



Dublin regulation and its application in Croatia

If the applicant leaves the Republic of Croatia voluntarily and is returned to the Republic of Croatia under the Dublin procedure, the following situations are possible:

- 1) If the previous international protection procedure has not been completed, i.e. for those who had left Croatia before the end of the procedure and therefore had their case suspended, a new registration certificate is not issued, but the persons are returned to the Reception Centre based on a laissez-passer (document for transfer to the responsible country). A new application is not accepted, because the previous procedure has not yet been completed.

They have to re-apply for international procedure (if they wish) once they return to the country, and thereby **re-enter their initial procedure**, in line with Article 18(2) of the Dublin III Regulation.

In this case, a new asylum seeker's card can be issued only if the asylum seeker has lost his 1st asylum card received in Croatia or never received an asylum seeker's card because he/she left the country before it was issued.

- 2) If the previous procedure for international protection has been completed (if the decision became executive) the person will receive a new certificate of registration with which he/she is obliged to report to the Reception Centre for International Protection Seekers. His/her request will be considered as a repeated request. (And he will receive a new asylum card).

As stated in the AIDA report for Croatia¹, these persons whose application was explicitly withdrawn or rejected before leaving Croatia are considered **subsequent applicants** upon return, contrary to the requirements of the Regulation.

The admissibility of their application will be assessed based on the facts and evidence it contains and in connection with the facts and evidence already used in the previous procedure. If it is established that the subsequent application is admissible, a new decision would be made on the merits of the application, and the previous decision would be revoked.

However, the subsequent application can be dismissed i.e. declared inadmissible. According to the Law on International and Temporary Protection², the subsequent request would be dismissed if it is not comprehensible, and does not contain essential facts and evidence that

¹ Available at: <https://asylumineurope.org/wp-content/uploads/2023/06/AIDA-HR-2022-Update.pdf>

² Law on International and Temporary Protection, Article 47, (Official gazette, No. 70/2015, 127/2017, 33/2023)



arose after the first decision became executive or if the applicant for justified reasons did not present them during the previous procedure. Additionally, those “new” facts and evidence must meet the conditions for approval of international protection.

Opposed to this, in line with Article 18(2) of the Dublin III Regulation³ when the Member State responsible had discontinued the examination of an application following its withdrawal by the applicant before a decision on the substance has been taken at first instance, that **Member State should ensure that the applicant is entitled to request that the examination of his or her application be completed or to lodge a new application for international protection, which shall not be treated as a subsequent application** as provided for in Directive 2013/32/EU. In such cases, Member States should ensure that the examination of the application is completed.

Asylum Seekers Card – how and when is issued?

According to the Act on International and Temporary Protection⁴ the asylum seeker will be allowed to submit a request at the Reception Centre as soon as possible, and **no later than 15 days** from the registration of the status in the Ministries records. Also, as above stated, subsequent asylum requests need to be registered again in the Ministry's records.

Based on the same law⁵, the Ministry will issue an international protection applicant's card within **three days of submitting the application** for international protection. This means the asylum seeker's card should be issued in a maximum of 15 + 3 days.

It is important to highlight that Croatia continues to be a transit country as the majority of applicants for international protection leave Croatia to other countries. The last AIDA report on Croatia⁶ states that, in the second half of 2022, further intensification of transit migration levels was observed as during August and September 2022 applicants were staying in the Reception Centre for International Protection Seekers for an **average of only 3 days**. Therefore, it is possible to conclude that the vast majority of people who voluntarily left Croatia and are now being returned according to the Dublin regulation didn't stay in Croatia long enough for their asylum seeker's card to be issued. For that reason, the majority of people who are being returned according to Dublin regulation need to receive their asylum seeker's cards upon their return, even if they are not treated as subsequent applicants.

³ Available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32013R0604&qid=1695143943798>

⁴ Law on International and Temporary Protection, Article 34, (Official Gazette 70/15, 127/17 and 33/23)

⁵ Law on International and Temporary Protection, Article 62, (Official Gazette 70/15, 127/17 and 33/23)

⁶ Available at: <https://asylumineurope.org/wp-content/uploads/2023/06/AIDA-HR-2022-Update.pdf>



In practice, we came across examples that confirm how the above applies to the persons returned based on the Dublin Regulation. The request for international protection is received and the first interview is conducted within 15 days of the person's return to Croatia. **This means that people receive an asylum seeker card in a maximum of 18 (15+3) days after returning to the Republic of Croatia.** During that period, they should be accommodated in the Reception Centre for International Protection Seekers, but are allowed to exit freely.

This should apply both to people who re-entered their initial procedure as well as the ones who are treated as subsequent applicants.

The identity cards are unique, that is, the identity card of the person who requested asylum in the Republic of Croatia does not differentiate from the identity card of the asylum seeker who was returned to the Republic of Croatia following the Dublin procedure.

Croatian asylum system

The asylum system in Croatia needs to be improved to offer protection to those in need. According to the statistics⁷ for the past two decades, as long as the Croatian asylum system exists, Croatia has granted only 1055 international protections (916 asylums and 139 subsidiary protections). Additionally, in 2022, for instance, **we had 12.872 requests for international protection, while in the first 6 months of 2023, we had 24.367 requests for international protection.** Out of those asylum claims, only **21 international protections were granted in 2022, and 16 in the first half of 2023** (15 asylums and 1 subsidiary protection).

According to Eurostat⁸ at the same time the recognition rate at the EU level, i.e. the share of all positive decisions among the total number of decisions, was 49% for first-instance decisions. For final decisions in appeal or review, the recognition rate was 34%. These rates include both international (i.e. refugee status and subsidiary protection) and national protection status (humanitarian protection based on national legislation). Therefore, it is not uncommon for people who were once rejected in Croatia to get international protection in another EU country.

Additionally, there are only two Reception Centres for International Protection Seekers in Croatia, situated in Zagreb and Kutina. **The official total reception capacity of these two centres is only 740 places.** At the same time in the first 6 months of this year, 397 people were returned according to Dublin regulation, and 24.367 people requested international protection, as previously stated.

⁷ Statistics of the Ministry of the Interior:

<https://mup.gov.hr/pristup-informacijama-16/statistika-228/statistika-trazitelji-medjunarodne-zastite/283234>

⁸ Available at: <https://ec.europa.eu/eurostat/web/products-eurostat-news/w/ddn-20230427-1>



Even the Ordinance on the Stay in the Reception Centre for Foreigners⁹ (detention centres) states that each room should guarantee 4m² per person and have access to daylight. Every person should have a bed with sufficient space and separation between beds, as well as sufficient space to store personal possessions. Men and women should be placed separately. In reality, to place thousands of people in the centres that were first planned for 740 people, mattresses¹⁰ are being placed in all available rooms, on the floors, and in the hallways, men and women are not being placed separately and the hygienic conditions are completely inadequate. Moreover, apart from the Croatian Red Cross and Médecins du Monde (MDM), other civil society organisations are not allowed entrance to the centres. What raises particular concern is the fact that MDM, the organisation that provided both medical and psychological care to international protection seekers, was not present in the centres from the beginning of May until September. According to our knowledge, they are currently present with only one medical provider.

Moreover, from the international protection seekers among which some were returned to Croatia according to Dublin regulation, we were informed that asylum seekers often get their invitation to a second interview before the Ministry of the Interior only a day, or even a couple of hours, in advance. This is not only a breach of Croatian Law on Administrative Affairs¹¹, which clearly states that the summons should be delivered to the witness in the administrative procedure in writing eight days before the day of the testimony, but also poses a violation of the right to a fair trial guaranteed by the Art 6 of the European Convention on Human Rights.

Criminal procedures relating to international protection seekers

An effective asylum system would offer protection for international protection seekers, including legal protection for the survivors of police violence, and a quick and thorough criminal investigation followed by a criminal prosecution of the accused. However, due to structural deficiencies in the Croatian judicial system, such criminal proceedings do not exist in cases relating to refugees and other migrants in Croatia.

According to our knowledge, there have been no proceedings that would be considered an effective investigation, according to the established criteria when refugees and other migrants initiate criminal proceedings for violation of their rights after the infringements have been committed.

⁹ Ordinance on the stay in the reception centre for foreigners and the method of calculating the costs of forced removal, Art. 9 (Official Gazette no. 155/22)

¹⁰ Youtube video of the conditions in the Reception Centre for International Protection Seekers in Zagreb on 10 September 2023: <https://youtu.be/mZh1Mz9MkLk?si=CMjBRNfdnUr85gV2>

¹¹ Law on administrative affairs, Art. 62 (Official Gazette no. 47/2009, 110/2021)



Although there have been numerous allegations of torture and violence and, to our knowledge, at least 18 criminal complaints for illegal expulsion and/or violence against refugees and other migrants - no indictments were brought and, accordingly, no perpetrators of reported crimes were identified, prosecuted or adequately sanctioned in any of the reported cases.

Since 2017, CPS filed 12 criminal complaints, out of which 10 allege torture, inhuman treatment and illegal expulsion contrary to the principle of non-refoulement, i.e., violation of Article 3 of the European Convention for the Protection of Human Rights and Fundamental Freedoms. Therefore, failure to conduct effective proceedings in these cases not only resulted in denied access to remedies and legal protection but also violated the procedural aspect of Art. 3 of the ECHR, which impeded the potential establishment of a substantive violation of Article 3 of the ECHR.

The European Court of Human Rights brought two judgments against Croatia in the cases we supported (M.H. and Others v. Croatia¹² and Daraibou v. Croatia¹³), confirming that Croatia violates the rights of refugees and other migrants, conducts collective expulsions, treats children inhumanely and fails to conduct effective investigations.

According to the Danish Refugee Council¹⁴, from January until the end of July 2023, 1750 pushbacks were reported from Croatia to Bosnia and Herzegovina. Simultaneously, the Protecting Rights at Borders Initiative reported¹⁵ about questionable readmission procedures from Croatia, as well as the inactivity and ineffectiveness of the Independent Monitoring Mechanism.

22 September 2023, Zagreb

Centre for Peace Studies

¹² M.H. and Others v. Croatia (applications nos. 15670/18 and 43115/18):

<https://hudoc.echr.coe.int/?i=001-213213>;

<https://www.cms.hr/en/pravna-pomoc-azil-i-statusna-pitanja/preporuke-centra-za-mirovne-studije-i-kuce-ljudskih-prava-za-izvršenje-presude-m-h-i-drugi-protiv-hrvatske>

¹³ Daraibou v. Croatia (application no. 84523/17): <https://hudoc.echr.coe.int/?i=001-222311>;

<https://www.cms.hr/en/azil-i-integracijske-politike/europski-sud-za-ljudska-prava-utvrdio-da-je-hrvatska-odgovorna-za-smrti-i-ozljede-osoba-koje-je-lisila-slobode>

¹⁴ Danish Refugee Council, Border Monitoring Factsheets:

<https://pro.drc.ngo/resources/documents/border-monitoring-factsheet/>

¹⁵ PRAB Initiative May Report (pages 13 and 14):

https://pro.drc.ngo/media/3h1d5s5r/vi-prab-report_-what-we-do-in-the-shadows_-jan-to-april-2023.pdf