1), 25–47. <https://doi.org/10.3935/rsp.v25i1.1458>
- Lalić Novak, G. and Giljević, T. (2019). Pravno i institucionalno uređenje integracije migranata u Republici Hrvatskoj – prema europskom modelu. *Godišnjak Akademije pravnih znanosti Hrvatske*, X (1), 163–184. <https://doi.org/10.32984/gapzh.10.1.8>
- Šućur Z., Babić. Z., Urban I., & Baran J. (2016). *Struktura naknada, izdaci i korisnici programa socijalne zaštite u Hrvatskoj*. Zagreb: Ministry of Social Policy and Youth, United Nations Development Program for Croatia.

Documents and regulatory texts:

- Action Plan for the Integration of People Granted International Protection for the Period from 2017 to 2019 Available at: <https://pravamanjina.gov.hr/UserDocsImages/dokumenti/AKCIJSKI%20PLAN%20ZA%20INTEGRACIJU%202017-2019.pdf>
- Report on the Implementation of the Measures of the Action Plan for the Integration of People Granted International Protection for the Period from 2017 to 2019 Available at: <https://vlada.gov.hr/UserDocsImages/2016/Sjednice/2019/Studen/190%20sjednica%20VRH/190%20-%208%20b.docx>
- Youth Support Mechanisms – Social Policy, Health Care and Reproductive Health Official Gazette of the City of Karlovac 19/19.
- Decision on Apartment Renting, Official Gazette of the Sisak-Moslavina County 10/10, 4/12, 21/12, 9/13, 23/15 i 13/16, 27/19.
- Decision on Priority Enrollment of Children in Kindergarten and the Criteria for Collecting Payment from Parents – Service Beneficiaries for the Services of Kindergartens in the City of Zagreb (Official Gazette of the City of Zagreb 6/11, 19/11 and 15/12).
- Decision on Apartment Renting, Official Gazette of the City of Zagreb 22/2009, 3/2012, 15/2012, 22/2013.
- Decision on Financial Assistance for Equipment for a Newborn Child, Official Gazette of the City of Zagreb 17/2017.

II. The Provision of Social Services to Persons Granted International Protection

- Decision on the Basis for Calculating the Amount of the Guaranteed Minimum Allowance, OG 114/14.
- Decision on Social Welfare of the City of Sisak, Official Gazette of the Sisak-Moslavina County 33/20.
- Decision on Social Welfare of the City of Zadar, Official Gazette of the City of Zadar 15/17.
- Decision on Social Welfare of the City of Zagreb, Official Gazette of the City of Zagreb 26/2014, 19/2015, 6/2016, 16/2016, 23/2016, 4/2019, 6/20.
- Decision on the Requirements and Criteria for Renting Apartments Owned by the City of Karlovac, Official Gazette of the City of 11/19.
- Framework for the Integration of People Granted International Protection on the Local Level. Available at: <https://www.irh.hr/dokumenti/50-okvir-za-integraciju-osoba-kojima-je-odobrena-medunarodna-zastita/file>
- Ordinance on Student Scholarships and Other Forms of Support for Pupils and Students of the City of Sisak, Official Gazette of the Sisak-Moslavina County 22/2019.
- Ordinance on the Participation of Refugees, Foreigners under Subsidiary Protection and Foreigners under Temporary Protection in the Payment of Accommodation Costs, OG 59/2018.
- Program of Public Needs in Social Welfare and Health Care of the City of Sisak in 2019, Official Gazette of the Sisak-Moslavina County 35/18.
- Program of Social Welfare and Healthcare Needs of the City of Zadar for 2020 (Official Gazette of the City of Zadar 15/19)
- Housing Subsidies and Other Forms of Social Assistance Program of the City of Karlovac for 2020, Official Gazette of the City of Karlovac 19/19.
- Program of Public Needs in Primary Education of the City of Zagreb for 2019, Official Gazette of the City of Zagreb 28/18.
- The City of Zagreb Act OG 62/2001, 125/2008, 36/2009, 119/2014, 98/2019, 144/20.
- Act on Local and Regional Self-Government, OG 33/2001, 60/2001, 129/2005, 109/2007, 36/2009, 125/2008, 36/2009, 150/2011, 144/2012, 123/2017, 98/2019, 144/20.
- Act on International and Temporary Protection, OG 70/2015, 127/2017.
- Social Protection Act, OG 341/91.
- Social Welfare Act OG 73/97.
- Social Welfare Act OG 157/2013, 152/2014, 99/2015, 16/2017, 130/2017, 98/2019, 64/2020, 133/2020, 138/2020.
- Social Protection Act, OG 341/91.

I. THE PROVISION OF SOCIAL SERVICES TO PERSONS GRANTED INTERNATIONAL PROTECTION AT THE LOCAL LEVEL IN CROATIA

Teo Giljević

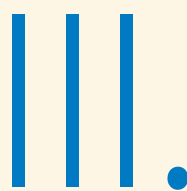
SUMMARY

The Croatian Social welfare Act lays down that a person granted international protection and his or her family members who legally stay in Croatia

are entitled to social welfare rights under the same conditions and to the same extent as Croatian nationals. Initially, the place of accommodation of persons granted international protection did not appear to be a possible cause of inequality in practice because most persons under international protection were accommodated in Zagreb. However, an increase in the number of those granted international protection due to the implementation of the program of relocation and resettlement, resulted in many of them also being accommodated in other Croatian cities (e.g. in 2018, a number of persons granted international protection were accommodated in Zadar and Slavonski Brod, and in 2019 in Sisak and Karlovac as well). In the future, the place of accommodation may cause social inequality for those granted international protection because different cities allocate different resources to finance various social programs, which are then also organized differently.

The author analyses social programs in four Croatian cities where persons granted international protection are accommodated (Karlovac, Sisak, Zadar and Zagreb) and the impact of the place of accommodation on the level of their social rights. Finally, the author makes recommendations on how to upgrade the social welfare system at the local level to improve the position of persons granted international protection.

keywords: social welfare, place of accommodation, persons granted international protection, cities



AN OVERVIEW OF STANDARDS REGARDING THE RIGHT TO WORK AND ACCESS TO THE LABOR MARKET OF PEOPLE GRANTED INTERNATIONAL PROTECTION*

SUMMARY

The right to work is a fundamental human right. In the case of people granted international protection, the right to work and access to the labor market is of key importance for their integration. Therefore, this right is provided for in international, European and national legislation, as well as in numerous strategic documents. However, many obstacles exist in practice (for example, not speaking the language, not having any work experience), as well as various other challenges connected with the recognition of professional qualifications, which often block the exercise of this right. In this chapter, the author presents the key documents and highlights the problems encountered by people granted international protection when accessing the labor market. The impact of the COVID-19 pandemic is also considered. Finally, the author emphasizes the importance of developing various policies, legislation and practice to enable the faster inclusion of refugees in the labor market. In this process, cooperation between institutions and refugees is of crucial importance.

Keywords: integration, access to the labor market, employment, people granted international protection, refugees

* Author: Lana Tučkorić, dipl. iur., Head of the Asylum System Improvement Program in the Republic of Croatia and legal counselor at CLC.

1. Introduction

The right to work is one of the basic human rights and applies to everyone, including people applying for international protection, as well as people granted international protection.

This right is of crucial importance for people granted international protection, who now need to integrate into society, especially seeing as some of them will never return to their country of origin. In addition to ensuring financial independence and enabling the individual to meet his or her basic needs and the needs of his or her family, the right to work helps re-establish a person's sense of self-worth and usefulness, facilitates recovery from trauma and is therefore key to human dignity. On the other hand, if a country provides access to the labor market and employment opportunities, the number of people dependent on social assistance decreases, as well as the expenses of the host country because they are no longer dependent on the assistance of the country in which they received their status (UNHCR, 2006:56). International and European legislation, which is then transposed into national legislation, establish that people granted international protection also have the right to work, while applicants for international protection usually exercise this right after a certain time has passed with no resolution of their application for international protection. However, despite legislative solutions, problems often arise in the implementation of this right in practice, leading to problems both in accessing the labor market in the host country and the further integration of people granted international protection. The obstacles hindering the successful exercise of this right often include not speaking the language or insufficient knowledge of the language of the host country, not being familiar with the situation on the labor market, lack of work experience and issues with the recognition of foreign qualifications. In 2020, the COVID-19 pandemic also presents a new challenge.

The lack of integration in the labor market can expose these people to other risks, such as working in legally unregulated and potentially exploitative conditions.

On the other hand, the right to work and access to the labor market is a kind of foundation for the realization of all other cultural, economic, social and other rights of people that need to be integrated into society. The purpose of this paper is primarily to present an overview of the standards in relation to the right to work and access to the labor market in the case of people granted international protection, but also the challenges that arise during the process.

2. International Standards

The United Nations Convention Relating to the Status of Refugees (hereinafter: Convention), adopted in 1951, and its 1967 Protocol¹, is the basic international document that regulates the status and protection of refugees. The right to work is one of the fundamental human rights guaranteed by the Convention to refugees legally residing in the territory of the host country. In addition to the Convention, the right to work is guaranteed by a number of other international instruments. For example, Article 23 of the Universal Declaration of Human Rights, and Articles 6, 7 and 8 of the The International Covenant on Economic, Social and Cultural Rights recognize the right to work, as well as the rights at work. The right to work is also enshrined in Article 5 (e)(i) of the International Convention on the Elimination of All Forms of Racial Discrimination, while Article 8, paragraph 3, item (a) of the International Covenant on Civil and Political Rights prohibits slavery and forced labor.

The right to work enshrined in the above international documents does not guarantee a job, but it implies access to the labor market, as well as the possibility of self-employment and participating in liberal professions (University of Michigan Law School, 2010: 294).

The Convention contains three provisions concerning the right to work, more precisely, the provisions concerning wage-earning employment (Article 17), self-employment (Article 18) and the liberal professions (Article 19). In each case, the right to work depends on the level of attachment to the country of refuge (University of Michigan Law School, 2010: 297).

Article 17 of the Convention prescribes in paragraph 1 that the Contracting State shall accord to refugees that are lawfully staying in their territory the most favorable treatment accorded to nationals of a foreign country under the same circumstances, as regards the right to engage in wage-earning employment, while paragraph 3 prescribes that the Contracting States shall give sympathetic consideration to assimilating the rights of all refugees with regard to wage-earning employment to those of nationals, and in particular of those refugees who have entered their territory pursuant to programs of labor recruitment or under immigration schemes (UNHCR; Convention and Protocol Relating to the Status of Refugees, with an Introductory Note by the Office of the United Nations High Commissioner for Refugees: 22).²

Article 17, paragraph 3 of the Convention requires that beyond the minimum standards stipulated in that provision, Contracting States are to give sympathetic consideration to granting all refugees equal treatment with nationals. The term

1 Convention and Protocol Relating to the Status of Refugees, Decision on the Publication of Multilateral International Agreements to which the Republic of Croatia is a Party Based on the Notification on Succession, OG IA 12/93.

2 UNHCR; Convention and Protocol Relating to the Status of Refugees, with an Introductory Note by the Office of the United Nations High Commissioner for Refugees, available at: https://www.unhcr.org/hr/wp-content/uploads/si-tes/19/2018/11/konvencija_1951.pdf, accessed 16 September 2020, p. 22

“sympathetic consideration” used in this paragraph is analogous to the term “favorable consideration”, which though of a discretionary nature, nonetheless implies an obligation on States to address this request and provide reasons in case of refusal (UNHCR, 2006: 49).

As a minimum, States have the obligation to grant refugees that are lawfully staying in the country of asylum the “most favorable treatment” accorded to other aliens under the same circumstances (UNHCR, 2006: 49).

The term “under the same circumstances” refers to the fact that a refugee must fulfill any requirements, such as length and conditions of residence, which another individual who is not a refugee would have to fulfill in order to enjoy this right. Naturally, an exception must be made with regard to those requirements that, by their nature, a refugee is incapable of fulfilling (UNHCR, 2006: 49–50).

Article 17, paragraph 2 of the Convention prescribes that restrictive measures imposed on foreigners or the employment of foreigners for the protection of the national labor market shall not be applied to a refugee who was already exempt from them at the date of entry into force of this Convention for the Contracting State concerned, or who fulfills one of the following conditions:

- (a) has completed three years’ residence in the country;
- (b) has a spouse possessing the nationality of the country of residence. A refugee may not invoke the benefits of this provision if he or she has abandoned his or her spouse;
- (c) has one or more children possessing the nationality of the country of residence.

This establishes a more favorable treatment of refugees who have a special connection to the host country, and such people are exempt from the restrictive measures that are often imposed on foreigners in order to protect the national labor market. However, if a restriction is not related to the protection of the national labor force, then it is not affected by this provision. In other words, refugees cannot benefit from the more generous access to wage-earning employment provided under this article if, for example, civil service jobs are reserved for nationals for reasons of national security rather than the protection of the labor force (UNHCR, 2006: 50).

With regard to self-employment, Article 18 of the Convention provides that the Contracting States shall accord to a refugee that is lawfully³ in their territory treatment as favorable as possible and, in any event, no less favorable than that accorded to foreigners under the same circumstances, as regards the right to engage on their own account in agriculture, industry, handicrafts and commerce and to establish commercial and industrial companies (UNHCR; Convention and Protocol Relating

3 Article 18 of the Convention in the English language requires “lawful presence”, while Articles 17 and 19 stipulate “lawfully staying” as a requirement, see University of Michigan Law School, p. 297.

to the Status of Refugees, with an Introductory Note by the Office of the United Nations High Commissioner for Refugees: 22–23). This is a less generous minimum standard than in the case of wage-earning employment (UNHCR, 2006: 54).

While Article 18 grants both refugees and asylum seekers the right to self-employment, Article 17 stipulates that this right is extended to those lawfully staying, causing some controversy, because some argue that this does not include asylum seekers. However, the UNHCR is of the opinion that “a lawful stay would also include asylum seekers in a State where the asylum procedure is unduly prolonged”.⁴

Article 19, paragraph 1 of the Convention concerns liberal professions and prescribes that each Contracting State shall accord to refugees that are lawfully staying in their territory and who hold diplomas recognized by the competent authorities of that State, and who are desirous of practicing a liberal profession, treatment as favorable as possible and, in any event, no less favorable than that accorded to foreigners generally under the same circumstances (UNHCR; Convention and Protocol Relating to the Status of Refugees, with an Introductory Note by the Office of the United Nations High Commissioner for Refugees: 23).

The minimum standard of treatment accorded to refugees under Article 19 of the Convention is that granted to “foreigners generally under the same circumstances”, with the additional condition that a diploma may be required and must, in that case, be recognized by the receiving State. Beyond this, there is also an obligation on States to consider granting refugees treatment as favorable as possible, while States thus have an obligation to make a positive effort to minimize the restrictions imposed on refugees wishing to practice their profession or their own business, even when such restrictions are normally placed on other foreigners (UNHCR, 2006: 55).

In addition to the above-mentioned articles, Article 24 of the Convention is also important. Among other things, it refers to labor legislation and stipulates the application of labor law without discrimination between nationals and refugees.

Article 24, paragraph 1, item (a) establishes that the Contracting States shall accord to refugees that are lawfully staying in their territory the same treatment as their nationals in respect of matters governed by laws or regulations or that are subject to the control of administrative authorities: remuneration, including family allowances where these form part of the remuneration, hours of work, overtime arrangements, holidays with pay, restrictions on home work, minimum age of employment, apprenticeship and training, women’s work and the work of young people, and the enjoyment of the benefits of collective bargaining (UNHCR; Convention and Protocol Relating to the Status of Refugees, with an Introductory Note by the Office of the United Nations High Commissioner for Refugees: 25).

4 Council of Europe, Refugees and the right to work, available at <http://website-pace.net/documents/19863/168397/20140313-RefugeeRightToWork-eN.pdf/8f426c61-f2ba-439a-b7db-7c2c585a2fe7>, accessed 11 December 2017, p. 6.

3. European Standards

In Europe, the migrant and refugee crisis that began in the summer of 2015 revealed issues with integration, prompting an increased interest in social inclusion measures, which is in turn closely linked to successful labor market integration. The question of swift access to and integration into the labor market has thus become a prominent issue for EU Member States (eurofound, 2016: 1).

Research has shown that third-country nationals face barriers in the labor market, the employment rate of third-country nationals is lower than the employment rate of host country nationals (with women having particularly low rates), and that migrants are also often under-employed, even when holding a university diploma (European Commission, 2016:3).

At the level of EU legislation, there are two basic directives concerning access to the labor market, people seeking international protection and people granted protection. Although this paper does not address the issues of access to the labor market of applicants for international protection, it is worth noting that Directive 2013/33/EU Laying Down Standards for the Reception of Applicants for International Protection (recast)⁵ (hereinafter: Directive 2013/33/EU) establishes that Member States must ensure that applicants have access to the labor market no later than 9 months from the date when the application for international protection was lodged if a first instance decision by the competent authority has not been taken and the delay cannot be attributed to the applicant. In doing so, Member States must decide on the conditions for granting access to the labor market for the applicant, in accordance with their national law, while ensuring that applicants have effective access to the labor market.⁶

The revised Directive 2013/33/EU therefore reduced the waiting period for access to the labor market from twelve to nine months, which is in fact a compromise solution between the Parliament and the Commission advocating a six-month period, while the Council insisted on the previously established twelve months.⁷ The waiting periods for access to the labor market seek to strike a balance between the integration goals and the need to reduce social welfare expenses for the host country on the one hand and the risk of creating incentives for people to apply for asylum for purely economic reasons on the other hand (European Parliament, 2015: 8).

5 Directive 2013/33/EU of the European Parliament and of the Council of 26 June 2013 Laying Down Standards for the Reception of Applicants for International Protection (recast) OJ L 180, 29 June 2013, available at <https://eur-lex.europa.eu/legal-content/HR/TXT/HTML/?uri=CeLeX:32013L0033&from=HR>, accessed 16 September 2020.

6 Article 15, paragraph 1 and 2 of Directive 2013/33/EU of the European Parliament and of the Council of 26 June 2013 Laying Down Standards for the Reception of Applicants for International Protection (recast)

7 The previous Directive 2003/9/EC of the Council of 27 January 2003 Laying Down Minimum Standards for the Reception of Asylum Seekers established in Article 11 the time frame of one year, available at: <http://eur-lex.europa.eu/legal-content/HR/TXT/HTML/?uri=CeLeX:32003L0009&from=HR>; accessed on 13 December 2017.

Directive 2013/33/EU allows Member States to restrict access to the labor market, giving preference to EU citizens and nationals of the EEA nationals and to third-country nationals residing legally; however, the principle of effectiveness of access to the labor market, introduced in the revised Directive 2013/33/EU, limits the scope of such restrictions so that the priority of other categories of people in the labor market access should not make the right granted to asylum-seekers meaningless in practice (European Parliament, 2015:⁸ 8).

The rights of people granted international protection are regulated by the revised Directive 2011/95/EU on Standards for the Qualification of Third-Country Nationals or Stateless Persons as Beneficiaries of International Protection, for a Uniform Status for Refugees or for Persons Eligible for Subsidiary Protection, and for the Content of the Protection Granted (hereinafter: Directive 2011/95/EU).⁹

One of the rights exercised by people granted international protection is the right to employment; therefore, Directive 2011/95/EU stipulates that Member States must allow beneficiaries of international protection to engage in employed or self-employed activities subject to the rules generally applicable to the profession and to the public service, immediately after protection has been granted.¹⁰ Furthermore, Member States must also ensure that activities such as employment-related education opportunities for adults, vocational training, including training courses for upgrading skills, practical workplace experience and counselling services afforded by employment offices are offered to beneficiaries of international protection, under conditions equivalent to nationals.¹¹ Regarding remuneration, access to social security systems relating to employed or self-employed people as well as other conditions of employment are governed by the laws in force in the Member States.¹²

Directive 2011/95/EU does not admit any restrictions on access to work in the sense of labor market tests or others, putting beneficiaries of international protection on equal terms to nationals (European Parliament, 2015:9)

The evaluation of the application of Directive 2011/95/EU (European Commission, 2019: 200-201) showed in relation to the right to employment guaranteed by Article 26, in summary:

1. Most Member States allowed beneficiaries of international protection access to the labor market without applying additional administrative conditions;

8 Article 15, paragraph 2 of the Directive 2013/33/EU of the European Parliament and of the Council of 26 June 2013 Laying Down Standards for the Reception of Applicants for International Protection (recast)

9 Directive 2011/95/EU of the European Parliament and of the Council of 13 December 2011 on Standards for the Qualification of Third-Country Nationals or Stateless People as Beneficiaries of International Protection, for a Uniform Status for Refugees or for People Eligible for Subsidiary Protection, and for the Content of the Protection Granted (OJ L 337, 20 December 2011), available at: <https://eur-lex.europa.eu/legal-content/HR/TXT/HTML/?uri=CeLex:32011L0095&from=HR>

10 Article 26, paragraph 1 of Directive 2011/95/EU.

11 Article 26, paragraph 2 and 3 of Directive 2011/95/EU.

12 Article 26, paragraph 4 of Directive 2011/95/EU.

2. Numerous practical obstacles prevented beneficiaries of international protection from accessing employment, including language barriers, problems with having qualifications recognized and the negative attitudes of employers towards employing beneficiaries of international protection;
3. Several Member States restricted beneficiaries of international protection from accessing certain professions and the public sector in line with their national legislation;
4. In all the Member States, beneficiaries of international protection were legally entitled to access the same employment-related education opportunities, vocational training and counselling services as nationals. However, this also meant that beneficiaries of international protection would be subject to the same eligibility conditions for employment-support activities and services as those applicable to nationals, while it was less easy for them to meet these conditions (e.g. education or language skills);
5. As examples of good practice, the report states that several Member States have implemented tailored employment-related activities and services for beneficiaries of international protection to facilitate their access to employment;
6. Most Member States made no distinction between people granted international protection and nationals as regards access to social welfare systems and other conditions for employment; however, people granted international protection have been prevented from accessing these rights due to a lack of awareness of the existence of these rights or a language barrier that prevented them from accessing information.

However, despite attempts to harmonize European national asylum legislation through alignment with the EU Acquis, including the above-mentioned Directive 2011/95/EU, as well as the development of the Common European Asylum System, it has become apparent that there are notable differences between Member States resulting in so-called secondary movements and multiple applications for asylum, ultimately leading to an unequal distribution of responsibilities between Member States to provide protection to those in need, and therefore, among other things, the European Commission has submitted a draft proposal for a new Regulation.¹³

The proposal for a new Regulation¹⁴ states that, although the revised Directive 2011/95/EU has contributed somewhat to the approximation of national rules, there

13 European Commission, Proposal for a Regulation of the European Parliament and of the Council on Standards for the Qualification of Third-Country Nationals or Stateless People as Beneficiaries of International Protection, for a Uniform Status for Refugees or for People Eligible for Subsidiary Protection, and for the Content of the Protection Granted and Amending Council Directive 2003/109/EC of 25 November 2003 Concerning the Status of Third-Country Nationals who are Long-Term Residents, 2016, available at: <http://eur-lex.europa.eu/legal-content/HR/TXT/HTML/?uri=CeLex:52016P C0466&from=eN>, accessed 13 December 2017.

14 See the explanation and objectives of the proposal on the following link: <https://eur-lex.europa.eu/legal-content/HR/TXT/HTML/?uri=CeLex:52016PC0466&from=eN>

are still differences between Member States as the recognition rates vary between each state and there is a lack of convergence as regards decisions on the type of protection status granted by each Member State, as well as policies concerning the duration of the residence permits granted, and as regards to access to rights. Therefore, the proposal urges, among other things, that Member States promote the integration of beneficiaries into their societies within the framework of their right to protection. This proposal clarifies the scope of the rights and obligations of the beneficiaries of international protection, as well as the further harmonization of the rights of beneficiaries of international protection, especially with regard to the validity and form of residence permits, clarifying the scope of rights and obligations of beneficiaries, especially with regard to social security and social assistance. With regard to access to employment, the proposal for a Regulation further clarifies the right to equal treatment related to employment for people granted international protection and citizens, and clarifies additional collective labor rights. The proposal stipulates that beneficiaries of international protection shall enjoy equal treatment with nationals of the Member State that has granted protection as regards:

- (a) working conditions, including pay and dismissal, working hours, leave and holidays, as well as health and safety requirements at the workplace;
- (b) freedom of association and affiliation, and membership of an organization representing workers or employers or of any organization whose members are engaged in a specific occupation, including the benefits conferred by such organizations;
- (c) employment-related education opportunities for adults, vocational training, including training courses for upgrading skills and practical workplace experience;
- (d) advice services afforded by employment offices.¹⁵

However, the proposal also explicitly states that access to employment is conditional on the possession of a residence permit, i.e. that within the framework of international obligations, the granting of benefits with regard to access to employment and social security requires the prior issuance of a residence permit.¹⁶

Furthermore, the proposal states that in order to enhance the effective exercise of the rights and benefits laid down in the Regulation by beneficiaries of international

15 Article 30, paragraph 2 of the Proposal for a Regulation of the European Parliament and of the Council on Standards for the Qualification of Third-Country Nationals or Stateless People as Beneficiaries of International Protection, for a Uniform Status for Refugees or for People Eligible for Subsidiary Protection, and for the Content of the Protection Granted, and Amending Council Directive 2003/109/EC of 25 November 2003 Concerning the Status of Third-Country Nationals who are Long-Term Residents.

16 Article 22, paragraph 3 of the Proposal for a Regulation of the European Parliament and of the Council on Standards for the Qualification of Third-Country Nationals or Stateless People as Beneficiaries of International Protection, for a Uniform Status for Refugees or for People Eligible for Subsidiary Protection, and for the Content of the Protection Granted, and Amending Council Directive 2003/109/EC of 25 November 2003 Concerning the Status of Third-Country Nationals who are Long-Term Residents.

protection, it is necessary to take into account their specific needs and the particular integration challenges with which they are confronted, and to facilitate their access to integration-related rights in particular as regards employment-related educational opportunities and vocational training and access to recognition procedures for foreign diplomas, certificates and other evidence of formal qualifications, in particular due to the lack of documentary evidence and their inability to meet the costs related to the recognition procedures.¹⁷

As regards strategic documents relevant to the right to work and access to the labor market, although integration policies are the responsibility of states, the European institutions have a mandate to provide “incentives and support for EU members to promote the integration of third-country nationals”.¹⁸

Following on from previously adopted documents at the EU level¹⁹, the European Commission adopted on 7 June 2016 the Action Plan on the Integration of Third-Country Nationals (hereinafter: Action Plan on Integration) (European Commission, 2016: 2).²⁰ The Action Plan on Integration provides a common policy framework that should help Member States as they further develop and strengthen their national integration policies, and describes the measures the Commission will implement to support them in their efforts. Even though the Action Plan on Integration applies to all third-country nationals in the EU, it also contains a description of concrete measures, some of which address the specific challenges faced by refugees.²¹

Among other things, it states that “this dynamic two-way process on integration not only means expecting third-country nationals to embrace fundamental EU values and learn the host language but also offering them meaningful opportunities to participate in the economy and society of the Member State where they settle” (European Commission, 2016: 5).

17 Item 49 of the recital of the Proposal for a Regulation of the European Parliament and of the Council on Standards for the Qualification of Third-Country Nationals or Stateless Persons as Beneficiaries of International Protection, for a Uniform Status for Refugees or for Persons Eligible for Subsidiary Protection, and for the Content of the Protection Granted and Amending Council Directive 2003/109/EC of 25 November 2003 Concerning the Status of Third-Country Nationals who are Long-Term Residents.

18 <https://ec.europa.eu/migrant-integration/the-eu-and-integration/framework>, accessed on 13 December 2017.

19 For example, in 2014, the Justice and Home Affairs Council reaffirmed the basic common principles of EU immigrant integration policy adopted in 2004, which established a common approach to the integration of third-country nationals across the EU, and the European Commission developed a European program for the integration of third-country nationals in 2011; see the Action Plan on the Integration of Third-Country Nationals, p. 2

20 Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, Action Plan for the Integration of Third-Country Nationals, 2016, <http://eur-lex.europa.eu/legal-content/HR/ALL/?uri=CeLeX%3A52016DC0377> (accessed 7 December 2017), p. 2

21 European Commission - Press Release, Delivering the European Agenda on Migration: Commission presents Action Plan on Integration and reforms of the 'Blue Card' scheme for highly qualified workers from outside the EU, europa.eu/rapid/press-release_IP-16-2041_hr.pdf (accessed 13 December 2017).

The Action Plan on Integration proposes measures in the following areas: pre-departure and pre-arrival integration measures, especially for migrants who clearly need international protection, education, labor market integration and access to vocational training; access to basic services, active participation and social inclusion (European Commission, 2016: 5–14) with an emphasis on employment as a core part of the integration process (European Commission, 2016-9). The part concerning the measure for labor market integration also emphasized the importance, especially for refugees, of the validation of skills and recognition of qualifications, as well as the fact that despite EU legislation, which equates access to the labor market of refugees with that of EU citizens, widespread and active market policies are needed to facilitate their labor market participation (European Commission, 2016-9).

At the end of 2017, the European Commission and its Social and Economic Partners agreed to cooperate within the European Partnership for Integration²². The objectives of the partnership are to improve the early integration of refugees into the labor market, ensure that integration benefits refugees, as well as the economy and society as a whole, and fostering a multi-stakeholder approach. The cooperation was renewed in September 2020.²³ On that occasion, the signatories agreed to focus future efforts on three areas: connecting stakeholders in the economy and community for integration into the labor market, supporting entrepreneurship and facilitating the identification, assessment and validation of skills.²⁴

In September 2020, the European Commission proposed a new Pact on Migration and Asylum, which would cover the various elements needed for a comprehensive European approach to migration, and this includes issues related to the integration of people under international protection. In doing so, the European Commission supports the interim political agreements reached on the Qualifications Regulation, and emphasizes that it would, among other things, clarify the rights and obligations of people granted international protection (European Commission: 2020: 3).

22 the European Partnership for Integration was signed on 20 December 2017, available at: https://ec.europa.eu/home-affairs/sites/homeaffairs/files/e-library/documents/policies/legal-migration/integration/docs/20171220_european_partnership_for_integration_hr.pdf

23 European Commission, Integrating migrants and refugees into the labor market: Commission and social and economic partners relaunch cooperation (press release), 7 September 2020, available at: https://ec.europa.eu/commission/presscorner/detail/en/ip_20_1561 (accessed 23 September 2020)

24 Joint statement by the European Commission and Economic and Social Partners on the Renewal of the European Partnership for Integration, offering opportunities for refugees to integrate into the European labor market, available at: <https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/policies/legal-migration-policy/joint-statement-commission-economic-social-partners-renewal-european-partnership-integration.pdf>, pristupljeno 23. rujna 2020.

4. National Standards

The right to access the labor market is guaranteed by the Constitution of the Republic of Croatia, which stipulates that everyone has the right to work and to freedom of work, whereby everyone is free to choose their vocation and occupation, and has access to each workplace and post under equal conditions.²⁵

Refugees and foreigners under subsidiary protection in accordance with the Act on International and Temporary Protection (hereinafter: AITP) may work in the Republic of Croatia without a residence and work permit or a work registration certificate. They also exercise the right to employment-related education opportunities for adults, professional development and gaining practical workplace experience under the same conditions as Croatian citizens.²⁶

In accordance with the Labor Market Act²⁷ (hereinafter: LMA), which replaced the Act on Employment Mediation and Unemployment Rights, refugees and foreigners under subsidiary or temporary protection, as well as members of their families who are equal to Croatian citizens in the rights and duties established by the LMA, may register with the Croatian Employment Service (hereinafter: CES).²⁸ They are registered and recorded with the CES according to their place of residence.²⁹ The Ordinance on CES Records³⁰ stipulates that refugees and foreigners under subsidiary protection, as well as members of their families, are to register with the CES in person upon the presentation of an identity card.³¹

They cease to be registered with the CES upon the termination of asylum, subsidiary or temporary protection, unless other reasons for the cessation are found earlier. The Labor Market Act regulates the labor market, inter alia, through employment mediation, vocational guidance, education to increase the employability of the workforce, unemployment insurance, active employment policy measures, other activities aimed at encouraging the spatial and professional mobility of the workforce, new employment and self-employment, and employment in temporary or occasional jobs in agriculture (Article 1).

25 Article 55 of the Constitution of the Republic of Croatia (OG 56/90, 135/97, 8/98, 113/00, 124/00, 28/01, 41/01, 55/01, 76/10, 85/10, 05/14).

26 Article 68 of the Act on International and Temporary Protection (OG 70/2015, 127/2017).

27 Labor Market Act OG 118/2018, 32/202.

28 Article 14, paragraph 1 of the Labor Market Act.

29 Article 14, paragraph 1 of the Labor Market Act.

30 Ordinance on Croatian Employment Service Records, OG 28/2019, 59/2020, available at: https://narodne-novine.nn.hr/clanci/sluzbeni/full/2019_03_28_588.html, https://narodne-novine.nn.hr/clanci/sluzbeni/full/2020_05_59_1185.html

31 Article 12, paragraph 2 of the Ordinance on Croatian Employment Service Records.

The rights of unemployed people according to the LMA³² are:

1. monetary compensation on the basis of unemployment insurance
2. pension insurance on the basis of unemployment insurance
3. financial assistance and the reimbursement of transport costs during education and training at the workplace
4. one-time financial assistance and the reimbursement of travel and removal expenses
5. financial assistance for people involved in professional training for work without employment and
6. financial assistance for people insured for extended pension insurance on the basis of a fixed-term employment contract for permanent seasonal jobs.

In practice, according to informal information received from the Croatian Red Cross³³ (hereinafter: CRC), when registering with the CES, it is necessary to bring a certificate of approved international protection, residence permit and OIB (PIN). Furthermore, if the person granted international protection does not have proof of education or has a document from their home country that has not been validated, they are entered into the CES records as a non-qualified worker. If a person has a diploma of completed education, it is necessary to translate it and send it to the competent agency (Agency for Education or the Agency for Science and Higher Education) for validation. The AITP stipulates that the costs of translating foreign documents for the purpose of recognizing foreign educational qualifications will be provided from the State budget of the Republic of Croatia from the position of the ministry responsible for education if the person granted international protection does not have sufficient funds.³⁴ According to the CRC, this right functions in practice. However, the CRC pointed out as an issue the inability of people under international protection to participate in all CES measures, to which they have the same right as Croatian citizens, due to their lack of knowledge of the language.

The Jesuit Refugee Service also highlights the language barrier as one of the issues in accessing the labor market. On their website, quoting CES representatives, they state that when registering, during counseling sessions, but also when accessing other services provided by the CES, the biggest problem is the language barrier, while the lack of documents proving the level of education also presents a major issue, which is why highly educated people are often treated as uneducated individuals.³⁵ Not speaking Croatian is also noted as an issue during employment.

32 Article 7 of the Labor Market Act

33 Information obtained from the Croatian Red Cross via e-mail on 19 September 2020

34 Article 70, paragraph 6 of the Act on International and Temporary Protection

35 Jesuit Refugee Service: Inclusion of refugees in the labor market – presentation of the cooperation between HUP, CES, JRS and refugees, 2018 available at: <http://www.jrs.hr/2018/10/30/ukljucivanje-izbjeglica-na-trzi-ste-rada-prezentacija-suradnje-hup-a-hzz-a-jrs-a-i-izbjeglica/>

In her report for 2019, the Ombudsperson stated that people granted international protection continue to face difficulties related to employment, pointing out that during 2019, only 18 people under international protection found work and only 61 were referred to Croatian language courses. The report also points out that the 70 introductory lessons of the Croatian language are insufficient to learn the basic concepts of the Croatian language and script, and that the remaining 210 lessons of the Croatian Language, History and Culture Learning Program for refugees and foreigners under subsidiary protection should certainly be continued with in order to facilitate integration (Ombudsperson, 2019: 35).

From the policy documents, the working group of the Permanent Commission for the Implementation of the Integration of Foreigners into Croatian Society, formed in 2017, drafted an Action Plan for the integration of people granted international protection for the period from 2017 to 2019³⁶ (hereinafter: Action Plan), which replaced the previous Action Plan for the elimination of obstacles in the exercise of certain rights in the field of the integration of foreigners for the period from 2013 to 2015. At its 67th session held on 23 November 2017, the Government of the Republic of Croatia adopted a new Action Plan.³⁷ The Action Plan identifies seven strategic areas: social welfare and health care, accommodation and housing, language learning and education, employment, international cooperation, interdepartmental cooperation, and sensitization of the public and professionals about people granted international protection.

The Action Plan states that the “successful integration of people granted international protection is only possible if they are enabled to become active members of their new society. This primarily presumes the right to work and employment, and provision of the opportunity to find work in line with their qualifications, work experience and interests” (Action Plan, 2017: 18).

The following employment-related goals are planned:

1. contribute to facilitating the exercise of the right to work through the measure of activating, motivating and referring people granted international protection to the Croatian language learning program during individual counseling in the CES;
2. acquaint people granted international protection with their rights and obligations within the employment system through the following two measures: informing people granted international protection about their rights and obligations with the employment system, and through career counseling of people granted international protection;

36 Action Plan for the Integration of People Granted International Protection for the Period from 2017 to 2019, available at: <https://ljudskaprava.gov.hr/UserDocImages//dokumenti//AKCIJSKI%20PLAN%20ZA%20INTEGRACIJU%202017-2019.pdf>

37 <https://vlada.gov.hr/vijesti/hrvatskom-saboru-upuceni-konacni-prijedlozi-zakona-o-hrvatskim-branite-ljima-i-lokalnoj-upravi/22911> accessed 21 December 2017

III. An Overview of the Standards Regarding the Right to Work and Access to the Labor Market...

3. strengthen the capacities of employees in the employment service to work with people granted international protection through the measure of educating CES employees as part of their regular training on the needs and rights of people granted international protection;
4. implement active employment policy measures for people granted international protection through the measure of including people granted international protection in active employment policy measures;
5. improving the system of access to employment for people granted international protection through the following two measures: development of a professional job search plan taking into account the person's qualifications and their previous work experience, as well as the needs of the labor market, and plan the possibility of further education of the person granted international protection; and the measure of financing the education of unemployed people granted international protection on the basis of the established needs for education (Action Plan, 2017: 18–22).

The report on the implementation of measures from the Action Plan for 2017 and 2018 states which measures have been implemented and to what extent. For example, compared to 2017 and 2018, the first measure of activating, motivating and raising awareness of the importance of learning Croatian is considered as being partially realized, as although it was continuously implemented through individual counseling activities, specific referrals to courses in educational institutions were not implemented. Regarding the measure of informing people under international protection about the rights and obligations in the employment system and employment opportunities through active employment policy measures and the career counseling measure for people granted international protection, they have been continuously implemented and were implemented in 2017 and 2018, though the biggest issue is the language barrier. Regarding the education of CES employees as part of their regular training on the needs and rights of people granted international protection, the measure was implemented in 2017 and 2018, and CES employees were continuously informed about updates related to work with people who have been granted international protection, internal instructions on working with people granted international protection were created, and by the end of 2018, a contact person for this group of people was appointed in each office. People under international protection were included in active employment policy measures in both 2017 and 2018, but due to the language barrier, only a small number of people were included. Regarding the measure of developing a professional job search plan, the measure was implemented in 2017 and 2018, but the measure of financing the education of unemployed people granted international protection based on identified educational needs was not implemented in 2017 due to the language barrier. However, the latter measure was implemented in 2018, and in the same year, 11 people from the target group were included in the measure of education

for unemployed people “On-the-job training with the aim of obtaining a public certificate of competency”, and five people completed the training program in 2018. (Government of the Republic of Croatia, Office for Human Rights and the Rights of National Minorities: 2019: 39–44).

The Ministry of Labor and the Pension System and the CES implement active employment policy measures in order to encourage employment, the additional training of workers and the preservation of jobs, while taking into account the specific needs of some groups of beneficiaries.³⁸ In 2017, nine different measures were implemented based on the Guidelines for the Development and Implementation of Active Employment Policy in the Republic of Croatia for the Period from 2015 to 2017, wherein refugees and foreigners under subsidiary protection were explicitly listed as a category of beneficiaries in two measures of active employment policy: employment aid and public work.

Employment aid is state aid that is granted to encourage the employment of the unemployed, and it is available to entrepreneurs who operate for profit.³⁹

Public work is a measure whose program is based on community service initiated by the local community or civil society organizations.⁴⁰ Refugees and foreigners under subsidiary protection can benefit from this measure regardless of how long they have been registered in the register of unemployed people.

On 28 December 2017, at the 73rd session of the Government of the Republic of Croatia, the Guidelines for the Development and Implementation of Active Employment Policy in the Republic of Croatia for the Period from 2018 to 2020 were adopted.

In relation to the above two active employment policy measures, in which refugees and foreigners under subsidiary protection are listed as categories of beneficiaries in relation to employment aid granted in the form of subsidies of part of the cost of wages to employers who employ disadvantaged people in the labor market, compared to 2017, in 2018 the amendments included an increase in the percentage of co-financing to the maximum possible amount for all categories of unemployed people and amounts to 50% of the annual cost of a gross II salary, and 75% for people with disabilities (CES, 2017: 1). There were no changes in relation to public work compared to 2017 (HZZ, 2017: 10).

The Croatian Employment Service implemented active employment policy measures in 2019 on the basis of the Guidelines for the Development and Implementation of the Active Employment Policy in the Republic of Croatia for the period from 2018 to 2020. Nine measures were implemented in 2019, with four additional sub-measures, and the measures were targeted at specific target groups of unemployed people and employed people at risk of losing their jobs, including refugees (CES, 2020: 36).

38 <http://mjere.hr/>

39 <http://mjere.hr/mjere/potpore-za-zaposljavanje/>

40 <http://mjere.hr/mjere/javni-rad/>

According to the CES records, on 31 December 2019, there were a total of 146 unemployed refugees, 12 people under subsidiary protection and 13 family members of people granted international protection.⁴¹ During 2019, 100 refugees, 12 people under subsidiary protection and 13 family members of people granted international protection were included in individual counseling. A total of 11 refugees, 6 people under subsidiary protection and one family member of a person granted international protection were included in the active employment policy measures. Six people were included in the Employment aid measures, 11 people in the On-the-job training measures with the aim of obtaining a public certificate of competency, and one person was employed through the Self-employment measure. As the main obstacles to better integration into the labor market, the CES points out the lack of knowledge of Croatian and/or English and the low motivation of some users when it comes to learning Croatian, but also in inclusion in other programs that can raise employment. According to the CES, an additional challenge to employment is the attitude towards work and cultural differences, especially when it comes to women.

Based on the Guidelines as a strategic document, the CES has adopted the Terms and Conditions and the manner of using funds for the implementation of active employment policy measures in 2020, and in accordance with the following objectives:

- increasing the employment rate,
- matching supply and demand in the labor market,
- providing better information to labor market participants (CES, 2019: 3).

According to the document, employment aid can be granted in the form of a wage subsidy for the employment of disadvantaged workers in the labor market and the employment of workers with disabilities, while the target groups also include refugees and foreigners under subsidiary protection (CES, 2019: 16). Refugees and foreigners under subsidiary protection continue to be cited as target groups in the public work measure, while the document clarifies that public work as community work takes place in a limited period of time and offers co-financing (50% subsidy) and financing (100% subsidy) for the employment of unemployed people from target groups (CES, 2019: 64).

According to the Jesuit Refugee Service, people with approved international protection in Croatia do the type of work where there is a shortage of workers, which currently includes ancillary positions, such as kitchen support staff, waitressing or construction work, which are in high demand due to the recent earthquake in Zagreb.⁴²

41 Croatian Employment Service, memo of 10 January 2020

42 Novi list, Janko Gredelj: Koronavirus je program za izbjeglice i u Hrvatskoj i u svijetu stavio na čekanje, 13 September 2020 <https://www.novolist.hr/vijesti/hrvatska/janko-gredelj-koronavirus-je-program-za-izbje-glice-i-u-hrvatskoj-i-u-svijetu-stavio-na-cekanje/>, accessed 24 September 2020.

5. The impact of COVID-19 on the access of migrants and refugees to the labor market

At the end of 2019, a new disease called COVID-19 emerged in China, and the spread of the disease outside China in 2020 affected a large number of countries around the world, including European countries. This demonstrated that the COVID-19 pandemic is not only a threat to human health, but the spread of the disease has had a significant impact on the economies of many countries and the rise in unemployment, with the peak of the crisis in this segment not yet reaching its highest point.⁴³ The World Bank cautioned in an updated Global Economic Prospects report that this was the “deepest” recession since World War II, and that for many countries that had fallen into recession this year, it was the worst crisis in 150 years. The World Bank also stated that between 70 and 100 million people could fall into extreme poverty, and that the per capita income for all countries would fall by an average of 6.2%, noticeably more than during the 2009 recession.⁴⁴

The European Commission reported on its website that the International Labor Organization (ILO) had published preliminary assessments of the impact of COVID-19, reporting an increase in unemployment and the spread of inequality with a disproportionate impact on the most vulnerable.⁴⁵

Among those affected by the consequences around the world are migrants and beneficiaries of international protection. Namely, restrictive measures, so-called lockdowns, introduced primarily to slow the spread of COVID-19 and relieve hospitals and health systems so that, despite the pandemic, they could continue to provide adequate care, have led to negative consequences in the economy and affected jobs in many sectors, with many workers facing unemployment or reduced incomes.

Research conducted jointly by the Center for Global Development, Refugees International, and the International Rescue Committee found that refugees living in low- and/or middle-income countries are particularly vulnerable to the economic impact of the COVID-19 pandemic. Based on data for eight host countries before COVID-19, they found that refugees were 60 percent more likely to work in sectors affected by the pandemic than host populations, and as a result, COVID-19 was likely to lead to a loss of livelihood and an increase in poverty

43 The World Health Organization declared COVID-19 a pandemic on 11 March 2020, available at: <https://www.who.int/dg/speeches/detail/who-director-general-s-opening-remarks-at-the-media-briefing-on-covid-19--11-march-2020>, accessed 24 September 2020.

44 Al Jazeera Balkans: Svjetska banka očekuje pad privredne aktivnosti od 5,2 posto, 9 June 2020., available at: <http://balkans.aljazeera.net/vijesti/svjetska-banka-ocekuje-pad-privredne-aktivnosti-od-52-posto>, accessed 24 September 2020.

45 The impact of COVID-19 on the world of work is the most severe since the Second world war: ILO assessments and possible responses, 15 May 2020, available at: https://ec.europa.eu/international-partnerships/stories/impact-covid-19-world-work-most-severe-second-world-war-ilo-assessments-and-possible_en, accessed 23 September 2020.

among the refugee population. These impacts will be exacerbated by the fact that COVID-19 has made it more difficult for refugees to access the labor market, social safety nets, and aid provided by humanitarian organizations (Center for Global Development, Refugees International, International Rescue Committee, 2020: Summary).⁴⁶ The research also states that for refugees, COVID-19 is not only a health crisis, but a socio-economic crisis as well. While the pandemic will affect refugees differently depending on their location, it will impact their access to additional sources of income, such as aid (Center for Global Development, Refugees International, International Rescue Committee, 2020: 3).

The European Commission's website points out that a significant part of the labor force in the EU member states is made up of migrants and refugees, and the importance of their contribution to European economies and public services became clear precisely during the crisis caused by the spread of COVID-19, when many of them provided crucial health and social support.⁴⁷ It is also stated that following the crisis, migrant workers and entrepreneurs can play an important role in the recovery and rebuilding of EU economies. However, many of these workers face specific challenges and have been severely affected by the pandemic. Racism and xenophobia are on the rise, creating additional barriers to their social integration and participation in labor markets.

This is why, on 7 September 2020, the European Commission and the European Social and Economic Partners renewed their commitment to the European Partnership for Integration, reaffirming the importance of a cross-sectoral multilevel approach for early integration into the labor market, benefiting both refugees and the economy and society at large.

The Croatian Institute for Migration and Ethnic Studies, in a document entitled *Pandemic and Migration*, provides, among other things, a review of the changes caused by the COVID-19 pandemic in the field of migration.⁴⁸ The document states that "migrant workers contribute to the economic growth and development not only of the receiving countries but also of the countries of origin by sending money remittances and acquiring work skills and knowledge. ***A significant number of activities, such as health care, transportation, construction, agriculture, the service industry, and food processing, depend on foreign labor. These are sectors in which "work from home" is not possible, and thus workers who perform jobs in these sectors are at greater risk of contracting the new coronavirus. However, migrant workers often occupy a more unfavorable position in these sectors compared to***

46 Center for Global Development, Refugees International, International Rescue Committee (Helen Dempster, Thomas Ginn, Jimmy Graham, Martha Guerrero Ble, Daphne Jayasinghe, Barri Shorey): *Locked Down and Left Behind: The Impact of COVID-19 on Refugees' Economic Inclusion*, Policy paper 178, July 2020, available at: <https://www.cgdev.org/sites/default/files/locked-down-and-left-behind-paper-71320.pdf> (accessed 24 September 2020)

47 Renewal of the European Partnership for Integration Following COVID-19 Crisis, <https://ec.europa.eu/migrant-integration/news/renewal-of-the-european-partnership-for-integration-following-covid19-crisis>

48 Institute for Migration and Ethnic Studies, *Pandemija i migracija*, available at: http://www.imin.hr/c/document_library/get_file?uuid=504de918-7b02-4686-bb26-59d0f9091827&groupId=10156 (accessed 24 September 2020.)

national workers, given that their employment contracts are temporary, their employment is irregular, their wages are lower and social protection is inadequate.” (OECD/ILO, 2018, Institute for Migration and Ethnic Studies, 2020: 9).

Another work emphasizes the contribution of migrant workers to the ongoing efforts to keep basic services running during the COVID-19 epidemic in the EU. The authors point out that while the forced shutdown has confined large sections of the workforce at home, some essential functions still need to be performed to keep European citizens healthy, safe and fed during the pandemic. This includes jobs performed by highly qualified workers, but also jobs for which lower qualifications were sufficient. The paper also states that migrants make up more than a third of cleaners and helpers, and more than a quarter of workers in the mining and construction sectors, stationary plant and machine operators, and that one in five workers in food processing is a migrant. According to the authors, these statistics not only highlight the critical role that migrant workers are playing in performing basic functions in EU societies, but they also suggest an important fact: low educated migrants are essential in many vital roles within European societies. The fight against COVID-19 has revealed their relevance, which is otherwise often overlooked in a migration debate predominantly focused on the importance of attracting highly skilled migrants to the Union (Fasani, Jacopo, 2020: 2).

In its recommendations from June 2020, the International Labor Organization emphasized that even before COVID-19, refugees had a more difficult time accessing the labor market, as well as earning less than nationals in the same occupations (International Labor Organization, 2020: 2). COVID-19 has made these restrictions even worse. Lockdown and other containment measures have been particularly problematic for refugee entrepreneurs with micro, small and medium-sized enterprises. For refugees, social distancing measures may be difficult to apply at work, and access to personal protective equipment can be limited. This is often the case in certain occupations with refugee workers, including restaurants, meatpacking plants, care work, and transportation. Furthermore, the International Labor Organization warns that information on preventative safety and health measures at work may not be sufficiently available to refugee workers (International Labor Organization, 2020: 3).

The consequences of the pandemic are also visible among the refugee population in Croatia. Are you Syrious and the SOLIDARNA Foundation for Human Rights and Solidarity have started collecting one-time aid for about forty refugee families with around fifty children. The initial aid was HRK 3000 per family to help get through the first days of unemployment. According to the Jesuit Refugee Service, some of the people granted international protection assisted by the JRS in Croatia were employed in service occupations, and due to the pandemic and accompanying measures, they were also affected by the crisis.⁴⁹⁵⁰

49 Novi list, Ostali bez posla zbog korone, ali to je na žalost bio samo početak njihovih muka, 25 May 2020, <https://www.novolist.hr/vijesti/ostali-bez-posla-zbog-korona-ali-to-je-na-zalost-bio-samo-pocetak-njihovih-muka/>, accessed 24 September 2020.

50 Phone conversation with a JRS representative on 16 September 2020.

6. Conclusion

People granted international protection face a number of obstacles to integration and encounter various barriers to accessing the labor market, such as legal and administrative difficulties, language barriers and socio-cultural differences, which are often prominent when it comes to employment (UNHCR, 2006: 56). The COVID-19 pandemic made these obstacles even worse in 2020. However, it is often forgotten that when refugees arrive in a new country, they bring with them new knowledge and skills, and can be an important factor in the labor market. It is therefore necessary to develop policies, legislation and practices to encourage people seeking international protection, and especially those who are eventually granted international protection, to be included in language learning courses as soon as possible, and then in the labor market itself. Furthermore, it would be beneficial if refugees were assessed for their qualifications, knowledge and skills as soon as they arrive in Croatia, in order to be able to refer them to the appropriate institutions or arrange for additional education or re-qualification. Only through the cooperation of all relevant institutions on the one hand, and the refugees themselves on the other, can change be achieved in which these people will cease to be a passive subject in the labor market and get the opportunity to actively engage in the labor market and ultimately contribute to society, as well as achieve full integration into the new society.

LITERATURE

- Al Jazeera Balkans: Svjetska banka očekuje pad privredne aktivnosti od 5,2 posto, 9 June 2020, <http://balkans.aljazeera.net/vijesti/svjetska-banka-ocekuje-pad-privredne-aktivnosti-od-52-posto>, accessed 24 September 2020.
- Center for Global Development, Refugees International, International Rescue Committee (Helen Dempster, Thomas Ginn, Jimmy Graham, Martha Guerrero Ble, Daphne Jayasinghe, Barri Shorey): Locked Down and Left Behind: The Impact of COVID-19 on Refugees' economic Inclusion, Policy paper 178, July 2020, <https://www.cgdev.org/sites/default/files/locked-down-and-left-behind-paper-71320.pdf>, accessed 24 September 2020.
- Eurofound, Pristup u integraciji izbjeglica i tražitelja azila na tržištu rada (izvršni sažetak), 2016, https://www.eurofound.europa.eu/sites/default/files/ef_publication/field_ef_document/ef1646hr1.pdf, accessed 16 September 2020.
- European Commission, European website on integration, <https://ec.europa.eu/migrant-integration/the-eu-and-integration/framework>, accessed 13 December 2017.
- European Commission, Evaluation of the Application of the Recast Qualification Directive (2011/95/EU), Final report, Luxembourg: Publications Office of the European Union, 2019, <https://op.europa.eu/hr/publication-detail/-/publication/e9528006-1ec1-11e9-8d04-01aa75ed71a1>, accessed 24 September 2020.
- European Commission, Integrating migrants and refugees into the labor market: Commission and Social and Economic Partners relaunch cooperation (press

III. An Overview of the Standards Regarding the Right to Work and Access to the Labor Market...

release), 7 September 2020, https://ec.europa.eu/commission/presscorner/detail/en/ip_20_1561, accessed 23 September 2020.

European Commission, Joint statement by the European Commission and economic and Social Partners on the Renewal of the European Partnership for Integration, offering opportunities for refugees to integrate in the European labor market, 2020, <https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/policies/legal-migration-policy/joint-statement-commission-economic-social-partners-renewal-european-partnership-integration.pdf>, accessed 23 September 2020.

European Commission, Press Release, A fresh start on migration: Building confidence and striking a new balance between responsibility and solidarity, 23 September 2020, https://ec.europa.eu/commission/presscorner/detail/en/ip_20_1706, accessed 5 October 2020.

European Commission - Press Release, Delivering the European Agenda on Migration: Commission presents the Action Plan on Integration and reforms of the 'Blue Card' scheme for highly qualified workers from outside the EU, 7 June 2016, europa.eu/rapid/press-release_IP-16-2041_hr.pdf (accessed 13 December 2017).

European Commission, The impact of COVID-19 on the world of work is the most severe since the Second world war: ILO assessments and possible responses, 15 May 2020, https://ec.europa.eu/international-partnerships/stories/impact-covid-19-world-work-most-severe-second-world-war-ilo-assessments-and-possible_en, accessed 23 September 2020.

European Commission, Renewal of the European Partnership for Integration following COVID-19 crisis, 9 September 2020., <https://ec.europa.eu/migrant-integration/news/renewal-of-the-european-partnership-for-integration-following-covid-19-crisis>, accessed 23 September 2020.

European Parliament, Work and social welfare for asylum – seekers and refugees, November 2015, [http://www.europarl.europa.eu/RegData/etudes/IDAN/2015/572784/ePRS_IDA\(2015\)572784_eN.pdf](http://www.europarl.europa.eu/RegData/etudes/IDAN/2015/572784/ePRS_IDA(2015)572784_eN.pdf), accessed 13 December 2017.

Fasani Francesco, Mazza Jacopo, Immigrant Key workers: Their Contribution to Europe's COVID-19 Response, 2020, https://ec.europa.eu/knowledge4policy/sites/know4pol/files/key_workers_covid_0423.pdf, accessed 24 September 2020.

Croatian Employment Service <http://www.hzz.hr/>

Croatian Employment Service, memo of 10 January 2020, (internal documentation of the Croatian Law Center).

Croatian Employment Service, Yearbook for 2019, May 2020, <https://www.hzz.hr/content/stats/HZZ-Godisnjak-2019-v2.pdf>, accessed 28 September 2020.

Croatian Employment Service, Active employment policy measures within the competence of the Croatian Employment Service, Terms and Conditions and the manner of using funds for the implementation of measures in 2020, 2019 https://www.hzz.hr/content/mjere.hr/Mjere.hr_2020_proved-bena_uputa_231219.pdf, accessed 5 October 2020.

Croatian Employment Service, Package of active employment policy measures in 2018 with emphasis on changes compared to 2017, December 2017, <http://>

III. An Overview of the Standards Regarding the Right to Work and Access to the Labor Market...

pravonasor.weebly.com/uploads/1/1/3/6/113618235/paket-mjera-aktivne-politike-zapo%C5%A0ljava-u-2018.-godini-002.pdf, accessed 5 October 2020.

Croatian Employment Service, Ministry of Labor and the Pension System, Family and Social Policy, <http://mjere.hr/>

Institute for Migration and Ethnic Studies, Pandemic and Migration, 2020, http://www.imin.hr/c/document_library/get_file?uuid=504de918-7b02-4686-bb26-59d0f9091827&-groupId=10156, accessed 24 September 2020.

Jesuit Refugee Service: Inclusion of refugees in the labor market – presentation of the cooperation between HUP, CES, JRS and refugees, 2018 available at: <http://www.jrs.hr/2018/10/30/ukljuci-vanje-izbjeglica-na-trziste-rada-prezentacija-suradnje-hup-a-hzz-a-jrs-a-i-izbjeglica/>, accessed 28 September 2020.

International Labour Organisation, Protecting the rights at work of refugees and other forcibly displaced persons during the COVID-19 pandemic, June 2020 <https://www.refworld.org/docid/5ef48e404.html>, accessed 22 September 2020.

Novi list, Janko Gredelj: 'Koronavirus je program za izbjeglice i u Hrvatskoj i u svijetu stavio na čekanje', 13 September 2020, <https://www.novolist.hr/vijesti/hrvatska/janko-gredelj-koro-navirus-je-program-za-izbjeglice-i-u-hrvatskoj-i-u-svijetu-stavio-na-cekanje/>, accessed 24 September 2020.

Novi list, Ostali bez posla zbog korone, ali to je na žalost bio samo početak njihovih muka, 25 May 2020, <https://www.novolist.hr/vijesti/ostali-bez-posla-zbog-korona-ali-to-je-na-zalost-bio-samo-pocetak-njihovih-muka/>, accessed 24 September 2020.

Ombudsperson, Report of the Ombudsperson for 2019, March 2020, https://www.ombudsman.hr/wp-content/uploads/2020/04/Izvj%C5%A1%C4%87e-pu%C4%8Dke-pravobraniteljice-za-2019._3.pdf, accessed 24 September 2020.

World Health Organization, 11 March 2020, <https://www.who.int/dg/speeches/detail/who-director-general-s-opening-remarks-at-the-media-briefing-on-covid-19---11-march-2020>, accessed 24 September 2020.

UNHCR; Convention and Protocol Relating to the Status of Refugees, with an Introductory Note by the Office of the United Nations High Commissioner for Refugees, https://www.unhcr.org/hr/wp-content/uploads/sites/19/2018/11/konvencija_1951.pdf, accessed 16 September 2020.

UNHCR, Rights of Refugees in the Context of Integration: Legal Standards and Recommendations, POLAS/2006/02, June 2006, <http://www.refworld.org/docid/44bb9b684.html>, accessed 6 December 2017.

University of Michigan Law School, The Michigan Guidelines on the Right to work, 16 March 2010, <http://www.refworld.org/docid/4bbaf1242.html>, accessed 7 December 2017.

Government of the Republic of Croatia, Final Draft Laws on Croatian Veterans and Local Government sent to the Croatian Parliament, 23 November 2017, <https://vlada.gov.hr/vijesti/hrvatskom-saboru-upuceni-konacni-prijedlozi-zakona-o-hrvatskim-braniteljima-i-lokalnoj-upravi/22911>, accessed 21 December 2017.

Government of the Republic of Croatia, Office for Human Rights and the Rights of National Minorities, Report on the implementation of the Action Plan for the

Integration of Persons Granted International Protection for the Period from 2017 to 2019 for 2017 and 2018, Zagreb 2019, <https://ljudskaprava.gov.hr/UserDocImages//dokumenti//Izvje%C5%A1%C4%87e%20o%20provedbi%20mjera%20iz%20AP%20za%20integraciju-2017.%20i%202018.pdf>, accessed 28 September 2020.

Government of the Republic of Croatia, Vlada donijela Smjernice za razvoj i provedbu aktivne politike zapošljavanja u razdoblju od 2018. do 2020. godine, 28 December 2017. <https://vlada.gov.hr/vijesti/vlada-donijela-smjernice-za-razvoj-i-provedbu-aktivne-politike-zaposljavanja-u-raz-doblju-od-2018-do-2020-godine/23122>, accessed 5 October 2020.

Documents and regulatory texts

Action Plan for the Integration of Persons Granted International Protection for the Period from 2017 to 2019 <https://ljudskaprava.gov.hr/UserDocImages//dokumenti//AKCIJSKI%20PLAN%20ZA%20INTEGRACIJU%202017-2019.pdf>, accessed 21 December 2017.

Directive 2013/33/EU of the European Parliament and of the Council of 26 June 2013 Laying Down Standards for the Reception of Applicants for International Protection (recast), OJ L 180, 29 June 2013, available at: <https://eur-lex.europa.eu/legal-content/HR/TXT/HTML/?uri=CeLeX:32013L0033&from=HR>, accessed 16 September 2020.

Directive 2003/9/EC of the Council of 27 January 2003 Laying Down Minimum Standards for the Reception of Asylum Seekers, OJ L 31, 6 February 2003, available at: <http://eur-lex.europa.eu/legal-content/HR/TXT/HTML/?uri=CeLeX:32003L0009&from=HR>; accessed on 13 December 2017.

Directive 2011/95/EU of the European Parliament and of the Council of 13 December 2011 on Standards for the Qualification of Third-Country Nationals or Stateless Persons as Beneficiaries of International Protection, for a Uniform Status for Refugees or for Persons Eligible for Subsidiary Protection, and for the Content of the Protection Granted, OJ L 337, 20 December 2011, xxxxxxxxxx available at: <https://eur-lex.europa.eu/legal-content/HR/TXT/HTML/?uri=CeLeX:32011L0095&from=HR>, recast: [https://eur-lex.europa.eu/legal-content/HR/TXT/HTML/?uri=CeLeX:32011L0095R\(03\)&from=HR](https://eur-lex.europa.eu/legal-content/HR/TXT/HTML/?uri=CeLeX:32011L0095R(03)&from=HR), accessed 5 October 2020.

European Commission, Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, Action Plan for the Integration of Third-Country Nationals, COM(2016) 377, final, 2016 <http://eur-lex.europa.eu/legal-content/HR/content/HR/ALL/?uri=CeLeX%3A52016DC0377> accessed 7 December 2017.

European Commission, Communication from the Commission to the European Parliament, the European Council, the Council, the European Economic and Social Committee and the Committee of the Regions on the new Migration and Asylum Pact COM/2020/609 final, 2020, <https://eur-lex.europa.eu/legal-content/HR/TXT/DOC/?uri=CeLeX:52020DC0609&from=HR>, accessed 5 October 2020.

European Commission, Proposal for a Regulation of the European Parliament and of the Council on Standards for the Qualification of Third-Country Nationals or

Stateless Persons as Beneficiaries of International Protection, for a Uniform Status for Refugees or for Persons Eligible for Subsidiary Protection, and for the Content of the Protection Granted and Amending Council Directive 2003/109/EC of 25 November 2003 Concerning the Status of Third-Country Nationals who are Long-Term Residents, 2016, available at: http://eur-lex.europa.eu/legal-content/HR/TXT/HTML/?uri=CeLeX:52_016PC0466&from=eN, accessed 13 December 2017.

European Partnership for Integration, 2017, https://ec.europa.eu/home-affairs/sites/home_affairs/files/e-library/documents/policies/legal-migration/integration/docs/20171220_european_partnership_for_integration_hr.pdf, accessed 23 September 2020.

Convention and Protocol Relating to the Status of Refugees, Decision on the Publication of Multilateral International Agreements to which the Republic of Croatia is a Party Based on the Notification on Succession, OG IA 12/93.

Ordinance on Croatian Employment Service Records, OG 28/2019, 59/2020.

Constitution of the Republic of Croatia (OG 56/90, 135/97, 8/98, 113/00, 124/00, 28/01, 41/01, 55/01, 76/10, 85/10, 05/14).

Act on International and Temporary Protection (OG 70/15, 127/17).

Labor Market Act OG (118/18, 32/20).

III. AN OVERVIEW OF THE STANDARDS REGARDING THE RIGHT TO WORK AND ACCESS TO THE LABOUR MARKET OF PERSONS GRANTED INTERNATIONAL PROTECTION

Lana Tučkorić

SUMMARY

The right to work is a fundamental human right. In the case of persons granted international protection, the right to work and access to the labour market is of key importance for their integration. Therefore, this right is provided for in international, European and national legislation, as well as in numerous strategic documents. However, many obstacles exist in practice (for example, not speaking the language, not having any work experience), and various other challenges connected to the recognition of professional qualifications, which often block the exercise of this right. In this chapter, the author presents the key documents and highlights the problems encountered by persons granted international protection when accessing the labour market. The impact of the COVID-19 pandemic is also considered. Finally, the author emphasizes the importance of developing various policies, legislation and practice to enable the faster inclusion of refugees in the labor market. In this process, cooperation between institutions and refugees is of crucial importance.

keywords: integration, access to the labour market, employment, persons granted international protection, refugees

IV.

AN OVERVIEW OF INTERNATIONAL, EUROPEAN AND NATIONAL STANDARDS FOR THE RECOGNITION OF THE QUALIFICATIONS OF REFUGEES*

SUMMARY

The recognition of previously acquired qualifications is a prerequisite for the successful integration of refugees into the labor market and education system.

In the past few years, a huge influx of migrants and refugees into Europe has significantly increased the number of initiatives for the recognition of qualifications. In order to ensure the effectiveness of the instruments to integrate refugees into the labor market, the process of the identification, recognition and validation of the qualifications and skills of refugees should become part of a wider system for integration into the labor market.

In this chapter, an overview of international, European and national documents providing for the recognition of educational and other professional qualifications of refugees is presented. The process of the recognition of refugees' qualifications in the Republic of Croatia is analyzed as well. In her conclusion, the author states that despite the fact that there are numerous tools at the European level aimed at facilitating recognition, most countries still apply the traditional procedure based on material evidence. It is necessary to encourage countries to adapt, to modify their traditional systems of recognition and to use all the existing and available tools.

Keywords: validation, qualifications, refugees, informal learning

* Author: Anamarija Kovač, mag. iur, legal counselor at CLC. Written in December 2017 and updated in September 2020.

1. Introduction*

Validation, as the recognition of educational and other professional qualifications, is a procedure by which a document (usually an educational certificate) acquired abroad is given the validity of a national document.¹

The process of recognizing qualifications is usually based on documentation proving that the person has completed a certain level of education or acquired a certain qualification. In the case of refugees, the lack of documentation is the biggest obstacle to exercising their right to the recognition of qualifications.

The recognition of previously acquired qualifications is a prerequisite for the successful integration of refugees into the labor market and the education system. Education plays an integral role in integration, especially of children (UNHCR, 2011). It is the primary vehicle by which economically and socially marginalized adults and children can lift themselves out of poverty and obtain the means to participate fully in their communities (CESCR, 1999). The inability of refugees to document already acquired qualifications, especially taking into account special circumstances, should not be an obstacle to the realization of the fundamental human rights of refugees, as well as those relating to education and work.

In 1998, the Danish Refugee Council identified a series of problems related to the recognition of qualifications faced by refugees in numerous countries in their "Assessment and Recognition of Refugees Qualifications in the European Community" (DRC, 1998).

For example, the report states that refugees who could contribute to European societies through the use of their qualifications were often unemployed or had to resume education or training that they had already completed in their home country. Researchers have found evidence that the systems for assessing and recognizing foreign certificates, skills and knowledge often do not provide refugees with adequate ways to find employment or further education and training. The Danish report contains suggestions for a different approach to assessing refugee qualifications than the one commonly used to assess credentials. The report has led to more attention being paid to the issue and new approaches have been found for recognizing refugee qualifications.

In the past few years, a huge influx of migrants and refugees into Europe has significantly increased the number of initiatives for the recognition of qualifications. In order to ensure the effectiveness of the instruments to integrate refugees into the labor market, the process of the identification, recognition and

* Certain terms are given in the masculine gender in this paper and are used as neutral for the masculine and feminine genders.

1 The definition of the Croatian term 'nostrifikacija' was taken from the Croatian Language Portal, from the verb 'nostrificirati', meaning to give a document the validity of a national document or to recognize a foreign credential, <http://hjp.znanje.hr> (10. 10. 2017.)

validation of the qualifications and skills of refugees should become part of a wider system for integration into the labor market.² In this chapter, an overview of international, European and national documents providing for the recognition of educational and other professional qualifications of refugees is presented.³

2. International Standards

Numerous international documents, conventions and declarations establishing international standards of human rights protection, including refugee rights, are part of the internal Croatian legal order (Art. 141 of the Constitution of the Republic of Croatia)⁴.

The most important international document for the protection of refugees, drafted within the framework of the United Nations, is the Convention Relating to the Status of Refugees of 1951 (hereinafter: Convention⁵), which entered into force on 22 April 1954. After consideration at the UN General Assembly, the Protocol Relating to the Status of Refugees was submitted for accession on 31 January 1967 and entered into force on 4 October 1967.

The Convention determines that, as far as public education is concerned, the Contracting States shall accord to refugees the same treatment as is accorded to nationals with respect to elementary education. With regard to education other than elementary education and, in particular, regarding access to studies, the recognition of foreign school certificates, diplomas and degrees, the remission of fees and charges and the awarding of scholarships, the Contracting States must accord to refugees treatment that is as favorable as possible and, in any event, no less favorable than that accorded to foreigners in the same circumstances (Article 22 of the Convention).

If the exercise of a right by a refugee would require the assistance of the authorities of the foreign country to which the refugee has no recourse, the Contracting State in whose territory he or she is residing shall arrange for such assistance to be afforded to them by their own authorities or by an international authority. They will deliver

2 The recognition and validation of qualifications and skills for refugees: Selected practices from Europe, The European Training Foundation, p. 7, available at: <https://connections.etf.europa.eu/files/form/anonymous/api/library/22e20594-d3f5-4798-b6b8-fa32ef949368/document/94740da2-c333-430d-8b91-22a78bed1243/media/Recognition%20and%20validation%20of%20qualifications%20and%20skills%20for%20refugees%20-%20practices%20from%20europe%20forTurkey.pdf>

3 According to the 1951 Convention, a refugee is anyone who, owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of their nationality and is unable or, owing to such a fear, is unwilling to avail themselves of the protection of that country; or who, not having a nationality and being outside the country of their former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it. The topic of this paper is refugees.

4 OG 56/90, 135/97, 8/98, 113/00, 124/00, 28/01, 41/01, 55/01, 76/10, 85/10, 05/14.

5 According to the Decision on the publication of multilateral international agreements to which the Republic of Croatia is a party based on the notification on succession, OG IA 12/93, the Republic of Croatia became a party to the Convention Relating to the Status of Refugees of 31 January 1967.

IV. An Overview of the International, European and National Standards...

to refugees or cause to be delivered under their supervision such documents or certifications as would normally be delivered to foreigners by or through their national authorities. Documents or certifications thus delivered shall stand in the stead of the official instruments delivered to foreigners by their national authorities, and shall be given credence in the absence of proof to the contrary. Subject to such exceptional treatment as may be granted to indigent people, fees may be charged for the services mentioned herein, but such fees shall be moderate and commensurate with those charged to nationals for similar services (Article 25 of the Convention).

In the report on the integration of refugees into the European Union (UNHCR, 2007), the UNHCR notes that the lack of material evidence (such as school certificates) presents a challenge for authorities (schools and other institutions) tasked with determining a child's education level, especially when enrolling in elementary and secondary education, and encourages States to apply more flexible criteria, taking into account the needs of the child. Furthermore, the report calls upon States to apply more flexible assessment measures to refugee qualifications, and in light of the provisions of the 1951 Convention and the Lisbon Recognition Convention, to extend the use of such flexible assessment measures to refugee qualifications obtained in countries other than those covered by the Lisbon Convention.

As one of the challenges that States are facing, the UNHCR points out the lack of information, such as the details of the curriculum in refugee countries, textbooks, teacher qualifications, etc., which prevents educational institutions from conducting quality assessments of refugee qualifications. States are encouraged to develop handbooks and databases to assist educational institutions and other bodies in the process of assessing qualifications.

In its Conclusion on Local Integration, the UNHCR Executive Committee also discusses the issue of recognizing refugee qualifications and encourages Member States to recognize academic, professional and vocational diplomas, certificates and degrees acquired by refugees prior to entry into the host country (UNHCR, 2005).

In addition to the Convention, the International Covenant on Economic, Social and Cultural Rights establishes that primary education must be compulsory and available for free to all, secondary education shall be made generally available and accessible to all by every appropriate means, and in particular by the progressive introduction of free education, while higher education shall be made equally accessible to all, on the basis of capacity.⁶ In order for refugees to be able to exercise the right to education, it is important to determine the level of their previous education and to carry out the procedure for the recognition of documents/certificates/degrees/diplomas of completed education in the country of origin, if the refugees have them.

⁶ According to the Decision on the publication of multilateral international agreements to which the Republic of Croatia is a party based on the notification on succession, OG IA 12/1993, the Republic of Croatia became a party to the International Covenant on Economic, Social and Cultural Rights of 16 December 1966.

It is important to point out that international law merely imposes on states the minimum standards in achieving protection, which means that states can provide refugees with a higher standard of protection through their internal regulations and the implementation of international legal instruments in practice. (Lapaš, 2008: 3).

3. The European Framework for the Recognition of Educational and Professional Qualifications

3.1. The European Convention on the Academic Recognition of University Qualifications

The European Convention on the Academic Recognition of University Qualifications⁷ from 1997 (hereinafter: Lisbon Recognition Convention) is the key document in the area of higher education. The Lisbon Recognition Convention is the result of the joint work of UNESCO and the Council of Europe and regulates the recognition of higher education diplomas and qualifications issued in another country for the purpose of access to education and/or employment (Article 1).

The Lisbon Recognition Convention requires State Parties to take all feasible and reasonable steps within the framework of their education system and in conformity with their constitutional, legal and regulatory provisions to develop procedures designed to assess fairly and expeditiously whether refugees, displaced people and people in a refugee-like situation fulfil the relevant requirements for access to higher education, to further higher education programs or to employment activities, even in cases in which the qualifications obtained in one of the Parties cannot be proven through documentary evidence (Article 7).

In 1999, the Council of Europe and UNESCO established a special committee to monitor the implementation of the Lisbon Recognition Convention – the Committee of the Convention on the Recognition of Qualifications concerning Higher Education in the European Region.

In addition to the Committee, the Lisbon Recognition Convention lists the European Network of National Information Centers for Academic Mobility and Recognition (ENIC Network) as the body that monitors, encourages and facilitates the implementation of the Lisbon Recognition Convention (Article 10.1). Each signatory to the Lisbon Recognition Convention has an ENIC center⁸,

7 The Decision on the promulgation of the Act ratifying the Convention on the Recognition of Qualifications concerning Higher Education in the European Region OG IA 9/2002 and the Publication of the entry into force of the Convention on the Recognition of Qualifications concerning Higher Education in the European Region OG IA 15/2002.

8 The ENIC/NARIC office in the Republic of Croatia is the Agency for Science and Higher Education and is part of the network of reporting centers on academic mobility and recognition.

a national information center, set up by national authorities. ENIC centers provide information on the recognition of foreign diplomas, degrees and other qualifications. They also provide information on study opportunities abroad and advice on practical issues related to mobility and equivalence. The Council of Europe and UNESCO jointly provide the services of the ENIC Network Secretariat⁹.

The seventh meeting of the Committee of the Convention on the Recognition of Qualifications concerning Higher Education in the European Region was held on 29 February 2016 in Paris, after which the parties to the Lisbon Recognition Convention presented a joint statement. Considering that a large number of refugees have found refuge in European countries at the time of the Committee meeting, the statement is fully committed to the recognition of refugee qualifications. The statement¹⁰ called on all parties to the Lisbon Recognition Convention to fully implement Article 7 of the Lisbon Recognition Convention¹¹ and on the Convention Committee to proceed with the development of Recommendations on the recognition of qualifications held by refugees, displaced people and people in a refugee-like situation. After the meeting at the UNESCO headquarters, a conference was held on the topic "Recognition of qualifications held by refugees, displaced people and people in a refugee-like situation". Speakers from Germany, Italy, Norway, Sweden and Turkey shared their experiences on how their countries were facing the challenge of increased numbers of refugees¹²

An extraordinary session of the Committee of the Convention on the Recognition of Qualifications concerning Higher Education in the European Region was held in November 2017, on which occasion the Recommendations on the Recognition of Qualifications held by Refugees, Displaced Persons and Persons in a Refugee-Like Situation were adopted¹³. The purpose of the Recommendations is to ensure that refugees, displaced people and people in a refugee-like situation receive fair recognition of their qualifications in accordance with the obligation arising from Article 7 of the Lisbon Recognition Convention. The Recommendations refer to situations in which these people lack the documentation to confirm previously acquired qualifications. Member States are encouraged to provide access to higher education, continuing higher education and the recognition of higher education qualifications for access to the labor market for refugees,

9 See more <http://www.enic-naric.net/welcome-to-the-enic-naric-website.aspx> (12 October 2017)

10 Statement available at: http://www.enic-naric.net/fileusers/LRCC_Statement_on_the_recognition_of_qualifications_held_by_refugees.pdf (14 October 2017)

11 Each Party shall take all feasible and reasonable steps within the framework of their education system and in conformity with their constitutional, legal and regulatory provisions to develop procedures designed to assess fairly and expeditiously whether refugees, displaced people and people in a refugee-like situation fulfil the relevant requirements for access to higher education, to further higher education programs or to employment activities, even in cases in which the qualifications obtained in one of the Parties cannot be proven through documentary evidence.

12 See more at: http://www.UNESCO.org/new/en/member-states/single-view/news/two_conferences_on_recognition_of_higher_education_qualifica/ (20 October 2017)

13 Available at: <https://rm.coe.int/recommendation-on-recognition-of-qualifications-held-by-refugeesdispl/16807688a8> (20 October 2017)

displaced people and people in a refugee-like situation, regardless of their lack of documents on previously acquired qualifications and to find other ways of determining qualifications and adapt their national legislation accordingly.

Given that the Lisbon Recognition Convention only applies to Europe, UNESCO has been actively working on the preparation of a global convention. In March 2016, UNESCO formed a Committee to work on the text of the new convention. A preliminary draft text of the new convention was sent to the UNESCO Executive Board and the General Assembly¹⁴. The preparation process included the first phase of consultations in May and June 2017 and the second phase of consultations that lasted from March to June 2018. The first international consultation meeting was held in December 2018 and the second in March 2019. In November 2019, the draft text of the UNESCO Global Convention on the Recognition of Qualifications concerning Higher Education was examined at the 40th session of the General Conference of UNESCO¹⁵, when the convention was adopted. The Global Convention is the first United Nations treaty on higher education with a global scope.¹⁶

3.2. Acquis Communautaire

The Qualification Directive¹⁷ stipulates that Member States shall ensure equal treatment between beneficiaries of international protection and nationals in the context of the existing recognition procedures for foreign diplomas, certificates and other evidence of formal qualifications, and requires Member States to facilitate full access for beneficiaries of international protection who cannot provide documentary evidence of their qualifications to appropriate schemes for the assessment, validation and accreditation of their prior learning (Article 28). All such measures must comply with the provisions of the Directive on the recognition of professional qualifications¹⁸.

14 See moreat: <https://en.UNESCO.org/themes/higher-education/recognition-qualifications/global-convention>, accessed: 20 October 2017.

15 See moreat: https://en.UNESCO.org/sites/default/files/UNESCO-higher-education-global-convention-2019_10_04-meeting.pdf (24 July 2020)

16 Dostupno na: http://portal.UNESCO.org/en/ev.php-URL_ID=49557&URL_DO=DO_TOPIC&URL_SeCTION=201.html (24 July 2020)

17 Consolidated text: Directive 2011/95/EU of the European Parliament and of the Council of 13 December 2011 on Standards for the Qualification of Third-Country Nationals or Stateless Persons as Beneficiaries of International Protection, for a Uniform Status for Refugees or for Persons Eligible for Subsidiary Protection, and for the Content of the Protection Granted (recast) OJ C 337, 20 December 2011 and OJ C 76, 12 March 2020. Available at: <https://eur-lex.europa.eu/legal-content/HR/TXT/PDF/?uri=CeLeX:02011L0095-20111220&from=HR> (27 July 2020)

18 Consolidated text: Directive 2005/36/EC of the European Parliament and of the Council of 7 September 2005 on the recognition of professional qualifications (Text with EEA relevance), 24 April 2020. Available at: <https://eur-lex.europa.eu/legal-content/HR/TXT/PDF/?uri=CeLeX:02005L0036-20200424&from=HR> (27 July 2020)

On 4 May 2016, the European Commission presented the first set of proposals for the reform of the Common European Asylum System, which laid the first foundations for the reform of the structure of the Common European Asylum System. In the second phase, legislative proposals for the reform of the acquis in the field of asylum were presented. The legislative reform also includes the Qualification Directive, which, according to the proposal of the European Commission, should become a regulation¹⁹ that would establish uniform standards for recognizing the need for protection and the rights granted to beneficiaries of international protection. A new paragraph has been added regarding the approach to the procedures for the recognition of qualifications and the evaluation of skills stipulating that beneficiaries of international protection shall enjoy equal treatment with nationals of the Member State granting protection with regard to access to appropriate systems for the assessment, validation and recognition of their previous education and experience (Article 32, paragraph 3 of the Regulation proposal).

3.3. The Council Recommendation on the Validation of Non-Formal and Informal Learning

The Council Recommendation on the validation of non-formal and informal learning (VNFIL)²⁰ from 2012 encourages Member States of the EU to implement their national validation plans by 2018. The validation assessments will allow individuals to increase the visibility and value of their knowledge, skills and competencies acquired outside of formal education and training. The validation of non-formal and informal learning enables individuals to demonstrate what they have learned and to use that knowledge in their working careers and in further education and training. The Recommendation defines validation as a “process of confirmation by an authorized body that an individual has acquired learning outcomes measured against a relevant standard”. The relevant standard or reference standard may be the standard of the profession or the learning outcomes of the formal qualification.

In July 2020, the European Commission's Directorate-General for Employment, Social Affairs and Inclusion published the results of the evaluation of the EU Recommendations on the validation of non-formal and informal learning (VNFIL). The evaluation included all Member States, with justified exceptions²¹. The implementation of VNFIL in the

19 The Proposal for a Regulation of the European Parliament and of the Council on Standards for the Qualification of Third-Country Nationals or Stateless Persons as Beneficiaries of International Protection, for a Uniform Status for Refugees or for Persons Eligible for Subsidiary Protection, and for the Content of the Protection Granted and Amending Council Directive 2003/109/EC of 25 November 2003 Concerning the Status of Third-Country Nationals who are Long-Term Residents, COM(2016) 466 final, 3 July 2016. Available at: <https://eur-lex.europa.eu/legal-content/HR/TXT/HTML/?uri=CeLeX:52016PC0466&qid=1608228884093&from=HR> (27 July 2020)

20 Council Recommendation of 20 December 2012 on the validation of non-formal and informal learning, OJ C 398/1, 22 December 2012. Available at: [https://eur-lex.europa.eu/legal-content/eN/TXT/HTML/?uri=CeLeX:32012H1222\(01\)&from=eN](https://eur-lex.europa.eu/legal-content/eN/TXT/HTML/?uri=CeLeX:32012H1222(01)&from=eN) (25 July 2020)

21 The Republic of Croatia became a member of the EU on 1 July 2013, so the period from 2013 to 2018 was evaluated, while The UK left the EU on 31 January 2020, but was included in the evaluation.

period from the end of 2012 to 2018 was evaluated. The comprehensive survey included desk research, interviews with relevant public authorities in each Member State, two expert meetings and a public consultation with stakeholders. The results of the evaluation show, among other things, that a significant number of Member States are implementing projects targeting hard-to-employ groups (such as refugees), though a systematic approach independent of project funding is missing.

Furthermore, the results of the evaluation show that the implementation of the measures contained in the VNFIL, which relate to disadvantaged groups (such as migrants), remains ineffective, despite the large number of different initiatives aimed precisely at these groups.²²

3.4. The Council Recommendation on Key Competencies for Lifelong Learning

The Council Recommendation on key competencies for lifelong learning²³ states that the development of key competencies, their validation and the provision of competence-oriented education, training and learning should be supported by establishing good practices for better support for educational staff in their tasks and improving their education. Furthermore, methods and tools for assessment and evaluation would be updated and new and innovative forms of teaching and learning would be introduced. It also states that supporting the validation of competencies acquired in different contexts will enable individuals to have their competencies recognized and for them to obtain qualifications. It can build on the existing arrangements for the validation of non-formal and informal learning, as well as the European Qualification Framework, which provides a common reference framework to compare levels of qualifications, indicating the competencies required to achieve them. It also states that the assessment may help in structuring learning processes and in guidance. This enables helping people to improve their competencies with regard to the changing requirements on the labor market.²⁴

3.5. EU Policies in the Area of the Recognition of Qualifications

In 2004, the Council of the European Union adopted the Common Basic Principles for Immigrant Integration Policies, creating a policy framework for the integration of migrants. In 2005, the European Commission presented the Framework for

22 Commission staff working document evaluation of the Council Recommendation of 20 December 2012 on the validation of non-formal and informal learning {COM(2020) 274 final} – {SwD(2020) 122 final}, 1 July 2020. Available at: https://eur-lex.europa.eu/legal-content/eN/TXT/HTML/?uri=CeLeX:52020SC01_21&from=LT (27 July 2020)

23 Council Recommendation of 22 May 2018 on key competencies for lifelong learning, OJ C 189, 4 June 2018. Available at: [https://eur-lex.europa.eu/legal-content/HR/TXT_HTML/?uri=CeLeX:32018H0604\(01\)&from=HR](https://eur-lex.europa.eu/legal-content/HR/TXT_HTML/?uri=CeLeX:32018H0604(01)&from=HR) (27 July 2020)

24 *Ibid.*

the Integration of Third-Country Nationals in the EU²⁵. The Framework is based on proposals for concrete measures to put the Common Basic Principles for EU Integration Policies into practice. The Framework also includes new proposals for action at both the EU and national levels. Even within the measures related to the employment and education of migrants, the recognition of qualifications and previously acquired professional experience was singled out as one of the “actions” to be taken at both the EU and national levels.

Action Plan on the Integration of Third-Country Nationals

The European Commission's Action Plan on the Integration of Third-Country Nationals²⁶ states that facilitating the validation of skills and the recognition of qualifications is crucial to ensure that individuals' skills are used to their full potential, which is especially important for refugees, who may not have the necessary documentary evidence of their previous learning and qualifications, may have had their education interrupted or may not have participated in formal education. In the Action Plan, the Commission refers to the New Skills Agenda for Europe, which was being developed at the time, and that would develop measures and tools to support the profiling of skills and the recognition of qualifications for third-country nationals. The Commission also encourages Member States to assess, validate and recognize the skills and qualifications of third-country nationals as soon as possible, making full use of the tools available at EU level.

New Skills Agenda for Europe²⁷

The New Skills Agenda for Europe recognizes the challenge faced by most EU Member States, which is understanding the skills, qualifications and work experience of newly arrived migrants.

The Agenda states that identifying migrants' skills early on can help determine the first steps needed to integrate them into their host society and the labor market. This may involve referring them for appropriate training (including language training, business training or apprenticeships available through the European Alliance for Apprenticeships) or to employment services.

25 A Common Agenda for the Integration Framework for the Integration of Third-Country Nationals in the European Union, COM (2005) 389 final, 1 September 2005. Available at <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2005:0389:FIN:eN:PDF> (11 October 2017)

26 Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, Action Plan for the Integration of Third-Country Nationals, COM/2016/0377, 7 June 2016. Available at: https://eur-lex.europa.eu/legal-content/HR/TXT/HTML/?uri=CeLex:52016DC0377&qid=160822_9961623&from=HR (11 October 2017)

27 Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, A New Skills Agenda for Europe – Working together to strengthen human capital, employability and competitiveness, COM/2016/0381 final, 10 June 2016 Available at: <https://eur-lex.europa.eu/legal-content/HR/TXT/HTML/?uri=CeLex:52016DC0381&from=HR> (12 October 2017)

IV. An Overview of the International, European and National Standards...

In order to help Member States and refugees by facilitating their integration into society as quickly as possible, and in relation to the recognition of qualifications, the European Commission has set several goals:

- launch a 'Skills Profile Tool for Third-country Nationals' (see below), which will assist services in receiving and host countries in identifying and documenting the skills, qualifications and experience of newly-arrived Third-country Nationals;
- work with national authorities to support the recognition of migrants' skills and qualifications, including refugees', support the training of staff in reception facilities to speed up recognition procedures, and promote the sharing of information and best practices on understanding and recognizing skills and qualifications;
- make available online language learning for newly arrived migrants, including refugees, through Erasmus + online linguistic support

In conclusion, the improvement and modernization of education was stated as a key priority of EU programs, as well as the availability of high-quality education for all.

The European Pillar of Social Rights also lists a number of rights to quality and inclusive education, training and life-long learning.²⁸

Skills Agenda for Europe

The Skills Agenda for Europe²⁹ from 2020:

- calls for collective action, mobilizing business, social partners and stakeholders, to commit to working together, in particular within the EU's industrial eco-systems;
- defines a clear strategy to ensure that skills lead to jobs;
- helps people build their skills throughout life in an environment where lifelong learning is the norm;
- identifies the financial means to foster investment in skills; and
- sets ambitious objectives for up- and reskilling to be achieved within the next 5 years.

The Program contains twelve measures: a Pact for Skills, strengthening skills intelligence, EU support for strategic national upskilling action, future-proof vocational education and training (VET), rolling out the European Universities Initiative and upskilling scientists, skills to accompany the green and digital transition, increasing STEM graduates, fostering entrepreneurial and transversal skills, skills for life, initiative on individual learning accounts, a European approach to micro-credentials, the new Europass platform, and improving the enabling framework to unlock investments in skills.

²⁸ Skills Agenda for Europe (2019), available at: <https://ec.europa.eu/social/BlobServlet?docId=19362&langId=en> (17 August 2020)

²⁹ Skills Agenda for Europe (2020). Available at: <https://ec.europa.eu/social/BlobServlet?docId=22832&langId=en> (17 August 2020)

EU support for strategic national training measures calls for cooperation between the EU and the Member States in developing modern and comprehensive national skills strategies and joining forces with national public employment agencies to implement them. Cooperation on the implementation of this measure can be linked to the EU's strategic approach to legal migration, which is aimed at attracting and retaining talented individuals.

The European Commission also drafted a document on vocational education and training, including ways to make vocational education and training future-proof.³⁰

3.6. The European Qualifications Framework and Tools for the Recognition of Academic Qualifications

At the European level, the European Qualifications Framework (EQF) for lifelong learning was established in 2008, which functions as a reference framework for qualification levels defined through learning outcomes. Member States have subsequently established a national qualifications frameworks following the EQF. European guidelines were published in 2009 to test non-formal and informal learning as a practical tool for policy makers and practitioners with technical advice on validation. Furthermore, credit systems based on learning outcomes such as the European Credit Transfer and Accumulation System (ECTS) for higher education and the European Credit System for Vocational Education and Training (ECVET) facilitate the verification of non-formal and informal learning. Despite political progress, the most recent update of the European Inventory in 2010 on the testing of non-formal and informal learning only identified four EU Member States that have a highly developed certification system (IOM, 2013).

Traditionally, the recognition of foreign qualifications is based on educational certificates and/or acquired qualifications. Refugees often have incomplete documentation and information on previously acquired qualifications or none at all. It is also necessary to take into account the problem of not being familiar with the education systems in which these qualifications were acquired. Tools have been designed and made available in order to facilitate the implementation of the procedure for the recognition of qualifications by EU Member States. They are primarily intended for professionals. Some of these tools include enic-naric.net and the European Recognition Manual.

The enic-naric.net website is the joint initiative of the European Commission, the Council of Europe and UNESCO. It provides information on the procedures for the recognition of foreign qualifications in ENIC-NARIC countries, which are provided and maintained by the states.

The European Recognition Manual provides a wealth of information for anyone involved in or interested in recognizing qualifications. The electronic format of the

³⁰ Vocational Education and Training – A Future-Proof Approach. Available at: <https://ec.europa.eu/social/BlobServlet?docId=22828&langId=hr> (18 August 2020)

manual and many practical diagrams of procedures and processes often make complex information very accessible. The primary target group are the credential evaluators of the ENIC/NARIC networks who will use the e-Manual in their daily work³¹.

For example, authorities in the Netherlands developed the HEIs tool, used by higher education institutions when enrolling refugees who do not have documents. It was developed by a consortium of four higher education institutions and EP-Nuffic.

3.7. European Tools Supporting the Recognition of the Qualifications of Migrants and Refugees

The European Commission has developed a competency profile development program to support the early profiling of the skills of asylum seekers, refugees and other third-country nationals. The program was presented in June 2017 and is part of the New Skills Agenda for Europe – Working together to strengthen human capital, employability and competitiveness. The EU skills profiling program for third-country nationals is an electronic map that collects information and documentation in a consistent and portable way. The skills profiling program is designed as a flexible tool. States can tailor the program to their needs and combine them with existing procedures. The program can be used by any service that provides assistance to third-country nationals and should be used during interviews to get to know the person, their skills, qualifications and experiences. The program could be particularly useful for the early identification of skills and competencies in reception services or public employment services. The aim of the program is to help individuals create a profile of their skills and help advisers identify any recommendations or next steps³². The program became an integral part of the new Europass platform launched on 1 July 2020. The program is available in all EU languages (except Irish), as well as in Arabic, Farsi, Pashto, Sorani, Somali, Tigrinya and Turkish. It is possible to see two languages at the same time on one screen, reducing language barriers between case workers and third-country nationals. The program is also available as a web tool free of charge.³³

European Qualifications Passport for Refugees

The European Qualifications Passport for Refugees³⁴ is a document providing an assessment of higher education qualifications based on available documentation and a structured interview. It also presents information on the applicant's work

31 European Area of Recognition Project (EAR). The European Recognition Manual for Higher education Institutions – Practical guidelines for credential evaluators and admissions officers to provide fair and flexible recognition of foreign degrees and studies abroad, 2016. Available at: <http://www.enic-naric.net/fileusers/european%20Recognition%20Manual%20Second%20edition.pdf> (3 November 2017)

32 See more at <http://ec.europa.eu/social/main.jsp?catId=1412&langId=en> (3 November 2017)

33 See more at: <https://ec.europa.eu/social/main.jsp?catId=1412&langId=en> (27 July 2020)

34 See more at: <https://www.coe.int/en/web/education/recognition-of-refugees-qualifications> (6 November 2017)

experience and language proficiency. The European Qualifications Passport for Refugees is the product of a joint project of the Council of Europe, the Greek Ministry of Education and Religious Affairs and Enic-Naric centers from Greece, Italy, Norway and the United Kingdom.

The process consists of a questionnaire completed by the candidate and an evaluation interview with the evaluator of the certificate.

The document provides credible information relevant to employment, internships, enrollment in qualification courses and enrollment in studies. The European Qualifications Passport for Refugees is not a substitute for identification or educational documents and does not guarantee enrollment in studies or employment, nor is it an official document for recognition.

Visible Skills for Adults (VISKA)

Visible Skills for Adults (VISKA)³⁵ is an experimental program funded by ERASMUS+ that enables the verification of the skills and competencies of low-skilled people and makes transversal skills visible through a skills review coordinated by Skills Norway in partnership with Iceland, Belgium and Ireland. The VISKA project provides a holistic system for validation, the development of tools to support the validation process and competencies for counselors. The model has four stages: competence formation (including self-assessment and self-evaluation); career guidance; assessment; certificate (leading to employment, education or training). The experimental model includes 500 asylum seekers, refugees, migrants and low-skilled adults in four partner countries: Ireland, Iceland, Belgium and Norway.

inHERE Good Practice Catalogue (GPC)

The inHERE Good Practice Catalogue (GPC)³⁶ is the product of an analysis of almost 300 initiatives from 32 countries of higher education institutions and organizations that have participated in the EUA's Refugees Welcome Map Campaign up until early 2017. The aim of the GPC is to serve the academic communities in Europe and beyond as a source+ of information and to enable exchange and collaboration between interested stakeholders. While it focuses on refugee students and researchers, it should also foster a broader discussion and include higher education institutions' strategies and their approaches to diversity management. The Catalogue is organized into 11 topical categories.

4. National Legislation and Practice

The Act on International and Temporary Protection³⁷ stipulates that a refugee and a foreigner under subsidiary protection exercise the right to the recognition

35 See more at <http://viskaproject.eu/project-description/> (6 November 2017)

36 See more at: <https://www.inhereproject.eu/outputs/good-practice-catalogue> (6 November 2017)

37 OG 70/15 and 127/17.

of foreign educational qualifications under the same conditions as Croatian citizens. For refugees and foreigners under subsidiary protection who, for justified reasons, are unable to submit the necessary documentation proving their foreign qualification, an assessment of prior qualifications will be made (prior learning). The assessment of the previously acquired competencies of a refugee and a foreigner under subsidiary protection will be carried out by the competent authorities in accordance with the regulations governing regulated professions and the recognition of foreign professional qualifications. The decision to reject an application for the recognition of foreign professional qualifications cannot be based solely on the fact that there are no official documents proving a certain foreign professional qualification. If the refugee or foreigner under subsidiary protection does not have sufficient funds, the translation of foreign documents for the purpose of the recognition of foreign educational qualifications will be provided from the State Budget of the Republic of Croatia from the position of the Ministry of Science and Education (Article 70, paragraphs 3, 4, 5 and 6).

In accordance with the Act on the Recognition of Foreign Educational Qualifications (hereinafter: ARFEQ)³⁸ the right to the recognition of foreign educational qualifications is accorded to Croatian citizens, foreign citizens and stateless people (Article 3 of the ARFEQ). Recognition implies the formal confirmation of the value of a foreign educational qualification, i.e. the duration of education, issued by the competent authority, for the purpose of access to education or employment (Article 2, paragraph 1, item 2 of the ARFEQ).

The process for the recognition of a foreign educational qualification on completed primary and secondary education in general education and art programs for the purpose of employment or continuing education is conducted by the Education and Teacher Training Agency, while the process for the recognition of a foreign educational qualification on completed secondary education in vocational programs for the purpose of employment or continuing education is conducted by the Agency for Vocational Education and Adult Education (Article 6). The professional recognition of foreign higher education qualifications is performed by the Agency for Science and Higher Education, while the academic recognition of foreign higher education qualifications and the recognition of a period of study, i.e. ECTS credits, is performed by a higher education institution in the Republic of Croatia where the person wishes to continue higher education (Article 9).

Recognition for the purpose of continuing education determines the right to continue education in a particular educational institution or determines the conditions under which this right can be exercised. The process of recognition for the purpose of the continuation of primary or secondary education is conducted by the educational institution in which the applicant intends to continue their education, while the

38 OG 158/03, 198/03, 138/06, 45/11.

process for the recognition of primary education for the purpose of access to secondary education is conducted by the secondary school in which the applicant intends to continue their education (Article 7, paragraphs 1, 2 and 3).

In carrying out these procedures, primary schools may seek the opinion of the Education and Teacher Training Agency, and secondary schools may seek the opinion of the Education and Teacher Training Agency or the Agency for Vocational Education and Adult Education, depending on the type of education being continued (Article 7, paragraph 4).

4.1. Documentation Requirements for the Recognition of Migrants' and Refugees' Qualifications

The documentation that needs to be submitted for the recognition of qualifications differs depending on whether recognition is needed for completed elementary school, secondary education or higher education. Likewise, the procedure differs depending on whether it is carried out for the purpose of continuing education or the recognition of qualifications for access to the labor market. In the Republic of Croatia, the traditional approach still prevails, in which the recognition of qualifications is largely based on material evidence, i.e. documents issued by competent institutions, which makes it difficult for refugees to exercise their guaranteed right to the recognition of previously acquired qualifications.

In accordance with the Ordinance on the manner of implementing the program and assessing the knowledge of asylum seekers, refugees, foreigners under temporary protection and foreigners under subsidiary protection for the purpose of joining the education system of the Republic of Croatia³⁹, in order to join the education system, applicants are required to have a certificate of status in the Republic of Croatia, a certificate of residence in the Republic of Croatia, an identity document (birth certificate, ID card, passport or appropriate document issued by the Ministry of Interior) and a document of previous education. If the applicant does not have a document on previous education, they are obliged to give a statement to the notary public and present it to the appropriate professional service of the educational institution. In the case of a minor, the parent or guardian gives the statement (Article 3).

If none of the above possibilities for proving previous education exist, the professional service of the educational institution will organize a placement test to determine which grade the candidate should be placed into. A translator must be provided for the applicant to complete the placement test (Article 4).

The following documentation is required for the recognition of completed elementary school for the purpose of employment in the Republic of Croatia: last certificate obtained abroad in the original (or certified copy); certified translation of the certificate into Croatian issued by a certified court interpreter except for documents issued in Croatian and Latin script; document proving citizenship (copy

³⁹ OG 89/2008, 70/2015.

of birth certificate, ID card, passport or other public document proving citizenship); proof of the payment of administrative fees in the amount of HRK 140.00 in favor of the State Budget or certificate of general exemption from the payment of administrative fees, issued in the regional office of the tax administration of the city where the party is registered or proof of the status of displaced people, refugees etc. in accordance with Article 8 of the Administrative Fees Act⁴⁰. In case of a change of first name or last name, it is necessary to submit a copy of the public document proving the change (e.g. Decision, excerpt from the register)⁴¹.

The following documentation is required for the recognition of completed secondary education for the purpose of employment or continuing education in the Republic of Croatia: graduation certificate (diploma) obtained abroad in the original (or certified copy); certified translation of the certificate (diploma) into Croatian issued by a certified court interpreter except for documents issued in Croatian and Latin script; copies of secondary school certificates by grade; document proving citizenship (copy of birth certificate, ID card, passport or other public document proving citizenship); proof of the payment of administrative fees in the amount of HRK 140.00 in favor of the State Budget or certificate of general exemption from the payment of administrative fees, issued in the regional office of the tax administration of the city where the party is registered or proof of the status of displaced persons, refugees etc. in accordance with Article 8 of the Administrative Fees Act⁴² and in case of a change of first name or last name, a copy of the public document proving the change (e.g. Decision, excerpt from the register)⁴³.

For the recognition of foreign educational qualifications on completed secondary education in vocational programs for the purpose of employment or further education, the following documents must be attached to the application: the original or a certified copy of the final certificate of completion proving the acquired qualification for which recognition is sought (unofficial certificates are not taken into account) translated into Croatian by a certified court interpreter; originals or certified copies of secondary school certificates by grade (if not available, it is necessary to submit the originals or certified copies of grade transcripts of all the exams passed during education) in a certified translation into Croatian; a copy of the document on previously completed education (e.g. a copy of the final certificate of completed primary or secondary education); copy of a document proving citizenship (birth certificate or passport); proof of

40 Foreigners with the status of victims of trafficking in human beings and minors who have been abandoned or are victims of organized crime or have been left without parental protection, guardianship or unaccompanied for other reasons, applicants for international protection, refugees, foreigners under subsidiary protection, family members of refugees and foreigners under subsidiary protection legally residing in the Republic of Croatia and foreigners under temporary protection and family members of foreigners under temporary protection. (Article 8, paragraph 14, of the Administrative Fees Act, OG 115/16).

41 See also http://www.azoo.hr/index.php?option=com_content&view=article&id=2702&Itemid=92 (27 November 2017)

42 *Ibid.*

43 *Ibid.*

the payment of administrative fees or a certificate of general exemption from the payment of administrative fees; a copy of the Decision of the competent authority or a copy of the marriage certificate (for people who have changed their first name and/or last name); curriculum vitae in Croatian (documenting education and work experience) and copies of all enclosed documents⁴⁴.

Procedure for the recognition of foreign higher education qualifications for employment purposes

The Agency for Science and Higher Education (hereinafter: ASHE), which is also the Croatian ENIC/NARIC Office, performs the recognition of foreign higher education qualifications for the purpose of employment in the Republic of Croatia. The optimal duration of the procedure for the professional recognition of foreign higher education qualifications is 60 days.

The professional recognition procedure consists of several steps: after receiving and processing the application for the professional recognition of a foreign higher education qualification, ASHE notifies the applicant in writing of the changes needed if the application is incomplete. The next step is the verification of the accreditation of the institution where the foreign higher education qualification was obtained, the accreditation of the study program and, if necessary, the credibility of the foreign higher education qualification for which recognition is sought and the rights and opportunities provided by the qualification in the country where it was issued. When the procedure is completed, ASHE issues a decision on the recognition of a foreign higher education qualification and sends it to the applicant.⁴⁵

When evaluating a foreign higher education qualification, only the level of acquired knowledge, skills and competencies acquired through the qualification is taken into account, without comparing the curricula (Article 12 of the ARFEQ).

Documentation required for the recognition of a foreign higher education qualification for the purpose of employment

The following documents must be attached to the fully and accurately completed application for the recognition of a foreign higher education qualification: the original or a certified copy of the foreign higher education qualification in a certified translation into Croatian; the original of the official document issued by the higher education institution with the exams taken, as well as the grades, official title and duration of the study program and conditions for enrollment (e.g. diploma supplement, transcript of exams with grades containing other data or some other official document) in a certified translation into Croatian; certified copies of previously acquired higher education qualifications, if any; certificate of citizenship (certified copy of passport for foreign nationals), refugee or displaced person status; proof of payment of administrative fees; the Decision of the competent authority

⁴⁴ *Ibid.*

⁴⁵ See more at: <https://www.azvo.hr/hr/ured-enic-naric/priznavanje-kvalifikacija> (27 November 2017)

or a copy of the marriage certificate (for people who have changed their first name and/or last name); curriculum vitae in Croatian or English documenting education and work experience and copies of all enclosed documents and forms.⁴⁶

If the qualification whose recognition is sought is not issued in Latin or Cyrillic script, it is necessary to request from the competent higher education institution the issuance of a new qualification in one of those two scripts⁴⁷.

Academic recognition of a foreign higher education qualification acquired abroad and recognition of the period of study spent abroad, for the purpose of continuing studies in the Republic of Croatia, is performed by a higher education institution in the Republic of Croatia where the individual wishes to continue their higher education. Offices for the academic recognition of foreign higher education qualifications have been established at public universities in the Republic of Croatia, to which the application and all necessary documentation for the purpose of continuing studies at one of the constituents of the selected University are submitted⁴⁸.

To our knowledge, people who do not have the necessary documentation are unable to continue their studies or obtain the recognition of a higher education qualification in the Republic of Croatia. Furthermore, the Republic of Croatia does not at this moment perform the recognition of secondary education qualifications without the necessary qualifications.

4.2. The Process of the Recognition of Non-Formal and Informal Learning of Adults

The 2007 Adult Education Act⁴⁹, which stipulates that adults can prove their knowledge, skills and abilities, regardless of how they were acquired, by taking exams, was the first attempt to validate competencies held by adults acquired outside the formal education system. The exams are organized and conducted by an adult education institution that runs programs for the acquisition of the same knowledge, skills and abilities, except for the state matura (secondary education exit exam) conducted by the National Center for External Evaluation of Education (Article 11).

46 Pursuant to Articles 7 and 8 of the Ordinance on the Amount of the Fee and Exemptions from the Payment of the Fee for the Costs of the Procedure of the Recognition of Foreign Higher Education Qualifications and Study Periods (OG 60/2005 and 10/2008). The following categories are exempt from paying the cost of the procedure: children of a deceased, captive or missing Croatian Homeland War veteran; disabled Homeland War veterans and children of disabled Homeland War veterans; Croatian veterans; Homeland War military volunteers and children of military volunteers; citizens whose income, together with the spouse's income, in the previous and current year does not exceed the amount of untaxed income and who do not have significant assets (real estate, savings, motor vehicles and vessels), whose total value does not exceed HRK 30,000.00; refugees, displaced people, asylum seekers and foreigners in the procedure for granting temporary protection.

47 See more at: <https://www.azvo.hr/hr/ured-enic-naric/priznavanje-kvalifikacija> (27 November 2017)

48 See e.g.: Office for the Academic Recognition of Foreign Higher Qualifications of the University of Zagreb, <http://www.unizg.hr/studiji-i-studiranje/upisi-stipendije-priznavanja/akademsko-priznavanje-inozemnih-visokoskolskih-kvalifikacija/> (1 December 2017) 49 OG 17/07, 107/07, 24/10.

49 OG 30/09, 24/10, 22/13 i 25/18.

The Vocational Education and Training Act⁵⁰ stipulates that work-based learning is conducted by the employer and/or institution for vocational education, which can also be a regional center of competence. Participants can also acquire learning outcomes during the period of international mobility in another country with an employer or in a vocational education institution. The content and form of the public document and the content and form of the certificate are prescribed by an ordinance issued by the Minister responsible for education (Article 5, paragraph 4, 5 and 6).

4.3. National Integration Policies

On 17 October 2014, the Croatian Parliament adopted the Strategy for Education, Science and Technology⁵¹ (hereinafter: Strategy) and on 20 November, appointed a Special Expert Committee for the Implementation of the Strategy for Education, Science and Technology. The part of the Strategy concerning life-long learning states as one of the goals (goal 3) “developing processes and systems for the recognition of knowledge and skills that were acquired in a non-formal and informal manner”. The system of valuating non-formal and informal learning is intended primarily for adults with life and work experience. It was emphasized that when evaluating non-formal and informal learning, “it is necessary to take into account the need to change the cultural view of non-formal and informal learning and to take learning into account, as well as to promote the widespread acceptance of non-traditional learning”. Following the implementation of the Strategy, the changes were incorporated into the national legislation in 2018 within the provisions of Article 5, paragraph 4, 5 and 6 of the Vocational Education and Training Act (NN 25/18).

On 14 February 2018, the Special Expert Committee for the Implementation of the Strategy for Education, Science and Technology and the coordination of strategies and activities in the field of education and science drafted a Proposal for the Action Plan for the Implementation of the Strategy for Education, Science and Technology in which it prescribed concrete measures for the implementation of the objectives of the Strategy. It consists of six units: life-long learning; early, preschool, primary and secondary education; higher education; adult education; science and technology; and guidelines for the implementation of the strategy.⁵²

The Action Plan for the Integration of Persons Granted International Protection for the Period from 2017 to 2019 (hereinafter: Action Plan) was adopted at the 67th session of the Government of the Republic of Croatia held on 23 November 2017⁵³.

50 OG 30/09, 24/10, 22/13 i 25/18.

51 OG 124/14.

52 See: <https://mzo.gov.hr/zavrsono-14-veljace-2018-o-prijedlogu-akcijskog-plana-provedbe-strategije-ob-razovanja-znanosti-i-tehnologije/776> (1 August 2020). The Proposal for the Action Plan for the Implementation of the Strategy for Education, Science and Technology was open for public consultation, but according to publicly available data, it has not been adopted by the Government of the Republic of Croatia as of the finalization of this paper.

53 Action Plan for the Integration of Persons Granted International Protection for the Period from 2017 to 2019 Available at: <https://pravamanjina.gov.hr/UserDocImages/dokumenti/AKCIJSKI%20PLAN%2ZA%20INTEGRACIJU%202017-2019.pdf> (1 December 2017)

IV. An Overview of the International, European and National Standards...

The action plan covers seven strategic areas and defines integration measures, as well as the holders of these measures. In the strategic area related to language education and learning, one of the measures (measure 10.4) aims to ensure the recognition of educational qualifications and previously acquired competencies for people who, due to crises and uncertain situations in their countries of origin, cannot obtain the acquired diplomas and other documents confirming their previous level of education. Designated for implementing the measure are the Ministry of Science and Education, competent agencies, educational institutions, higher education institutions and adult education institutions, while the necessary funds for the implementation of the measure will be provided through regular State budget funds and EU funds.

A new document is expected for the integration of people under international protection.

5. Conclusion

Despite the fact that numerous tools have been developed at the EU level aimed at facilitating the recognition of qualifications held by refugees, most countries still apply the traditional procedure based on material evidence, i.e. valid documents. Due to the specific situation in which they find themselves, refugees often do not have any documents that would prove their previously acquired qualifications and often cannot obtain them from the competent institutions in the country of origin.

Precisely this lack of material and documentary evidence is the biggest obstacle to exercising refugees' rights to the recognition of qualifications, which in turn leads to refugees often remaining unemployed or forced to do occasional and poorly paid jobs. It is necessary to encourage countries to adjust or modify their traditional systems of recognition and to use all existing and available tools.

Enabling refugees to make use of the qualifications that they acquired before arriving in the destination country is important for enabling refugees to become active members of society, thus also contributing to reducing the traumas of the refugee experience, but also enriching the communities in their host countries.

Literature

Lapaš, D. (2008) Međunarodnopravna zaštita izbjeglica, Zagreb: Croatian Law Centre.

Documents and regulatory texts

Action Plan for the Integration of Persons Granted International Protection for the Period from 2017 to 2019 Available at: <https://pravamanjina.gov.hr/UserDocsImages/dokumenti/AKCIJSKI%20PLAN%20ZA%20INTEGRACIJU%202017-2019.pdf> (1 December 2017)

IV. An Overview of the International, European and National Standards...

- Commission staff working document evaluating the Council Recommendation of 20 December 2012 on the validation of non-formal and informal learning {COM(2020) 274 final} – {SwD(2020) 122 final}, 1 July 2020. Available at: <https://eur-lex.europa.eu/legal-content/eN/TXT/HTML/?uri=CeLeX:52020SC0121&from=LT> (27 July 2020)
- Common Agenda for the Integration Framework for the Integration of Third-Country Nationals in the European Union, COM (2005) 389 final, 1 September 2005. Available at <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2005:0389:FIN:eN:PDF> (11 October 2017)
- Council Recommendation of 20 December 2012 on the validation of non-formal and informal learning, OJ C 398/1, 22 December 2012. Available at: [https://eur-lex.europa.eu/legal-content/eN/TXT/HTML/?uri=CeLeX:32012H1222\(01\)&from=eN](https://eur-lex.europa.eu/legal-content/eN/TXT/HTML/?uri=CeLeX:32012H1222(01)&from=eN) (11 October 2017)
- Danish Refugee Council (DRC) (1998). Assessment and Recognition of Refugees Qualifications in the European Community. Available at: http://www.aic.lv/ace/wP/Refugees/guid_ref.htm (11 October 2017)
- eNIC/NARIC <https://www.enic-naric.net/>
- European Commission. Skills Agenda for Europe (2020). Available at: <https://ec.europa.eu/social/BlobServlet?docId=22832&langId=en> (17 August 2020)
- European Commission. Vocational Education and Training – A Future-Proof Approach. Available at: <https://ec.europa.eu/social/BlobServlet?docId=22828&langId=hr> (18 August 2020)
- European Area of Recognition Project (EAR). The European Recognition Manual for Higher education Institutions – Practical guidelines for credential evaluators and admissions officers to provide fair and flexible recognition of foreign degrees and studies abroad, 2016. Available at: <http://www.enic-naric.net/fileusers/european%20Recognition%20Manual%20Second%20edition.pdf> (3 November 2017)
- Global Convention on the Recognition of Qualifications concerning Higher Education, 25 November 1997. Available at: <https://unesdoc.unesco.org/ark:/48223/pf0000373602/PDF/373602eng.pdf.multi.page=> (24 July 2020)
- IOM (2013). Recognition of Qualifications and Competencies of Migrants. Available at: https://publications.iom.int/system/files/pdf/recognition_qualifications_competen-cesofmigrants.pdf (4 September 2017)
- Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, Action Plan for the Integration of Third-Country Nationals, COM/2016/0377, 7 June 2016. Available at: <https://eur-lex.europa.eu/legal-content/HR/TXT/HTML/?uri=CeLeX:52016DC0377&qid=1608229961623&from=HR> (11 October 2017)
- Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, A New Skills Agenda for Europe – Working together to strengthen human capital, employability and competitiveness, COM/2016/0381 final, 10 June 2016 Available at: <https://eur-lex.europa.eu/legal-content/HR/TXT/HTML/?uri=CeLeX:52016DC0381&from=HR> (12 October 2017)
- Convention on the Recognition of Qualifications concerning Higher Education in the European Region, 11 April 1997, OG IA 9/02 and 15/02.

IV. An Overview of the International, European and National Standards...

- Convention relating to the Status of Refugees, 28 July 1951, OG SFRY: IA 15/60.
- International Covenant on Economic, Social and Cultural Rights, 16 December 1966, OF SFRY: IA 7/71.
- Ministry of Science and Education, <https://mzo.gov.hr/>
- Committee of the Convention on the Recognition of Qualifications concerning Higher Education in the European Region (2017). Recommendation on the Recognition of Qualifications Held by Refugees, Displaced Persons and Persons in a Refugee-like Situation. Available at: <https://rm.coe.int/recommendation-on-recognition-of-qualifications-held-by-refugees-displ/16807688a8> (20 October 2017)
- Ordinance on the Manner of Implementing the Program and Assessing the Knowledge of Asylum Seekers, Refugees, Foreigners under Temporary Protection and Foreigners under Subsidiary Protection for the Purpose of Joining the Education System of the Republic of Croatia, OG 89/08 and 70/15.
- Ordinance on the Amount of the Fee and Exemptions from the Payment of the Fee for the Costs of the Procedure of the Recognition of Foreign Higher Education Qualifications and Study Periods, OG 60/05 and 10/08.
- Council Recommendation of 22 May 2018 on Key Competencies for Lifelong Learning, OJ C 189, 4 June 2018. Available at: [https://eur-lex.europa.eu/legal-content/HR/TXT/HTML/?uri=CeLeX:32018H0604\(01\)&from=HR](https://eur-lex.europa.eu/legal-content/HR/TXT/HTML/?uri=CeLeX:32018H0604(01)&from=HR) (27 July 2020)
- Proposal for a Regulation of the European Parliament and of the Council on Standards for the Qualification of Third-Country Nationals or Stateless Persons as Beneficiaries of International Protection, for a Uniform Status for Refugees or for Persons Eligible for Subsidiary Protection, and for the Content of the Protection Granted and Amending Council Directive 2003/109/EC of 25 November 2003 Concerning the Status of Third-Country Nationals who are Long-Term Residents, COM(2016) 466 final, 3 July 2016. Available at: <https://eur-lex.europa.eu/legal-content/HR/TXT/HTML/?uri=CeLeX:52016PC0466&qid=1608228884093&from=HR> (27 July 2020)
- Consolidated text: Directive 2011/95/EU of the European Parliament and of the Council of 13 December 2011 on Standards for the Qualification of Third-Country Nationals or Stateless Persons as Beneficiaries of International Protection, for a Uniform Status for Refugees or for Persons Eligible for Subsidiary Protection, and for the Content of the Protection Granted (recast) OJ C 337, 20 December 2011 and OJ C 76, 12 March 2020. Available at: <https://eur-lex.europa.eu/legal-content/HR/TXT/PDF/?uri=CeLeX:02011L0095-20111220&from=HR> (27 July 2020)
- Consolidated text: Directive 2005/36/EC of the European Parliament and of the Council of 7 September 2005 on the recognition of professional qualifications, 24 April 2020. Available at: <https://eur-lex.europa.eu/legal-content/HR/TXT/PDF/?uri=CeLeX:02005L0036-20200424&from=HR> (27 July 2020)
- Protocol relating to the Status of Refugees, 31 January 1967, OF SFRY IA 15/67.
- Strategy for Education, Science and Technology, OG 124/14
- The European Training Foundation (2017). Recognition and Validation of Qualifications and Skills for Refugees: Selected practices from Europe. Available at: <https://connec->

IV. An Overview of the International, European and National Standards...

tions.etf.europa.eu/files/form/anonymous/api/library/22e20594-d3f5-4798-b6b8-fa32ef949368/document/94740da2-c333-430d-8b91-22a78bed1243/media/Recognition%20and%20validation%20of%20qualifications%20and%20skills%20for%20refugees%20-%20practices%20from%20europe%20forTurkey.pdf (11 October 2017)

UN Committee on Economic, Social and Cultural Rights (CESCR) (1999). General Comment No. 13: The Right to Education (Art. 13 of the Covenant). Available at: <https://www.refworld.org/pdfid/4538838c22.pdf> (10 October 2017)

UNHCR (2011). Refugee Education: A Global Review. Available at: <http://www.refworld.org/docid/510a718e2.html> (10 October 2017)

UNHCR (2007). Note on the Integration of Refugees in the European Union. Available at: <http://www.unhcr.org/protection/integration/463b462c4/note-integration-refugees-european-union.html> (11 October 2017)

UNHCR (2005). UNHCR Executive Committee, Conclusion No. 104. Available at: <http://www.unhcr.org/excom/exconc/4357a91b2/conclusion-local-integration.html> (12 October 2017)

Constitution of the Republic of Croatia OG 56/90, 135/97, 8/98, 113/00, 124/00, 28/01, 41/01, 55/01, 76/10, 85/10, 05/14.

Act on International and Temporary Protection (OG 70/15, 127/17).

Adult Education Act, OG 17/07, 107/07 and 24/10.

Act on the Recognition of Foreign Educational Qualifications, OG 158/03, 198/03, 138/06, 124/09 and 45/11

Vocational Education and Training Act OG 30/09, 24/10, 22/13 and 25/18.

Websites

Education and Teacher Training Agency (ETTA) <https://www.azoo.hr/>

Agency for Science and Higher Education (ASHE) <https://www.azvo.hr/hr/>

Council of Europe <https://www.coe.int/en>

European Commission https://ec.europa.eu/info/index_en

Croatian Language Portal <http://hjp.znanje.hr>

inHERE Project <https://www.inhereproject.eu>

University of Zagreb <http://www.unizg.hr/>

UNESCO <https://www.UNESCO.org>

Visible Skills for Adults (VISKA) <http://viskaproject.eu>

IV. AN OVERVIEW OF INTERNATIONAL, EUROPEAN AND NATIONAL STANDARDS FOR THE RECOGNITION OF QUALIFICATIONS OF REFUGEES

Anamarija Kovač

SUMMARY

The recognition of previously acquired qualifications is a prerequisite for the successful integration of refugees into the labor market and education system.

In the past few years, a huge influx of migrants and refugees into Europe has significantly increased the number of initiatives for the recognition of qualifications. In order to ensure the effectiveness of the instruments to integrate refugees into the labor market, the process of the identification, recognition and validation of the qualifications and skills of refugees should become part of a wider system for integration into the labor market. In this chapter, an overview of international, European and national documents providing for the recognition of educational and other professional qualifications of refugees is presented. The process of the recognition of refugees' qualifications in the Republic of Croatia is analyzed as well. In her conclusion, the author states that despite the fact that there are numerous tools at the European level aimed at facilitating recognition, most countries still apply the traditional procedure based on material evidence. It is necessary to encourage countries to adapt, to modify their traditional systems of recognition and to use all the existing and available tools.

Keywords: validation, qualifications, refugees, informal learning



THE CONCEPT OF FAMILY REUNIFICATION IN THE REPUBLIC OF CROATIA*

SUMMARY

Family reunification is the right of the close family members of those granted international protection to be able to unify with the family member in the country where international protection was granted, so they may all continue to live together and exercise all the statutory rights of that country.

In the context of international refugee law, the Convention Relating to the Status of Refugees of 1951 does not mention family reunification. However, the Final Act of the UN Conference of Plenipotentiaries on the Status of Refugees and Stateless People confirms that family reunification is a basic right of refugees. This Act sets forth a recommendation that governments take the necessary measures to protect refugee families by preserving their unity.

Regarding the *acquis communautaire* of the European Union dealing with asylum, the most important document laying down the concept of family reunification is Council Directive 2003/86/EC of 22 September 2003 providing for this right. This Directive has been transposed into Croatian legislation. In Croatia, the right to family reunification is specifically regulated in the Act on International and Temporary Protection. In family reunification proceedings, the Foreigners Act is also applicable. The first phase of the proceeding is the submission of an application for temporary stay. In the second phase, a visa and a temporary residence permit are issued.

In this chapter, the author also covers the main problems and challenges connected to the reunification of families that the Croatian Law Centre has encountered in its practice. Possible solutions are presented.

Keywords: family reunification, Act on International and Temporary Protection, the Foreigners Act, temporary residence permit, visa issuance

* Author: Tatjana Holjevac, mag. iur., head of the Unaccompanied and Vulnerable Children Protection Program at CLC. Written in December 2019 and updated in September 2020.

1. INTRODUCTION¹

People who are persecuted in their own country for reasons of race, religion, nationality, membership of a particular social group or political opinion or who meet other criteria in accordance with the regulations of a particular country may be granted international protection. Since international protection can only be requested if the person is outside the country of origin, people usually travel a long way, often made difficult as they are forced to do so without travel documents and required visas, i.e. through irregular avenues. During this journey, families are often separated. People fleeing their countries of origin due to persecution or war are sometimes forced to leave some of their family members behind. Reunification with family members often presents a great challenge for many people granted international protection. The institute of family reunification is also important due to the fact that it concerns people who are unable to return to, or visit, their country of origin and thus have no opportunity to live or meet with their family members. Therefore, the possibility of reunification with family members can play a key role in helping people granted international protection adapt to new circumstances in the new country, and this is often a crucial step in their integration into society. Family reunification procedures also help promote safe and legal avenues for family members and they help prevent trafficking in human beings. Therefore, it is necessary to establish family reunification mechanisms that are swift and efficient in order to bring displaced family members together with people granted international protection as early as possible (Nicholson, 2018: 2).²

People granted international protection in Croatia are people who have been granted international protection, i.e. asylum or subsidiary protection, by the Ministry of the Interior of the Republic of Croatia. They are thereby granted the status of a refugee or a foreigner under subsidiary protection, which guarantees them a number of rights pursuant to the Croatian legislation. One of the rights guaranteed by law is the right to family reunification. According to the Act on International and Temporary Protection³ (hereinafter: AITP), an asylee means a refugee granted asylum within the meaning of the 1951 Convention relating to the Status of Refugees.⁴

1 Certain terms are given in the masculine gender in this paper and are used as neutral for masculine and feminine genders.

2 Nicholson, F. (2018), The “Essential Right” to Family Unity of Refugees and Others in Need of International Protection in the Context of Family Reunification, LEGAL AND PROTECTION POLICY RESEARCH SERIES, DIVISION OF INTERNATIONAL PROTECTION, Geneva, UNHCR, available at: <https://www.unhcr.org/5a8c413a7.pdf>, accessed on 9 January 2020.

3 OG 70/15, 127/17.

4 Article 4, item 6 of the AITP.

According to the Ministry of the Interior, a total of 742 asylums and 142 subsidiary protections had been granted in Croatia by 30 September 2019.⁵ In 2018, a total of 39 applications for family reunification with beneficiaries of international protection were lodged, namely 25 for nationals of Syria, 9 for nationals of Iraq, and one respective national each for Egypt, Yemen, Russia, Turkey and Sudan. A total of 29 applications had been granted and 10 were still pending when the information was received.⁶

The process of family reunification is a complex and lengthy one that requires the joint effort and action of different state bodies. An important role in the family reunification procedure is played by the Ministry of the Interior through police departments/stations, the Ministry of Foreign and European Affairs through embassies and/or consular posts of the Republic of Croatia, and international and non-governmental organizations, as well as the Croatian Red Cross, which actively provides various forms of assistance, depending on which type of activity they are engaged in, legal, humanitarian, psychological and the like.

Regarding the implementation of the institute of family reunification in practice, according to the 2014 MIPEX, Croatia is somewhere around the EU average when it comes to meeting the minimum standards for family reunification. In other Central European countries, there are few legal obstacles that make family reunification difficult for third-country nationals, but these countries have the option to reject applications at their discretion. The length of the procedure itself and the financial resources required to carry out the procedure and the journey may be burdensome. For example, Austria and the Netherlands will grant the right to family reunification in cases of death, divorce, separation and violence, while certain countries (e.g. France, Poland, Spain, Sweden, Norway and the USA) seek to clarify the right to residence autonomy for all families several years after their application.⁷

2. The Concept of Family Reunification in International and European Law

When discussing family reunification in the context of international refugee law, the 1951 Convention Relating to the Status of Refugees does not mention family reunification. However, the Final Act of the UN Conference of Plenipotentiaries on the Status of Refugees and Stateless Persons confirms that “the unity of the

5 <https://mup.gov.hr/UserDocImages/statistika/2019/Tra%C5%Beitelji%20me%C4%91unarodne%20za%C5%A1tite%20u%202019%20godini/2-10-trazitelji-azila-do-30-9.pdf>, accessed 9 January 2020

6 Data obtained from the Ministry of the Interior on 28 January 2019 for the purpose of compiling a report for the Asylum Information Database (AIDA), Country report Croatia.

7 http://www.imin.hr/c/document_library/get_file?uuid=59d7e46c-5152-4a8d-ad14-a296e468d-6ca&groupId=10156, accessed 9 January 2020

family ... is an essential right of the refugee” and recommends that governments “take the necessary measures for the protection of the refugee’s family, especially with a view to ensuring that the unity of the family is maintained ... [and for] the protection of refugees who are minors, in particular unaccompanied children and girls, with special reference to guardianship and adoption”. The Human Rights Committee has confirmed that Article 23 of the International Covenant on Civil and Political Rights “guarantees the protection of family life including the interest in family reunification”. In its General Comment No. 19, the Committee states: “[T]he possibility to live together implies the adoption of appropriate measures, both at the internal level and, as the case may be, in cooperation with other States, to ensure the unity or reunification of families, particularly when their members are separated for political, economic or similar reasons.” (Nicholson, 2018: 7).⁸ Furthermore, the Committee on the Rights of the Child states the following in its 2005 General Comment No. 6 on the treatment of unaccompanied and separated children: “In order to pay full respect to the obligation of States under Article 9 of the Convention [on the Rights of the Child] to ensure that a child shall not be separated from his or her parents against their will, all efforts should be made to return an unaccompanied or separated child to his or her parents unless further separation is necessary for the best interests of the child, taking full account of the right of the child to express his or her views.” (Nicholson, 2018: 9).⁹

Regional standards and jurisprudence on family reunification are most developed in the European context, and they cover:

- The development since the 1980s of the jurisprudence of the European Court of Human Rights as relevant to the family reunification of refugees and people with subsidiary protection;
- Key provisions of the EU’s Family Reunification Directive;
- The more recent jurisprudence of the CJEU on the interpretation of this Directive; and
- The right to good administration and related principles.¹⁰

8 Nicholson, F. (2018), The “Essential Right” to Family Unity of Refugees and Others in Need of International Protection in the Context of Family Reunification, LEGAL AND PROTECTION POLICY RESEARCH SERIES, DIVISION OF INTERNATIONAL PROTECTION, Geneva, UNHCR, available at: <https://www.unhcr.org/5a8c413a7.pdf>, accessed on 9 January 2020.

9 Nicholson, F. (2018), The “Essential Right” to Family Unity of Refugees and Others in Need of International Protection in the Context of Family Reunification, LEGAL AND PROTECTION POLICY RESEARCH SERIES, DIVISION OF INTERNATIONAL PROTECTION, Geneva, UNHCR, available at: <https://www.unhcr.org/5a8c413a7.pdf>, accessed on 9 January 2020.

10 Nicholson, F. (2018), The “Essential Right” to Family Unity of Refugees and Others in Need of International Protection in the Context of Family Reunification, LEGAL AND PROTECTION POLICY RESEARCH SERIES, DIVISION OF INTERNATIONAL PROTECTION, Geneva, UNHCR, available at: <https://www.unhcr.org/5a8c413a7.pdf>, accessed on 9 January 2020.

Regarding the EU asylum acquis, the relevant regulation laying down the concept of family reunification is Council Directive 2003/86/EC of 22 September 2003 on the right to family reunification¹¹. This Directive was also transposed into Croatian law. The Directive lays down the conditions for the exercise of the right to family reunification by third-country nationals, including refugees, legally residing in the territory of EU Member States. "Family reunification is a necessary way of making family life possible. It helps to create sociocultural stability facilitating the integration of third-country nationals in the Member State, which also serves to promote economic and social cohesion ..." The Directive refers specifically to refugees, stating that special attention should be paid to the situation of refugees on account of the reasons that obliged them to flee their country and prevent them from leading a normal family life there. More favorable conditions should therefore be laid down for the exercise of their right to family reunification (Nicholson, 2018: 24).¹²

Family reunification includes the right, enjoyed by close family members of a person granted international protection, to reunite with that person in the country that has granted that person international protection and to continue to live legally in that country, exercising the rights provided for by law.

3. The Right to Family Reunification in Croatian Law

3.1. The Conditions for Granting the Right to Family Reunification

The right to family reunification in Croatia is regulated in more detail by the AITP¹³, and the Foreigners Act (hereinafter: FA) is also applicable in the family reunification procedure.¹⁴

A refugee and a foreigner under subsidiary protection, as well as a foreigner under temporary protection in Croatia, have the right to family reunification¹⁵ with their close family members defined by the AITP¹⁶. These include a spouse or a non-marital partner or same-sex partner (in case of more than one wife or husband, the right to family reunification will only be granted to one wife or husband), a minor (biological or adopted) child, a minor (biological or adopted) child of a partner who exercises parental care of the child; an adult child who, due to an illness or health condition, is not able to take care of his or her own needs, parents with whom the

11 Council Directive 2003/86/EC of 22 September 2003 on the right to family reunification OJ L 251, 3 October 2003.

12 Nicholson, F. (2018), The "Essential Right" to Family Unity of Refugees and Others in Need of International Protection in the Context of Family Reunification, LEGAL AND PROTECTION POLICY RESEARCH SERIES, DIVISION OF INTERNATIONAL PROTECTION, Geneva, UNHCR, available at: <https://www.unhcr.org/5a8c413a7.pdf>, accessed on 9 January 2020.

13 Article 64, paragraph 2, item 2 of the AITP.

14 OG 130/11, 74/13, 69/17, 46/18, 53/20.

15 Article 83, paragraph 1, item 8 of the AITP.

16 Article 66, paragraph 1 of the AITP and Article 4, paragraph 1, item 18 of the AITP.

V. The Concept of Family Reunification in the Republic of Croatia

person granted international protection lived in a common household, if found to be dependent on the care of the person granted international protection. In case of a child who has been granted international protection in Croatia, his or her parents or legal representatives may be reunited with the child. Family members of a refugee and a foreigner under subsidiary protection who lawfully reside in Croatia exercise the same rights as a refugee i.e. a foreigner under subsidiary protection¹⁷.

The definition of close family members according to the provisions of the FA is different from that defined by the AITP. Thus, according to the FA, close family members are spouses, common-law partners, minor children of married couples and common-law partners, their minor adopted children, minor children of each of them, who have not formed families of their own, and parents or adoptive parents of minor children.¹⁸ Exceptionally, some other relative may also be regarded as a close family member, provided that there are special personal or serious humanitarian grounds for family reunification in Croatia.¹⁹

If a person cannot obtain official documents to prove a particular family relationship, other circumstances, based on which the existence of such a relationship can be assessed, will be taken into account and the decision to reject an application for family reunification cannot be based solely on the fact that there are no official documents proving a particular family relationship.

3.2. Exclusion of the Right to Family Reunification

In certain cases, despite meeting all the preconditions for family reunification, exclusion from the right to family reunification may occur. Thus, the right to family reunification will not be enjoyed by a family member if there are grounds for excluding this member from asylum and subsidiary protection, or if there are circumstances affecting the protection of national security or public order of the Republic of Croatia.²⁰ Grounds for exclusion from protection refer to a situation in which a person may enjoy protection or receive the assistance of a body or agency of the United Nations other than the UNHCR, or be granted a residence permit in a country that recognizes the same rights and obligations as for nationals of that country based on that residence (unless that protection is terminated for any reason not influenced by that person, and if his or her position has not been finally resolved in accordance with the relevant resolutions adopted by the United Nations General Assembly). Further grounds for exclusion include the existence of serious grounds for believing that a person has committed, instigated or otherwise participated in the commission of a crime against peace, a war crime or a crime against humanity established through the provisions of international acts, a serious

17 Article 66, paragraph 4. of the AITP.

18 Article 56, paragraph 1 of the FA.

19 Article 56, paragraph 2 of the FA.

20 Article 66, paragraph 5. of the AITP.

non-political criminal offense outside the Republic of Croatia and prior to his or her arrival in Croatia, including particularly cruel actions, even if committed with an allegedly political objective, and acts contrary to the purposes and principles of the United Nations, as set out in the Preamble and Articles 1 and 2 of the Charter of the United Nations. Such people will not be granted the right to family reunification.

Exclusion from subsidiary protection, and thus the right to family reunification, will apply to people in relation to whom serious grounds exist for believing that they have committed, instigated or otherwise participated in the commission of a crime against peace, a war crime or a crime against humanity established through the provisions of international acts, or a serious criminal offense (deemed to be an offense punishable by five years' imprisonment or subject to a heavier penalty according to Croatian legislation), and acts contrary to the purposes and principles of the United Nations, as set out in the Preamble and Articles 1 and 2 of the Charter of the United Nations. Furthermore, if a person is found to pose a threat to the national security or public policy of Croatia, he or she will be excluded from the application of the institute of family reunification.

3.3. The special position of children in the procedure of family reunification

Unaccompanied children, due to their age, belong in the most vulnerable group of people. In the treatment of unaccompanied children, the principle of the best interests of the child should be applied and decisions should always be made in accordance with the well-being of each individual child. When assessing the best interests of the child, the possibility of reuniting the child with his or her family should also be examined.²¹ The special guardian/guardian of the unaccompanied child is obliged to take all the necessary actions for the family reunification of the child, including contacting and cooperating with the relevant ministries, other state and foreign bodies and non-governmental organizations, if this is in the best interests of the child.²²

If an unaccompanied child has applied for international protection and stated that his or her parents or other relatives are in one of the countries of the European Union, the Dublin III Regulation²³, which allows unaccompanied children to reunite with their parents or other relatives in the Member States of the European Union, will be applicable. The Ministry of the Interior and the special guardian/guardian of the unaccompanied child are actively involved in this procedure. The Dublin procedure is initiated ex officio based on the information provided in the application for international protection, in which as much information as possible about the

21 Article 10, paragraph 2 of the AITP.

22 Article 10, paragraph 3 of the AITP.

23 Regulation (EU) No 604/2013 of the European Parliament and of the Council of 26 June 2013 establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person OJ L 180, 29 June 2013

family and relatives and all the necessary documents are collected. Information is also collected via the Eurodac system. In the case of a positive outcome of the Dublin procedure, the special guardian/guardian of the unaccompanied child accompanies the child during the transfer to another Member State of the European Union until the child is taken over by the parent or the competent social welfare services. The costs of transferring the child are borne by the Ministry of the Interior, while the travel costs for the special guardian/guardian of the unaccompanied child are borne by the Ministry of Labour, Pension System, Family and Social Policy.

3.4. Reunification of Family Members of a Person Granted Temporary Protection

In case of a person granted temporary protection in the Republic of Croatia, the application for family reunification is lodged by him or her personally or by a family member who wishes to come to Croatia.²⁴

A family member being reunited with a person granted temporary protection will also be granted temporary protection if he or she meets the statutory requirements. In cases where family members enjoy temporary protection in different Member States of the European Union, the interests of family members will be taken into account when reuniting families.²⁵

4. The Procedure of Family Reunification in the Republic of Croatia

In case of the family reunification of a refugee and a foreigner under subsidiary protection, the procedure is implemented by applying the provisions of the AITP²⁶ and the provisions of the FA.

The procedure consists of two phases. The first phase of the procedure involves applying for a temporary residence permit, while the second phase of the procedure relates to the issue of a visa or residence permit.

4.1. Application for Temporary Stay

4.1.1. General

The FA prescribes the conditions of entry, movement, residence and work for third-country nationals and nationals of the Member States of the EEA (European Economic Area) and their family members. Temporary residence, as a type of

24 Article 89, paragraph 1 of the AITP.

25 Article 89, paragraph 3 of the AITP.

26 Article 66, paragraph 6 of the AITP.

residence recognized by the FA, is to be granted to a third-country national who intends to reside or resides in Croatia for the purpose of family reunification.²⁷

Temporary residence will be granted to a third-country national if he or she proves the purpose of the temporary residence, holds a valid travel document, has means of subsistence, holds health insurance, is not prohibited entry and residence in the Republic of Croatia, and is not considered to be a threat to public policy, national security or public health.²⁸ It may be granted to a third-country national who meets the above conditions and who is a close family member of a Croatian citizen, a third-country national who has been granted permanent residence, a third-country national who has granted temporary residence or a third-country national who has been granted international protection.²⁹

An application for a temporary residence permit is to be submitted to a diplomatic mission or consular post of the Republic of Croatia. An application may also be submitted to a police department or police station in the Republic of Croatia according to the place of intended residence of a third-country national in the case of third-country nationals who do not need a visa to enter Croatia. An application for a temporary residence permit is submitted by the person requesting family reunification.

Documents enclosed with the application for a temporary residence permit must be originals or certified copies, and foreign documents must also be accompanied by a certified translation into Croatian and they must be certified in accordance with the special regulations.³⁰ A diplomatic mission or consular post will forward the application for a temporary residence permit for processing to the competent police department or police station in Croatia. The application is resolved by the competent police department or police station according to the intended place of residence of the third-country national.

The temporary and permanent residence permit application form (Form 1a) is white, rectangular and 21 x 29.7 cm in size.³¹ The application is accompanied by a 35 x 45 mm color photograph, proof of secured means of subsistence, proof of health insurance, a copy of a valid travel document that must be certified by an official upon inspection of the original travel document, and proof justifying the purpose of residence.^{32,33} It is important to emphasize that proof of secured

27 Article 47, paragraph 1, item 1 of the FA.

28 Article 54 of the FA.

29 Article 55, paragraph 1 of the FA.

30 Article 2, paragraph 1 of the Ordinance on the status and work of third-country nationals in the Republic of Croatia (OG 52/12, 81/13, 38/15, 100/17, 116/2018).

31 Article 3 of the Ordinance on the status and work of third-country nationals in the Republic of Croatia (OG 52/12, 81/13, 38/15, 100/17, 116/2018).

32 Not submitted by a close family member of a third-country national who has been granted international protection pursuant to special regulations governing international protection.

33 Not submitted by a close family member of a third-country national who has been granted international protection pursuant to special regulations governing international protection.

means of subsistence and proof of health insurance do not need to be submitted by a close family member of a third-country national who has been granted international protection.³⁴

The person in the photo must be photographed facing forwards, with forehead exposed, without any headwear (hat, cap or scarf) so that 70 to 80% of the height of the photo shows the head of the person from chin to scalp. The photo must not be retouched or taken with self-photographing equipment. The photo must be developed on white, glossy, thin photo paper.³⁵ Exceptionally, a third-country national may be photographed wearing headwear if the headwear is worn for religious or medical reasons, provided that the headwear does not cover his or her cheeks, chin and forehead.³⁶

Upon the completion of the procedure, the police department or police station informs the diplomatic mission or consular post of the Republic of Croatia that the application has been positively resolved, and on this basis, the diplomatic mission or consular post of the Republic of Croatia notifies the family member to apply for a visa on the basis of which he or she will enter Croatia.

4.1.2. Evidence to Justify the Purpose of Stay

Proof that may justify the existence of a marriage is a marriage certificate, no older than six months. When proving the existence of a non-marital partnership, the following may be used as proof: birth certificate no older than six months, single status certificate if the marital status is not indicated in the birth certificate, extract from a register of non-marital partnerships if such a register is kept in the country of origin, a statement of non-marital partners on cohabitation (cohabitation for the last three years prior to the submission of the application, witness statements on the existence and duration of the non-marital partnership and other proof of the existence and duration of the non-marital partnership). If a common child was born during a non-marital partnership, the child's and the non-marital partners' birth certificates (no older than six months), or a single status certificate if the marital status is not indicated in the birth certificate, must be enclosed. In order to prove a child-parent relationship, a birth certificate or a decision of the competent authority on the adoption of the child must be submitted. In order to prove any other kinship or the existence of serious personal or humanitarian grounds, documentation that unequivocally indicates the kinship between the people and the existence of serious personal or humanitarian grounds for

³⁴ Article 58 of the FA.

³⁵ Article 4, paragraph 2 of the Ordinance on the status and work of third-country nationals in the Republic of Croatia (OG 52/12, 81/13, 38/15, 100/17, 116/2018).

³⁶ Article 4, paragraph 3 of the Ordinance on the status and work of third-country nationals in the Republic of Croatia (OG 52/12, 81/13, 38/15, 100/17, 116/2018).

V. The Concept of Family Reunification in the Republic of Croatia

family reunification must be provided. In this case, a police station may check the facts that prove the existence of personal or humanitarian grounds through a diplomatic mission or a consular post of the Republic of Croatia.³⁷

For the purpose of family reunification, a police department or police station will determine, for a spouse or family member with whom family reunification is sought, by inspecting the Information System of the Ministry of the Interior, whether the person has Croatian citizenship, a granted residence permit pursuant to the provisions of the Foreigners Act or whether he or she has been granted protection pursuant to the AITP.³⁸

The competent police department or police station issues a certificate on the submitted application to the applicant. The certificate contains the first name and last name of the third-country national, date, place, country of birth and nationality of the third-country national seeking temporary residence, date of application to the competent authority, name of the competent authority, date of issue, signature of the official and stamp.³⁹

In order to determine whether a third-country national poses a threat to public order, during the procedure of issuing a temporary residence permit, the police department or police station is obliged to request a verification from the municipal and county court and the Ministry of Justice of the Republic of Croatia, and police officers are obliged to consult other available records in order to perform a verification of third-country nationals.⁴⁰

4.1.3. Supplements to the Application

An application for a temporary residence permit may be supplemented with the required documents. The required documents are submitted to the body that received the application. The documents may also be submitted to the competent police department or police station deciding on the application. The person on the basis of whose status the third-country national is seeking to regulate his or her temporary status may also submit the above documents. The police department or station will inform the diplomatic mission or consular post of the Republic of Croatia.⁴¹

37 Article 7, paragraph 1 of the Ordinance on the status and work of third-country nationals in the Republic of Croatia (OG 52/12, 81/13, 38/15, 100/17, 116/2018).

38 Article 7, paragraph 2 of the Ordinance on the status and work of third-country nationals in the Republic of Croatia (OG 52/12, 81/13, 38/15, 100/17, 116/2018).

39 Article 4, paragraph 4. Ordinance on the status and work of third-country nationals in the Republic of Croatia (OG 52/12, 81/13, 38/15, 100/17, 116/2018).

40 Article 4, paragraph 8 of the Ordinance on the status and work of third-country nationals in the Republic of Croatia (OG 52/12, 81/13, 38/15, 100/17, 116/2018).

41 Article 4, paragraph 6 of the Ordinance on the status and work of third-country nationals in the Republic of Croatia (OG 52/12, 81/13, 38/15, 100/17, 116/2018).

4.1.4. Exemptions from the Requirements for Granting Temporary Stay

The FA, in addition to the mandatory requirements for a temporary residence permit, explicitly lists individual cases where not all the requirements for a temporary residence permit must be met and points to certain benefits. It thus prescribes that a close family member of a Croatian national who has applied for a temporary residence permit for the purpose of family reunification does not need to meet the means of subsistence requirement. Furthermore, such a person exceptionally does not need to meet the requirement to hold a valid foreign travel document if the valid travel document cannot be obtained at the diplomatic or consular mission of a foreign country in Croatia, and his or her identity can be unambiguously established otherwise.⁴²

A close family member of a person granted international protection does not need to prove that he or she has the means of subsistence or holds health insurance for a temporary residence permit for the purpose of family reunification.⁴³

4.1.5. Reasons for not Granting Temporary Stay

In case of an application for a temporary residence permit for the purpose of family reunification submitted by several people in a polygamous marriage with a person granted international protection in Croatia, a temporary residence permit will be granted to only one spouse.

If a spouse or non-marital partner is married or in a durable relationship with another person or if the marriage is a marriage of convenience, a temporary residence permit will not be granted.

Other grounds for not granting a temporary residence permit include an already issued residence and work permit for the purpose of seasonal work to a family member of a third-country national, a temporary residence permit granted for other purposes, to a service provider, a posted worker or a frontier worker, a family member for whom grounds for exclusion exist, and on grounds of the protection of national security or public policy of the Republic of Croatia. Family reunification will not be granted if the submitted documentation was fraudulently acquired, tampered with or forged or if there is evidence of or serious and objective reasons for the third-country national residing in the Republic of Croatia for a purpose other than the one submitted in the application for a temporary residence permit, or if a warning to reject entry and residence has been issued in the Schengen Information System.

4.1.6. Validity of a Temporary Visa

A temporary residence permit for the purpose of family reunification is to be issued with a period of validity of up to one year or until the expiry of the period

42 Article 56 of the FA.

43 Article 58 of the FA.

of validity of the temporary residence permit of the person granted international protection with whom family reunification is sought.

A third-country national who previously had a temporary residence permit for the purpose of family reunification for a minimum of two years may be granted a temporary residence permit for the same purpose with a period of validity of up to two years i.e. until the expiry of the period of validity of the temporary residence permit of the third-country national with whom family reunification is sought.

4.2. The Issuance of a Visa

4.2.1. General

Family members who need a visa to enter Croatia must apply for a visa after having been granted a temporary residence permit for the purpose of family reunification. The application is submitted to a diplomatic mission or a consular post of the Republic of Croatia. If Croatia does not have a diplomatic mission/consulate in a certain country, the applicant may also submit the application at the nearest Croatian embassy/consulate.⁴⁴ A visa application is submitted in person. Exceptionally, in justified cases, an applicant does not have to apply in person, but must personally come to the diplomatic mission or consulate to be issued a visa. A visa application is submitted at least three months before the intended travel.

A visa application form can also be completed electronically at crovisa.mvep.hr. The form is available in several languages – Croatian, English, Russian, Ukrainian, Turkish and Albanian. Documents enclosed with the application may be scanned and thus enclosed. After submitting the application, the competent Croatian diplomatic mission or consulate is to be contacted with the serial number and PIN of the application in order to arrange the payment of the fee. Exceptionally, a visa may be collected in another Croatian diplomatic mission or consulate en route to Croatia.⁴⁵

Documents concerning the purpose and conditions of the stay in Croatia need to be enclosed with the application. A person must hold travel medical insurance to cover any expenses that might arise during their stay in Croatia. If an application is submitted for the first time, applicants are required to appear in person at a diplomatic mission or a consular post of the Republic of Croatia so that biometric identifiers can be collected, and photographs and fingerprints taken. If a person's fingerprints were taken earlier (less than 59 months ago), they will not be taken again, unless there is reasonable doubt as to the person's identity.⁴⁶

44 Information obtained from the Ministry of Foreign and European Affairs of the Republic of Croatia via e-mail received by the UNHCR on 19 August 2019.

45 Information obtained from the Ministry of Foreign and European Affairs of the Republic of Croatia via e-mail received by the UNHCR on 19 August 2019.

46 Article 21, paragraph 3 of the FA.

V. The Concept of Family Reunification in the Republic of Croatia

Upon completion of the visa application procedure, a diplomatic mission or consular post will summon the family member for the purpose of affixing a sticker in the travel document. Upon arrival in the Republic of Croatia, the family member applies for a biometric residence permit at the competent police department or station.

An overview of all Croatian diplomatic missions in other countries is available at <http://www.mvep.hr/hr/predstavnistva/dmkurh-u-svijetu/>.

4.2.2. Admissibility of a Visa

A visa application will be admissible if it is submitted no earlier than three months prior to the intended trip, on the prescribed form, if it includes a travel document and a photo, if biometric identifiers have been collected and if the prescribed administrative fee was paid. Exceptionally, an application that does not meet all of the above requirements may be considered admissible if there are humanitarian grounds or if this is in the national interest of the Republic of Croatia.⁴⁷

A travel document must be valid for at least three months after the intended date of departure from Croatia; it must include at least two empty pages and be issued in the previous 10 years. Exceptionally, in justified cases of an emergency, a visa may be entered in a travel document whose validity period is shorter.⁴⁸

The deadline for deciding on visa applications is fifteen days from the date of submitting an application. The deadline may be extended to thirty or sixty days for justified reasons.⁴⁹

A visa may be refused for reasons prescribed by law. If the above requirements are not met, a visa application will not be admissible and all enclosed documents will be returned, the amount of the paid administrative fee will be refunded and the collected biometric identifiers will be destroyed. The decision on refusing a visa and the grounds for refusal will be issued in a prescribed form. This decision is subject to appeal within fifteen days from the service of the decision. The appeal is submitted to a diplomatic mission or consular post of the Republic of Croatia. The appeal is decided on by the Ministry of Foreign and European Affairs of the Republic of Croatia and it does not postpone the enforcement of the decision.

4.2.3. Residence Permit

According to the Ordinance on the amendments to the Ordinance on the status and work of third-country nationals in the Republic of Croatia, instead of a visa application, the procedure for issuing a residence permit through diplomatic missions or consular posts of the Republic of Croatia will be implemented when

47 Article 22 of the FA.

48 Article 24 of the FA.

49 Article 23 of the FA.

the technical requirements are met. According to the information available to the Croatian Law Center, the above provisions had still not been applied as of September 2019. The new provisions stipulate that in the case of foreign nationals who require a visa to enter Croatia, after being granted a temporary residence permit, instead of a visa application, they must submit an application for a residence permit to a diplomatic mission or consular post of the Republic of Croatia. After a person's identity has been established, the data is entered in the residence permit application form from the system of the Ministry of Foreign and European Affairs, which must be signed. Fingerprints will then be taken except in the case of children under six years of age. A signature is not required in the case of children under six years of age. The diplomatic mission or consular post of the Republic of Croatia will issue a certificate of submitted application.

In the residence permit for a family member of a refugee and a foreigner under subsidiary protection who is a third-country national, the words "temporary residence" are to be entered under the heading: "type of permit", and the words "family member of a refugee" or "family member of a foreigner under subsidiary protection" are to be entered under the heading: "notes". If a person's residential address in Croatia and/or personal identification number (PIN/OIB) is unknown, they will not be entered, but he or she will have to register their residence and residential address at the police department or station within 3 days of entering Croatia.

The issued residence permit is to be collected solely at the diplomatic mission or the consular post of the Republic of Croatia where the application was submitted. If a person does not collect the residence permit within fifteen days from the date of service of the notice for collection, or if he or she waives collecting the permit, the diplomatic mission or the consular post will revoke the residence permit.⁵⁰

5. Challenges of Exercising the Right to Family Reunification

A large number of people coming to Croatia from war-affected countries leave their families, relatives and friends in their countries of origin. During the longstanding work of the Croatian Law Center with people granted international protection and through counseling these people in exercising the rights defined by law, the questions and uncertainties that arose mostly concerned the exercise of the right to family reunification. The reason for this lies in the fact that access to family reunification in the early stages is extremely difficult for people in war-affected countries who are prevented from leaving the country, as well as entering a country where a Croatian diplomatic mission or

⁵⁰ Article 30 of the Ordinance on the status and work of third-country nationals in the Republic of Croatia (OG 52/12, 81/13, 38/15, 100/17, 116/2018).

V. The Concept of Family Reunification in the Republic of Croatia

consular post is located. Obtaining the required documents translated into the Croatian language also presents an obstacle to the exercise of this right. Finally, the financial capacities of people seeking to reunite are often reduced due to their circumstances. Therefore, despite clear legislation, institutions in Croatia and the diplomatic missions and consular posts of the Republic of Croatia in the countries of origin must cooperate to try to find solutions to facilitate access to family reunification for people in war-affected countries or victims of persecution in their countries, who are at the same time members of vulnerable groups of people and who try to reunite with their families and secure a life of dignity and safety through the institute of family reunification.

Major problems and challenges in family reunification identified in practice by the Croatian Law Center and other organizations, as well as possible solutions, are discussed here.⁵¹

The problem in practice is the failure to receive applications for family reunification from embassies and/or consular posts of the Republic of Croatia due to incomplete documentation. The Ministry of Foreign and European Affairs should send handling instructions to embassies and/or consular posts of the Republic of Croatia regarding the obligation to receive applications for initiating family reunification procedures, regardless of incomplete submitted documentation.

Long waiting periods for the processing of an application for initiating a family reunification procedure, because the deadlines prescribed by law are not respected in practice, also present a challenge. The Ministry of Foreign and European Affairs should send handling instructions to embassies and/or consular posts of the Republic of Croatia to forward applications received from people/family members for reunification with people granted international protection in Croatia to a police station for processing as soon as possible.

Furthermore, another problem in practice is the great distance between the embassies and/or consular posts of the Republic of Croatia and the countries of origin of people who want to apply for family reunification with a person who has been granted international protection in Croatia as they are required to appear at the embassy or a consular post in person, which in some cases is impracticable and impossible. It is, therefore, necessary to consider potentially concluding bilateral agreements with embassies of other European countries that could receive applications for family reunification. It is important to stipulate

51 Problems and solution recommendations follow from the conclusions of the expert meeting "Family reunification procedure in regulations and in practice", held on 15 October 2019 and organized by the Croatian Law Center and UNHCR Croatia. The meeting was attended by representatives of the Ministry of the Interior, employees of civil society organizations, international organizations, lawyers, employees of community service centers and homes for the upbringing of children and youth, representatives of the Ombudsperson, social welfare centers - social workers/special guardians and translators.

V. The Concept of Family Reunification in the Republic of Croatia

by law that people in Croatia with whom family members are reunited may apply for family reunification in Croatia.

Certain honorary consuls of the Republic of Croatia posted in countries where no diplomatic missions and/or consular posts of the Republic of Croatia exist are not inclined to participate in connecting people in need and embassies and/or consular posts of the Republic of Croatia, which creates diverging handling practices. The Ministry of Foreign and European Affairs should send instructions to the honorary consuls of the Republic of Croatia to mediate in such cases between family members who want to reunite with a person granted international protection in Croatia and the competent Croatian embassies and/or consular posts in order to facilitate the initiation of family reunification procedures for people for whom access is impossible or difficult due to the distance between their countries of origin and Croatian embassies and/or consular posts.

Family members who want to reunite with a person granted international protection and who are in war-affected countries often cannot obtain travel documents, which makes the initiation of the procedure impossible. Therefore, people in need should be exempted from obtaining a travel document if they can prove that this is not possible; an exemption to that effect should be introduced by amending the FA.

Another problem is obtaining documents proving kinship with a person granted international protection in the Republic of Croatia. It is, therefore, necessary to prescribe documents and/or evidence that can prove the kinship in lieu of official documents. Documents on kinship could be easily obtained through Viber/WhatsApp, though establishing the kinship between a child and a parent is a bigger problem when they do not have any documents. In establishing kinship, and generally in the procedure, possible risks such as trafficking in human beings, especially when it comes to children, should always be taken into account, and in such situations the best interests of the child must be determined.

In practice, there is a major problem concerning funding for travel expenses, which include the costs of air tickets, fees, travel medical insurance, the costs of traveling to the country where a diplomatic mission and/or consular post of the Republic of Croatia is located, as well as the funding accommodation/stay expenses while waiting for a decision.

Such expenses could be funded through certain programs and projects. The Ministry of Labor, Pension System, Family and Social Policy should provide the necessary funds to exercise this right as a social measure so that families and vulnerable groups of people, such as unaccompanied children, etc., are thus reimbursed a part of these costs. Family reunification expenses could also be funded through projects funded by the AMIF or the European Social Fund.

Given the introduction of a residence permit instead of a visa, and the fact that these provisions are not yet applied in practice until the technical requirements

V. The Concept of Family Reunification in the Republic of Croatia

are met, all the actors in the system must be informed in a timely manner when these requirements are met.

It has been observed that some actors in the system are not sufficiently educated on the topic of family reunification and that the public is also not sufficiently informed i.e. aware of the problems of this vulnerable category of people. Therefore, relevant actors must be educated and the public informed about this issue through expert meetings and/or training and various campaigns.

Finally, the family reunification procedure is a complicated and sometimes inaccessible procedure for people who want to reunite with a person granted international protection in Croatia. Given the complexity of the process, which involves all of the above issues, it is necessary to simplify the family reunification procedure or at least to ensure that certain special procedural safeguards are applied to vulnerable groups of people being reunited through amended legislation and the practical application of the law, while respecting all the constitutional requirements for the protection of the fundamental rights of all citizens.

Literature

Council Directive 2003/86/EC of 22 September 2003 on the right to family reunification OJ L 251, 3 October 2003.

Institute for Migration and Ethnic Studies, A MIPEX assessment, CROATIA, Migrant Integration Policy Index (MIPEX), Zagreb 2014, http://www.imin.hr/c/document_library/get_file?uuid=59d7e46c-5152-4a8d-ad14-a296e468d6ca&groupId=10156, accessed 9 January 2020.

Ministry of the Interior, 2019, <https://mup.gov.hr/UserDocImages/statistika/2019/Tra%C5%Beitelji%20me%C4%91unarodne%20za%C5%A1tite%20u%202019%20godini/2-10-trazitelji-azila-do-30-9.pdf>, accessed 9 January 2020.

Nicholson, F. (2018), The “Essential Right” to Family Unity of Refugees and Others in Need of International Protection in the Context of Family Reunification, LEGAL AND PROTECTION POLICY RESEARCH SERIES, DIVISION OF INTERNATIONAL PROTECTION, Geneva, UNHCR.

Ordinance on the status and work of third-country nationals in the Republic of Croatia, OG 52/12, 81/13, 38/15, 100/17, 116/2018

Regulation (EU) No 604/2013 of the European Parliament and of the Council of 26 June 2013 establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person OJ L 180, 29 June 2013.

Foreigners Act OG 130/11, 74/13, 69/17, 46/18, 53/20.

Act on International and Temporary Protection OG 70/15, 127/17.

V THE CONCEPT OF FAMILY REUNIFICATION IN THE REPUBLIC OF CROATIA

Tatjana Holjevac

SUMMARY

Family reunification is the right of close family members of those granted international protection to be able to unify with the protected person in the country where international protection was granted, so that they may all continue to live together and exercise all the statutory rights of that country.

In the context of international refugee law, the Convention relating to the Status of Refugees of 1951 does not mention family reunification. However, the Final Act of the UN Conference of Plenipotentiaries on the Status of Refugees and Stateless Persons confirms that family reunification is a basic right of refugees. This Act sets forth a recommendation that governments take the necessary measures to protect refugee families by preserving their unity. Regarding the *acquis communautaire* of the European Union dealing with asylum, the most important document laying down the concept of family reunification is Council Directive 2003/86/EC of 22 September 2003 providing for this right. This Directive has been transposed into Croatian legislation.

In Croatia, the right to family reunification is specifically regulated in the Act on International and Temporary Protection. In family reunification proceedings, the Foreigners Act is also applicable. The first phase of the proceeding is the submission of an application for temporary stay. In the second phase, a visa and a temporary residence permit are issued. In this chapter, the author also covers the main problems and challenges connected with the reunification of families that the Croatian Law Centre has encountered in its practice. Possible solutions are presented.

Keywords: family reunification, Act on International and Temporary Protection, the Foreigners Act, temporary residence permit, visa issuance

VI.

ACCESS TO FREE LEGAL AID OF PEOPLE GRANTED INTERNATIONAL PROTECTION*

SUMMARY

In this chapter, the author presents the system of free legal aid and gives an overview of the fundamental international and European legal sources. She also analyses, in more detail, the system of free legal aid in the Republic of Croatia: its forms, beneficiaries, conditions and the procedure for providing or granting free legal aid. The author also explains the concept of international protection and analyses whether people granted international protection have the same access to the system of free legal aid as all other nationals of the State where those granted international protection have their habitual residence or whether, because of their status, they are in a more favourable position. It is concluded that, in principle, the system of free legal aid in Croatia is provided to people granted international protection under the same conditions as when its nationals are involved. However, when seeking free legal aid, those under international protection often face various obstacles and are thus in an unfavourable position compared to Croatian nationals.

Keywords: free legal aid, access to justice, international protection

* Author: Kristina Petrovečki, mag. iur., expert associate at CLC.

1. Introduction

The purpose of the free legal aid system is to enable equal access to justice for all, essentially for people in a disadvantaged financial position prevented from exercising their legal rights precisely due to their disadvantaged financial position, that is, the lack of resources to pay for the cost of legal proceedings.

In the case of applicants for international protection, there is a truly large number of legal sources referencing their right to free legal aid in the process of granting international protection. However, what happens after they are granted international protection? Once granted refugee status, do their problems in their country of origin end and the problems of exercising their rights in the receiving country begin? Are they entitled to free legal aid and under what circumstances?

This chapter presents the system of free legal aid in civil matters at the international, European and national levels, and gives an overview of special provisions, if any, on how and under what conditions people granted international protection can exercise the right to free legal aid.

2. The right to free legal aid – international framework

According to the Universal Declaration of Human Rights (hereinafter: Declaration)¹ all are equal before the law and are entitled without any discrimination to equal protection by the law. Furthermore, everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted by the constitution or by law. Everyone is also entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of their rights and obligations and of any criminal charge against him or her (Articles 7, 8 and 10 of the Declaration).

The International Covenant on Civil and Political Rights² (hereinafter: ICCPR) establishes that all people shall be equal before the courts and tribunals. In the determination of any criminal charge against them, everyone shall be entitled, in full equality, to have legal assistance assigned in any case where the interests of justice so require, and without payment by him or her in any such a case if they do not have sufficient means to pay for it, and to have the free assistance of an interpreter if they cannot understand or speak the language used in court (Article 14, paragraph 1 and 3, item (d) and (f) of the ICCPR).

1 UN General Assembly, Universal Declaration of Human Rights, 217 A, 10 December 1948; OG-IA 12/2009

2 UN General Assembly, International Covenant on Civil and Political Rights, 2200 A /XXI/, 16 December 1966, OJ SFRY 7/1971, OG-IA 17/93; entered into force on 23 March 1976

Among the international documents, the United Nations Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems (hereinafter: UN Principles and Guidelines)³ deserve a special mention. Although the guidelines refer to criminal cases, we can single out some of the guidelines that we believe would be useful in civil cases or the legal aid system in general: (a) right to legal aid – recognizing that legal aid is a foundation for the enjoyment of other rights, States should guarantee the right to legal aid in their national legal systems at the highest possible level, including, where applicable, in the constitution; (b) principle of non-discrimination – the provision of legal aid should be ensured to all people regardless of age, race, colour, gender, language, religion or belief, political or other opinion, citizenship or domicile, education or social status or other status; (c) equity in access to legal aid – special measures should be taken to ensure access to legal aid for everyone, particularly women, children and groups with special needs, the elderly, minorities, people with disabilities, people with mental illnesses, people living with HIV, drug users, stateless people, asylum seekers, foreign citizens, migrants, refugees, displaced people and people living in rural, remote and economically and socially disadvantaged areas and to people who are members of economically and socially disadvantaged groups; (d) independence and protection of legal aid providers; (e) encouraging the contribution of attorney' associations, universities, civil society and other groups and institutions in providing legal aid, as well as partnership with non-state legal aid service providers (non-governmental organizations and other associations and universities) (Principles 1, 6, 10, 13, 14 and Guideline 16 of the UN Principles and Guidelines).

3. The right to free legal aid – European framework

At the level of the Council of Europe, the European Convention for the Protection of Human Rights and Fundamental Freedoms (hereinafter ECHR)⁴ regulates the right to a fair trial and states that in the determination of civil rights and obligations or of any criminal charge, everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law. The judgment must be pronounced publicly but the press and public may be excluded from all or part of the trial in the interests of morals, public order or national security in a democratic society, where the interests of juveniles or the protection of the private life of the parties so require, or to the extent strictly necessary in the opinion of the court in special circumstances where publicity

3 UN General Assembly, United Nations Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems, Resolution A/RES/67/187; 28 March 2013

4 Convention for the Protection of Human Rights and Fundamental Freedoms, ETS 5, 4 November 1950, OG IA 6/99, 9/99.

would prejudice the interests of justice (Article 6, paragraph 1 of the ECHR). Additionally, it establishes that everyone charged with a criminal offence has the right to defend themselves in person or through legal assistance of their own choosing or, if they do not have sufficient means to pay for legal assistance, to be given it free when the interests of justice so require (Article 6, paragraph 3, item (c) of the ECHR). Pursuant to the above, access to justice is provided in criminal cases in which criminal charges have been filed or in relation to civil rights and obligations. Although States are not explicitly obliged to provide free legal aid in every civil law case, sometimes the ECHR may require the State to provide legal assistance if such assistance proves necessary for effective access to court (*Airey v. Ireland*, paragraph 26), ***either because legal representation is compulsory, or because a case's applicable procedure is particularly complex.*** (European Union Agency for Fundamental Rights, 2016: 60).

Despite not being legally binding, the Committee of Ministers Resolution⁵ in two parts certainly deserves a mention in the context of legal sources. In the first part of the Resolution, the Council makes its recommendations on legal aid in court proceedings. Economic circumstances should not prevent anyone pursuing or defending their rights before any court that decides on civil, commercial, administrative, social or financial matters, and all people should be entitled to the necessary legal assistance in court proceedings. Two things must be considered when determining whether a person needs legal assistance: (1) their financial resources and obligations, and (2) the anticipated cost of the proceedings, while the legal aid system should provide for a review of a decision to refuse legal aid. Legal aid should be available even when the person is able to pay part of the costs of the proceedings, in which case financial assistance may be available with the contribution of the assisted person. Legal aid should provide for all the costs necessarily incurred by the assisted person in pursuing or defending their legal rights and in particular attorney' fees, costs of experts, witnesses and translations. It is desirable that, where legal aid is granted, there should be exemption from any requirement for security for costs. When considering whether legal aid should be granted, the authorities may take into consideration, having regard to the circumstances of the particular case, whether or not it is reasonable for proceedings to be taken or defended, and take account of the nature of the proceedings and, if need be, only grant aid for costs other than those relating to assistance by a qualified person. The responsibility for financing the legal aid system should be assumed by the state, as well as informing the public on the provisions of the legal aid system. (Pt. 1-3, 6-8 and 11 of the Resolution).

The second part of the Resolution provides recommendations on the provision of legal advice. The State should ensure that a person in an economically weak position should be able to obtain necessary legal advice on all questions arising from civil, commercial, administrative, social or fiscal matters, which may affect

⁵ Council of Europe, Committee of Ministers, Resolution (78) 8 on legal aid and advice; 2 March 1978.

their rights or interests, while legal advice should be available either free or on the payment of a contribution dependent on the resources of the person seeking the advice (Pt. 12 and 13 of the Resolution).

European Union law represents a unique legal order and forms an integral part of the legal systems of the Member States. Fundamental rights and freedoms are enshrined in the Charter of Fundamental Rights of the European Union⁶ (hereinafter: CFR), which is legally binding as primary legislation of the European Union. (European Union Agency for Fundamental Rights, 2016: 19)

European Union law is implemented and applied primarily at the national level. Member States are obliged to take appropriate measures to ensure the fulfilment of obligations arising from EU law, and thus from the CFR, which provides that legal aid shall be made available to those who lack sufficient resources in so far as such aid is necessary to ensure effective access to justice (Article 47, paragraph 3 of the CFR). This applies to proceedings relating to all rights and freedoms deriving from EU law (*ibid*: 61).

4. The right to free legal aid – Croatian legislation

The provision of free legal aid in the Republic of Croatia is regulated by the Free Legal Aid Act⁷ (hereinafter: FLAA). The purpose of legal aid in terms of the FLAA is to achieve equality before the law for all, ensuring for the citizens of the Republic of Croatia and other people in accordance with the provisions of the FLAA the effective exercise of legal protection and access to court and other public law bodies under equal circumstances (Article 3 of the FLAA).

4.1. The Forms of Providing Free Legal Aid

Free legal aid can be divided into primary and secondary legal aid.

4.1.1. Primary Legal Aid

Primary legal aid includes: (a) general legal information⁸; (b) legal advice⁹; (c) drafting applications before public bodies, the ECHR and international organizations in accordance with international treaties and the rules of procedure of those bodies; (d) representation in proceedings before public bodies; (e) legal assistance in the out-of-court settlement of disputes (Articles 4 and 9 of the FLAA).

6 Charter of Fundamental Rights of the European Union, 2016/C 202/02; 1 December 2009.

7 Official Gazette no. 143/13, 98/19.

8 A form of primary legal aid that contains general instructions on the legal regulation of a particular area (Article 4, item 3 of the FLAA).

9 Complete instructions on the manner and possibilities of resolving the exercise and/or protection of a certain right of the beneficiary (Article 4, item 3 of the FLAA).

Primary legal aid can be provided in any legal matter, provided that the following assumptions are met: (a) the applicant does not have sufficient knowledge and ability to exercise their right; (b) the applicant has not been provided with legal aid under special regulations; (c) the request is not manifestly unfounded; (d) the applicant's material circumstances are such that the payment for professional legal assistance could jeopardize the livelihood of the applicant and members of their household (Article 10 of the FLAA).

Primary legal aid is provided by state administration bodies, authorized associations and legal clinics, provided that administrative bodies may provide general legal information, legal advice and draft applications (Article 6, paragraphs 1 and 2 of the FLAA). The procedure for obtaining primary legal aid is initiated by directly addressing the provider of primary legal aid (Article 11, paragraph 1 of the FLAA). In the Republic of Croatia, there are a total of 54 authorized associations and legal clinics for the provision of primary legal aid located in the following cities/municipalities/settlements: Zagreb (24), Split (5), Osijek (4), Vukovar (4), Knin (2), Rijeka (2), Slavonski Brod (2), Bjelovar (1), Čepin (1), Dugo Selo (1), đurđevac (1), Lovas (1), Poreč (1), Pula (1), Sinj (1), Sisak (1), Tenja (1) and Virovitica (1).¹⁰

4.1.2. Secondary Legal Aid

Secondary legal aid includes: (a) legal advice; (b) drafting applications in proceedings for the protection of workers' rights before the employer; (c) drafting applications in court proceedings; (d) representation in court proceedings; (e) legal assistance in the amicable settlement of a dispute by attorneys (Article 12, paragraph 1 and Article 6, paragraph 3 of the FLAA). Legal aid will not be granted in all proceedings, only in the following types: (a) proceedings relating to real rights, other than land registry proceedings; (b) employment proceedings; (c) family relations, except in proceedings of consensual divorce in which the spouses do not have minor joint or adopted children or children over whom they exercise parental care after the age of majority; (d) enforcement proceedings and insurance proceedings in the case of the enforcement or securing of a claim arising from proceedings for which legal aid may be granted under the provisions of this Act; (e) in amicable settlement proceedings; (f) exceptionally, in all other administrative and civil court proceedings where such a need arises from the specific life circumstances of the applicant and members of the household, and in accordance with the fundamental purpose of the FLAA (Article 13, paragraph 2 of the FLAA).

Secondary legal aid includes both exemption from court costs and exemption from court fees (Article 12, paragraph 2 of the FLAA). Exemption from court costs

¹⁰ Data taken from the web pages of the Ministry of Justice on 15 October 2020. <https://pravosudje.gov.hr/istaknute-teme/besplatna-pravna-pomoc/ovlastene-udruge-i-pravne-klinike-za-pruzanje-pri-marne-pravne-pomoci/6190>

may be granted in certain types of proceedings (for which secondary legal aid may otherwise be granted), while exemption from court fees may be granted in all court proceedings, if the applicant's material circumstances are such that the payment of an advance on the costs of the proceedings could jeopardize the subsistence of the applicant and members of their household, in accordance with the special conditions relating to the applicant's financial situation. When making a decision, special attention will be paid to the amount of court costs and fees in the procedure in which exemption is requested (Article 13, paragraphs 3 and 4 of the FLAA).

The following preconditions must be met in order to be granted secondary legal aid: (a) it is a more complex procedure for which secondary legal aid may otherwise be granted; (b) the applicant does not have the ability to represent themselves; (c) the applicant's material circumstances are such that the payment of the necessary professional legal assistance could jeopardize the livelihood of the applicant and members of their household, in accordance with the special assumptions relating to the applicant's financial situation; (d) it is not a case of frivolous litigation¹¹; (e) the application has not been rejected in the last six months before the date of application due to intentionally providing incorrect information; (f) the applicant has not been granted legal aid under special regulations (Article 13, paragraph 1 of the FLAA). For example, based on the Act on International and Temporary Protection (hereinafter: AITP),¹² applicants for international protection are provided with free legal aid in first-instance proceedings before the Administrative Court (drafting a claim, representation and exemption from paying the costs of a first-instance dispute). In that case, the applicant for international protection is not entitled to secondary legal aid in the first-instance proceedings in connection with their request before the administrative court, as it has already been provided; however, the applicant is entitled to secondary legal assistance in some other family proceedings (for example, establishing paternity), subject to the fulfilment of other prescribed preconditions.

Financial situation of the applicant

Secondary legal aid will be granted if the total income of the applicant and household members does not exceed the amount of the budget base (proračunska osnovica) per household member per month (HRK 3,326.00¹³)

11 The proceedings may be deemed frivolous litigation if the applicant's expectations are clearly disproportionate to the actual situation; if it is clear that the applicant is abusing the possibility to apply for legal aid; if the applicant's expectations are in clear conflict with the final outcomes in similar cases; if the applicant's expectations are contrary to the coercive regulations and morals of society (Article 13, paragraph 5 of the FLAA).

12 OG 70/15, 127/17.

13 The budget base for 2020 is determined by the Act on the Execution of the State Budget of the Republic of Croatia for 2020 (OG 117/19, 32/20, 42/20, 58/20), which is HRK 3,326.00 (Article 27) and is used in all the amounts stated in this chapter.

and if the total value of property owned by the applicant and their household members does not exceed the amount of 60 budget base (HRK 199,560.00¹⁴).

The applicant's financial situation is determined twelve months before the beginning of the month in which the application is submitted. The total income of the applicant and members of their household (earned in twelve months) will be calculated in proportional parts (1/12). Exceptionally, legal aid will be granted if the above conditions are not met if the applicant for objective reasons cannot dispose of the total income and assets or if the part of the total income and assets that the applicant may dispose of does not exceed the aforementioned amounts. Objective reasons include, in particular, the existence of extraordinary medical expenses of the applicant or members of the household who are not covered by health insurance, costs of orthopedic aids, rehabilitation and other services that are not provided to people with disabilities by their health insurance, the costs of education for children with disabilities, other costs incurred as a result of force majeure (fire, earthquake, flood, etc.) and the ownership of property that cannot be sold or is difficult to sell (Article 14 of the FLAA).

When determining the financial situation, the following is not taken into account: (a) the total income and assets of a perpetrator of domestic violence if the applicant is a victim of that violence; (b) the total income and assets of the members of the household participating in the proceedings as opponents of the applicant or whose interest is contrary to the interest of the applicant; (c) the part of the property in which the applicant lives that is necessary to meet the basic living needs of the applicant and members of the household, if owned by the applicant or by members of the household; (d) the value of the part of the property used for business operations necessary to ensure the minimum living conditions of the applicant and members of the household; (e) cases exempted from enforcement under the general rules governing enforcement proceedings; (f) support for the care of war invalids and family members of deceased detained or missing Croatian Homeland War veterans; (g) child allowance and cash benefits for equipment for a newborn child; (h) aid for the destruction of and damage to property due to natural disasters; (i) aid for the destruction of and damage to property due to war; (j) financial support in the event of the death of a worker, financial support in the event of the death of a member of the worker's household and financial support due to the continuous sick leave of workers, on which no income tax is paid up to the amounts prescribed by tax law (Article 15, paragraph 2 of the FLAA).

Without determining the financial situation, secondary legal aid will be granted in cases where the applicant is: (a) a child in proceedings for the purpose of exercising the right to alimony; (b) a victim of a criminal offense of violence in proceedings for the purpose of exercising the right to compensation for damage caused by the commission of

¹⁴ *Ibid.*

a criminal offense; (c) a person who is a beneficiary of maintenance assistance in accordance with special regulations governing the exercise of social security rights; (d) a person who is a beneficiary of the right to benefits under the Act on the Rights of Croatian Homeland War Veterans and Members of Their Families and the Act on the Protection of Military and Civilian War Invalids (Article 15, paragraph 1 of the FLAA).

4.2. Beneficiaries and Providers of Free Legal Aid

Beneficiaries of free legal aid are: (a) Croatian citizens; (b) a child who does not have Croatian citizenship and was found in the Republic of Croatia unaccompanied by an adult legally responsible for the child; (c) foreigners on temporary residence subject to reciprocity and foreigners on permanent residence; (d) foreigners under temporary protection; (e) foreigners staying illegally and foreigners on short-stay in the process of issuing a decision on expulsion or a decision on return; (f) asylum seekers, refugees and foreigners under subsidiary protection and members of their families legally residing in the Republic of Croatia, in proceedings in which legal aid is not provided to them by a special law (Article 5 of the FLAA).

It has been established earlier in the chapter that primary legal aid is provided by administrative bodies, authorized associations and legal clinics, and secondary legal aid by attorneys. Providers of free legal aid are obliged to provide legal aid conscientiously in accordance with the rules of the profession and using the highest standards in the provision of legal aid and may not refuse to provide legal aid, unless otherwise provided by the FLAA or outside the scope specified in the approved project. An attorney will refuse to provide legal assistance and without delay inform the competent administrative body in the following cases: (a) if they or any other attorney who is currently working or has previously worked in the same office in the same matter or in a matter legally connected with it has represented the opposing party or both parties, given them legal advice or received instructions from them; (b) if, in the same matter or in a legally related matter, they have worked as a trainee attorney with an attorney representing the opposing party; (c) if they have worked as a judge, public prosecutor or official in administrative or other proceedings in the same matter or in a legally related matter; (d) if the Croatian Bar Association has approved the provision of specialized legal assistance, and the case does not belong in their recognized specialty. The beneficiary of free legal aid may notify the Ministry of Justice and Administration if an attorney has refused to provide legal aid. The Ministry of Justice and Administration will inform the Croatian Bar Association about the issue and request further information about the measures and actions taken. Unfounded refusal to provide legal aid is considered to be the negligent provision of legal aid under the FLAA. Providers of legal aid are obliged to keep all information provided by beneficiaries a secret (Article 7 of the FLAA).

4.3. The Procedure for Exercising Free Legal Aid

As stated earlier, the procedure for granting primary legal aid is initiated by the applicant applying to the administrative body, an authorized association or a legal clinic. Regarding the initiation of the procedure for granting secondary legal aid, it is somewhat more complex because the applicant submits the application to the administrative body of the county or the City of Zagreb¹⁵ in the territory where they have permanent or temporary residence. Croatian citizens who do not have permanent residence in the Republic of Croatia and foreigners submit a request to the administrative body in the area where the seat of the court before which they initiate proceedings is located. The request is submitted on the prescribed form, an integral part of which is the explicit written consent for the processing of personal data specified in the request and permission to inspect all data on total income and assets (Article 16, paragraphs¹⁶ 1-4 of the FLAA).

The administrative body issues a decision on the application for secondary legal aid within 15 days from the day of submitting an application in due form. If the applicant would lose the right to the requested action due to the expiration of the deadline, the administrative body is obliged to decide on the application within 15 days, which would allow the applicant to take the requested action in a timely manner. The applicant may file an appeal against the decision of the administrative body within 15 days from the day of delivery of the decision. An appeal against the part of the decision refusing legal aid in full does not delay the use of the approved scope of legal aid. The Ministry of Justice and Administration decides on the appeal, no later than eight days from the day of receipt of the decision in due form. Administrative proceedings may also be initiated against the decision of the Ministry (Article 17 of the FLAA).

The decision on granting legal aid includes the right to use some or all forms of secondary legal aid for proceedings of a certain type and degree and the beneficiary submits it to the attorney specified in the decision. The administrative body appoints an attorney to provide legal assistance in the order specified by the Croatian Bar Association compiled for the area of regional self-government units. Exceptionally, the administrative body will appoint another attorney with their prior consent attached to the application for legal aid (Article 20, paragraph 1-4 of the FLAA).

No court fees are charged for the application and the decision (Article 16, paragraph 5 of the FLAA).

15 The list and contact information of administrative bodies of the county or the City of Zagreb providing legal aid within the scope of their activities is <https://pravo-sudje.gov.hr/istaknute-teme/besplatna-pravna-pomoc/upravna-tijela-u-zupanijama-odnosno-gradu-zagrebu/9916>

16 The application form and explicit written consent are available at: <https://pravosudje.gov.hr/besplatna-pravna-pomoc/6184>

4.4. The Scope of Providing Secondary Legal Aid and the Procedure for Reimbursement

An applicant who has been granted secondary legal aid may be fully or partially exempted from paying legal aid costs. Legal aid is granted in full if the applicant is a beneficiary of maintenance assistance in accordance with the special regulations governing the exercise of rights from the social welfare system, or a beneficiary of the right to benefits under the Act on the Rights of Croatian Homeland War Veterans and Members of Their Families and the Act on the Protection of Military and Civilian War Invalids, or if the total income of the applicant and their household members is 50% or less per household member of the monthly amount of the budget base (HRK 1,663.00). Any increase in this amount by every 10% results in a reduction in the scope of legal aid by 10%, but not below 50% of the determined amount of legal aid costs. If legal aid is granted in a reduced amount, the difference up to the full amount of the remuneration and compensation of attorney's fees is covered by the beneficiary according to the value of the claim determined by the Tariff for attorneys' fees and cost compensation. For example, if the total income of the applicant and household members is 60% of the budget base (which is HRK 1,995.60), the beneficiary will be granted the payment of legal aid costs in the amount of 90% of the total costs, and the remaining 10% will be covered by the beneficiary (Article 19, paragraphs 1, 3-5 of the FLAA).

The costs of the proceedings before the court includes the costs of the court proceedings, court fees and costs of the proceedings on the basis of remuneration and the compensation of actual expenses for the work of the attorney as a proxy in the proceedings. If the beneficiary of legal aid is successful in the proceedings, they are entitled to the reimbursement of the costs of the proceedings on the basis of the remuneration and compensation of the actual expenses for the work of an attorney according to the Tariff for attorneys' fees and cost compensation. If the beneficiary of legal aid is unsuccessful in the proceedings for which they have been granted legal aid, they are not obliged to reimburse the costs of legal aid (Article 23 of the FLAA).

If the beneficiary of legal aid has been granted the right to the reimbursement of court costs in the proceedings, or if in the proceedings in which legal aid was provided, their financial situation was improved by a court decision or settlement to the extent that they would not meet the conditions for legal aid, the beneficiary of legal aid is obliged to reimburse the costs of legal aid to the state budget according to the calculation of costs, within 15 days from the receipt of the reimbursement for the costs of the proceedings or improvement of financial status. If the obligation is not fulfilled within the deadline, the administrative body will ex officio issue a decision ordering the beneficiary to make the payment within 15 days (Article 24, paragraph 1-2 FLAA).

The beneficiary is obliged to reimburse to the state budget the amount of the costs and default interest on that amount, if the preconditions prescribed by the FLAA

were not met for the funds paid for legal aid costs or if they subsequently ceased to exist. The administrative body will issue a decision determining the manner and deadline for cost reimbursement, and at the proposal of the beneficiary of legal aid, if there are reasons based on their financial situation, it may also conclude an agreement with the beneficiary on the manner of reimbursement, which acts as an enforcement document (Article 25 of the FLAA).

Exemption from the payment of court fees is valid from the day when the application for legal aid was submitted to the administrative body and is valid for all submissions and actions for which the obligation to pay court fees arose on or after that day (Article 19, paragraph 8).

5. The Right to Free Legal Aid for People Granted International Protection

5.1. People Granted International Protection and the Concept of International Protection

International protection includes the institute of asylum and subsidiary protection, so people who have been granted one of those two types of international protection are referred to as people granted international protection. In Croatian legislation, it is regulated by the Act on International and Temporary Protection, which transposes the relevant directives and regulations of the European Union into the legal order of the Republic of Croatia.

Asylum shall be granted to applicants who are outside the country of their nationality or habitual residence and have a well-founded fear of persecution owing to their race, religion, nationality, affiliation to a certain social group or political opinion, as a result of which they are not able or do not wish to accept the protection of that country (Article 20 of the AITP). Subsidiary protection shall be granted to applicants who do not meet the conditions to be granted asylum if justified reasons exist to indicate that if returned to their country of origin, they would face a real risk of suffering serious harm and who are unable or, owing to such a risk, unwilling to avail themselves of the protection of that country. Serious harm assumes the threat of death by penalty or execution, torture, inhuman or degrading treatment or punishment and serious and individual threat to the life of the civil population due to arbitrary generalized violence in situations of international or internal armed conflicts (Article 21 of the AITP).

5.2. International and European Frameworks

The most important document governing the situation of refugees at the international

legal level is the 1951 Convention Relating to the Status of Refugees¹⁷, with its 1967 Protocol Relating to the Status of Refugees¹⁸ (hereinafter: 1951 Convention), which provides that refugees have free access to courts in all Contracting States (Article 16, paragraph 1 of the 1951 Convention). This provision is important because it refers to refugees whose status has only just been determined and whose habitual residence has not yet been determined. Free access does not mean that refugees will be exempt from the regular fees normally paid by all applicants, but that no additional fees will be imposed on them. This article is only applicable to courts of law and does not include access to administrative authorities (UNHCR: 2006: 135). A refugee shall enjoy in the Contracting State in which they have habitual residence the same treatment as a national in matters pertaining to access to the courts, including legal assistance and exemption from *cautio judicatum solvi* (Article 16, paragraph 2 of the 1951 Convention). *Cautio judicatum solvi* refers to the amount that is usually required from foreigners as a deposit intended to cover the court costs of the other party if the foreigner loses the case. Accordingly, refugees should have the same rights of access to free legal aid as nationals of the country in which refugees have their habitual residence (UNHCR, 2006: 135).

Although from the above provisions, people granted international protection have the same access to the free legal aid system as citizens of the country in which they have their habitual residence, in reality, access to the system is still somewhat more difficult due to the specific situation in which they find themselves. For example, when a person granted international protection needs legal assistance in seemingly ordinary matters of life, such as a property dispute, criminal matter, civil or matrimonial issues in case of a divorce, it could pose a hidden problem or security concerns for a person granted international protection (for example, deportation or refoulment, or the case may indirectly jeopardize the safety of family members still in the country of origin). Furthermore, they may have more difficulty accessing or defending their rights than nationals because they find it more difficult to exercise their legal rights based on their status in practice due to a lack of awareness of state bodies and civil servants about their rights. People granted international protection may also face certain legal problems that are directly or indirectly related to their refugee status or situation. For example, the lack of relevant or original documents may in certain cases make it difficult for them to access the courts, as well as the chances of success in legal proceedings. Furthermore, issues or problems specific to refugees may require specialized legal assistance (e.g. family reunification, freedom of movement and residency, procedures involving the possibility of deportation). The language barrier also presents a common obstacle for people granted international protection when contacting institutions (UNHCR, 2006: 140–141).

17 Convention relating to the Status of Refugees, UNTS 189, 28 July 1951, OG SFRY IA 15/1960; entered into force on 21 April 1954

18 Protocol relating to the Status of Refugees, UNTS vol. 606, pp 267, 31 January 1967, OG SFRY IA 15/67; entered into force 4 October 1967

The United Nations advocates for equity in access to legal aid and implementing special measures to ensure access to legal aid for vulnerable groups, including refugees (Principle 10 of the UN Guidelines and Principles).

5.3. Croatian legislation

People granted international protection have the right to free legal aid pursuant to the AITP (Article 64, paragraph 2, item 8 and Article 72 of the AITP). Additionally, the FLAA stipulates that, among others, refugees and foreigners under subsidiary protection and members of their families legally residing in the Republic of Croatia have the right to free legal aid, in proceedings where legal aid is not provided under special legislation (Article 5 of the FLAA). This means that people granted international protection will be entitled to free legal aid in the same way and under the same conditions as Croatian citizens, and the same conditions and procedures described in section 4 of this chapter will apply.

Free legal aid to people granted international protection is in some cases provided by a special regulation – the AITP, and in such cases, free legal aid will be provided in accordance with the AITP: (a) if the Ministry of the Interior renders a decision on the merits of the application approving the application in the part recognizing subsidiary protection (Article 38, paragraph 1, item 2 of the AITP); (b) if the Ministry of the Interior renders a decision to set aside the decision granting international protection (Article 49, paragraph 4. of the AITP); (c) if the Ministry of the Interior renders a decision to revoke the decision approving international protection (Article 50, paragraph 3 of the AITP). In these cases, free legal aid includes drafting a claim, representation before an administrative court, as well as exemption from paying the costs of a first-instance administrative dispute (Article 60, paragraph 2 of the AITP).

6. Conclusion

Even though the rights of people granted international protection in terms of access to the free legal aid system are equal to the rights of nationals in the country in which they live, as is the case in Croatia, due to the specificity of their status, their vulnerability because of everything they have gone through and the reasons for persecution on the basis of which they were ultimately granted international protection, there is still much room for improvement in the actual approach to the free legal aid system. The most important obstacle that puts people granted international protection in a less favorable position than Croatian citizens from the outset is language. Although language is a frequent obstacle in exercising any rights, it is extremely important in accessing the free legal aid system, given that access to an administrative body, authorized association or legal clinic is made difficult if the person does not understand and speak Croatian and the translation costs are not covered by the free legal aid system.

VI. Access to Free Legal Aid of Persons Granted International Protection

The system of free legal aid should be strengthened, as well as harmonized at the international level and especially at the EU level. Given the widespread increase in disparities between people of different financial situations and the global crisis due to the Covid-19 pandemic, people currently have a greater need for free legal aid than ever in order to exercise their rights.

Literature

- European Union Agency for Fundamental Rights, Handbook on European Law Relating to Access to Justice, 2016, available at https://www.echr.coe.int/Documents/Handbook_access_justice_HRV.pdf
- Council of Europe, Committee of Ministers, Resolution (78) 8 on legal aid and advice; 2 March 1978, available at: https://search.coe.int/cm/Pages/result_details.aspx?ObjectID=09000016804e2bb2
- Convention relating to the Status of Refugees, UNTS 189, 28 July 1951, OG SFRY IA 15/1960; entered into force on 21 April 1954, available at: https://www.unhcr.org/hr/wp-content/uploads/sites/19/2018/11/konvencija_1951.pdf
- Convention for the Protection of Human Rights and Fundamental Freedoms, ETS 5, 4 November 1950, OG IA 6/99, 9/99, available at [https://www.zakon.hr/z/364/\(europska\)-Konvencija-za-za%C5%A1titu-ljudskih-prava-i-temeljnih-sloboda](https://www.zakon.hr/z/364/(europska)-Konvencija-za-za%C5%A1titu-ljudskih-prava-i-temeljnih-sloboda)
- UN General Assembly, Universal Declaration of Human Rights, 217 A, 10 December 1948; OG-IA 12/2009, available at https://narodne-novine.nn.hr/clanci/medunarodni/2009_11_12_143.html
- UN General Assembly, International Covenant on Civil and Political Rights, 2200 A / XXI, 16 December 1966, OJ SFRY 7/1971, OG-IA 17/93; entered into force on 23 March 1976, available at https://pravosudje.gov.hr/UserDocsImages/dokumenti/Pravo%20na%20pristup%20informacijama/Zakoni%20i%20ostali%20propisi/UN%20konven-cije/Medjunarodni_pakt_o_gradjanskim_i_politickim_pravima_HR.pdf
- Charter of Fundamental Rights of the European Union, 2016/C 202/02; 1 December 2009, available at: <https://eur-lex.europa.eu/legal-content/HR/TXT/PDF/?uri=CeLeX:12016P/TXT&from=HR>
- Protocol relating to the Status of Refugees, UNTS vol. 606, pp 267, 31 January 1967, OG SFRY IA 15/67; entered into force on 4 October 1967, available at: https://www.unhcr.org/hr/wp-content/uploads/sites/19/2018/11/konvencija_1951.pdf
- UN General Assembly, United Nations Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems, Resolution A/ReS/67/187; 28 March 2013, available at: https://www.unodc.org/documents/justice-and-prison-reform/UN_principles_and_guidelines_on_access_to_legal_aid.pdf
- UNHCR, Legal and Protection Policy Research Series – Rights of Refugees in the Context of Integration: Legal Standards and Recommendations, 2006, available at <https://www.unhcr.org/44bb90882.pdf>
- Free Legal Aid Act, OG 143/13, 98/19, available at: <https://www.zakon.hr/z/286/Zakon-o-besplatnoj-pravnoj-pomo%C4%87i>
- Act on the Execution of the State Budget of the Republic of Croatia for 2020 (OG 117/19, 32/20, 42/20, 58/20), available at: <https://www.zakon.hr/z/2375/Zakon-o-izvr%C5%A1avanju-Dr%C5%Beavnog-prora%C4%8Duna-Republike-Hrvatske-za-2020.-godinu>

VI. Access to Free Legal Aid of Persons Granted International Protection

Act on International and Temporary Protection, OG 70/15, 127/17, available at: <https://www.zakon.hr/z/798/Zakon-o-me%C4%91unarodnoj-i-privremenoj-za%C5%A1titi>

Airey v. Ireland, application no. 6289/73), judgement of 9 October 1979, available at [https://hudoc.echr.coe.int/eng#{%22itemid%22:\[%22001-57420%22\]}](https://hudoc.echr.coe.int/eng#{%22itemid%22:[%22001-57420%22]})

Ministry of the Interior <https://pravosudje.gov.hr/besplatna-pravna-pomoc/6184>

Ministry of the Interior <https://pravosudje.gov.hr/istaknute-teme/besplatna-pravna-pomoc/upravna-tijela-u-zupanijama-odnosno-gradu-zagrebu/9916>

ACCESS TO FREE LEGAL AID OF PERSONS GRANTED INTERNATIONAL PROTECTION

Kristina Petrovečki

SUMMARY

In this chapter, the author presents the system of free legal aid and gives an overview of fundamental international and European legal sources. She also analyses, in more detail, the system of free legal aid in the Republic of Croatia: its forms, beneficiaries, conditions and the procedure of providing or granting free legal aid. The author also explains the concept of international protection and analyses whether persons granted international protection have the same access to the system of free legal aid as all other nationals of the State where those granted international protection have their habitual residence or whether, because of their status, they are in a more favorable position. It is concluded that, in principle, the system of free legal aid in Croatia is provided to persons granted international protection under the same conditions as when its nationals are involved. However, when seeking free legal aid, those under international protection often face various obstacles and are thus in an unfavorable position when compared to Croatian nationals.

keywords: free legal aid, access to justice, international protection



UNHCR
The UN Refugee Agency

