Legal assistance and representation - Croatia

Overview

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Relevant EU legislation

Croatia is bound by the recast Asylum Procedures Directive, the recast Reception Conditions Directive and the Dublin III Regulation and has transposed their provisions through the Law on International and Temporary Protection | Zakon o međunarodnoj i privremenoj zaštiti (LITP).

National legislation

Croatia transposed the recast Asylum Procedures Directive, the Dublin III Regulation and the recast Reception Conditions by the Law on International and Temporary Protection | Zakon o međunarodnoj i privremenoj zaštiti (LITP).

Relevant national legislation include also:

- The Law on free legal aid
- Ordinance on free legal aid in the procedure of granting international protection

Competent authority and stakeholders

Area	National authority/stakeholder
Provision of legal and procedural information on the applicant's rights and obligations	Ministry of the Interior NGOs

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Area	National authority/stakeholder
Legal assistance at first instance determination	Attorneys and organisation approved by the Ministry Private lawyer at the expense of the applicant
Legal counselling provided by civil society organisations or other organisations	Attorneys and organisation approved by the Ministry
Legal assistance at second instance determination	Attorneys and organisation approved by the Ministry List of legal aid providers of the Ministry of the Interior Private lawyer at the expense of the applicant
Legal assistance for other related procedures	NGOs

Access to legal assistance and representation

Provision of information on legal assistance and representation

The Ministry of the Interior has the responsibility of ensuring that the applicants are provided with information in accordance with the provisions of the LITP. According to Article 59 (2) of the LITP, the ministry shall within 15 days of the expressed intention to apply for international protection, to inform the applicant of the conduct of the proceedings for international protection, their rights and obligations as well as of the possibility of contacting UNHCR, NGOs competent on refugee rights and on the possibility of obtaining legal assistance.

According to Article 52 (1) of the LITP, an applicant has the right to receive information and legal advice and free legal assistance throughout the procedure. The right to free legal aid is not restricted by the right to residence as provided by Article 52 (6) of the LITP.

The LITP specifies under Article 59 (4) that applicants should, at their request, be provided with legal and procedural information on the procedure of international protection, taking into account the circumstances of the specific case, in a language which it may be reasonably be presumed that they understand and in

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which they are able to communicate.

Civil society organisations are also providing relevant information on legal assistance in international protection procedure:

The Civil Rights Center Sisak – QR code with information on organisations that can provide legal aid and relevant information.
Info stand on the right to free legal aid

Second instance determination

Article 4 of the rules on free legal aid in the procedure for granting international protection provides that the Ministry of the Interior must select and establish a list of legal aid providers and which will be published on the official website of the Ministry and posted on the notice boards of Reception Centres, reception centres, police departments and police stations.

Article 5 of the rules on free legal aid provides obligations for the Ministry of the Interior upon notification of the decision on international protection to the applicant to inform him/her of the right to choose a legal aid provider form the list and the consequences for not choosing in a timely manner.

Access to premises

According to Article 42(2) and (3) of the LITP, civil society organisations working on protection of the rights of the refugees and which provide legal aid pursuant to Article 59 (3) of this act based on a contract with the Ministry of the Interior, can have effective access to border crossing points, transit areas of an airport, seaport or inland water port.

However, an authorised representative of an NGO dealing with refugee rights, other than UNHCR, can be restricted access temporarily to an applicant when it is considered absolutely necessary to protect national security or public order of Croatia.

Article 56 (2) of the LITP provides that UNHCR, the red cross and other NGOs working in the field of refugee rights can implement activities and projects in the reception centers related to assistance to refugees. In addition, paragraph 3 stipulates that applicants accommodated in reception centers have the right to be provided with appropriate space for meetings and communication with

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UNHCR, and other NGOs. Access to reception centers for NGOs can be restricted temporarily for reasons of public health.

Requirements: Means test and merits test

An applicant with no financial resources or items of significant value that enable him or her to have an appropriate standard of living shall have the right to legal counselling. The Ordinance on free legal aid in the procedure of granting international protection stipulates under Article 3 (5) that 'items of significant value' refer to the applicant's belongings and to those of members of her/his household, which includes her/his real estate and movable property.

The Law on International and Temporary Protection (LITP) stipulates under Article 59 (6) for free legal counselling and under Article 60 for the right to free legal aid that they can benefit of at their own request if they do not possess sufficient financial resources or goods of significant value. In practice, when lodging the application for international protection, applicant in writing states how much financial resources he/she possesses (source also: Dublin Factsheet Croatia, May 2023).

Modalities to submit a request for legal aid

First instance determination

Free legal counselling is granted upon request made to the Ministry of the Interior as provided pursuant to Article 59 (6) of the LITP.

As for legal aid, the applicants can refer to the civil society organisations who are providing legal aid.

Applicants for international protection can have access to primary legal aid under the general conditions provided by the Law on free legal aid. The primary legal aid can be requested in any legal matter at the request of a person unless legal aid is provided by a special law (such as the Law on international and temporary protection):

- if the person does not have sufficient knowledge and ability to exercise their right,
- if legal aid is not provided to them on the basis of special regulations,

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- if the submitted request is not obviously unfounded and if their financial circumstances are such that the payment of professional legal assistance could jeopardise their maintenance and the maintenance of household members – see Article 10 of Law on free legal aid
- In order to receive primary legal aid, the person shall address a request directly to the legal aid provider – pursuant to Article 11 of the Law on free legal aid.

Second instance determination/appeals

Article 5 of the rules on free legal aid stipulates that upon selection of a legal aid provider by the applicant, he/she must personally complete and sign an application for the approval of free legal aid as provided by the ordinance and to provide consent from the applicant and his household to access all the necessary information on income and assets.

The selected provider must be notified immediately in order to be able to communicate with the applicant and make the necessary notifications to the Ministry of the Interior. Legal aid is effective upon provision by the beneficiary of a power of attorney authorizing the legal aid provider to represent him/her in the administrative dispute.

According to Article 5 (5) of the rules on free legal aid, the selected legal aid provider must submit the completed and signed forms to the administrative court for further processing.

According to Article 8 of the rules on free legal aid in the procedure for granting international protection , the administrative court decides on the request for legal aid in appeals and conducts the means test accordingly.

Outcome of the request for legal aid

Article 9 of the rules on free legal aid in the procedure for granting international protection provides that the administrative court decides on the amount of legal aid costs and Article 8 (11) stipulates that free legal aid will not be granted if the evidence obtained shows that the beneficiary has sufficient financial resources.

Legal assistance and representation at first instance determination

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Information is currently not available.

Service provider

State funded

According to Article 59 (5) of the LITP, the right to counselling should be provided by organisations working to protect the rights of refugees or by attorneys with whom the Ministry shall conclude an agreement on the provision of legal counselling.

Civil society organisations

The Croatian Law Centre (CLC) implemented in 2023 the project "Legal Assistance and Capacity Building for Access to Territory and Asylum in Croatia" and provided legal assistance to applicants for international protection.

Other NGOs providing legal aid are:

- Centre for Peace Studies (CPS) who also has a free legal aid and Info Point.
- Civil Rights Center Sisak – see also the project – the right to primary legal aid
- Jesuit Refugee Service
- Bordersnone
- Legal Clinic of the Faculty of Law, University of Zagreb

The applicant can also hire a private lawyer at his on expense.

Scope of legal assistance

The LITP provides for the possibility of legal information and counselling at first instance procedure before the Ministry of Interior, upon his/her request, by taking into account the circumstances of the specific case, in a language which it may be reasonably be presumed that they understand and in which they are able to communicate.

Procedural aspects

Information is currently not available.

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Representation

Information is currently not available.

Aspects related to special procedures

Information is currently not available.

Aspects related to applicants with special needs

Information is currently not available.

Legal assistance and representation in appeals

Service provider

Information is currently not available.

Scope of legal assistance

According to Article 60 (2) of the LITP, the right to free legal aid shall include the following activities:

- assistance in drafting lawsuits;
- representation in first instance administrative appeals;
- exemption from courts fees for first instance administrative appeals.

Article 11 (3) of the rules on free legal aid, the administrative court an held the hearing even in the absence of the legal aid provider.

According to Article 11 (4) of the rules on free legal aid, the selected legal aid provider must inform the beneficiary of legal aid about the decision of the administrative court and deliver it to him personally, in the presence of an interpreter for the language that it is reasonably assumed that he understands and can communicate in.

Procedural aspects

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Free legal aid in appeals is provided equally for asylum seekers, refugees and beneficiaries of international protection as provided under Articles 60 and 72 of the LITP.

Article 7 of the rules for free legal aid in international protection provides for the translation services to ensure communication between the legal aid provider and the beneficiary, the cost being born by the Ministry for a conversation lasting up to 180 minutes.

Type of appeal

Free legal aid is provided for the first appeal before the first instance administrative appeal – see Article 60 (2) of the LITP.

The appeal to the High Administrative Court is not covered by free legal aid under the LITP.

Representation

Information is currently not available.

Aspects related to applicants with special needs

Information is currently not available.

Right to counselling in the Dublin procedure

The same rules apply as for access to legal aid at first and second instance determination.

Access to legal aid while in detention

Legal aid is available free of charge. The same rules apply as for access to legal aid at first and second instance determination.

Quality assurance

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Selection, qualifications and training

Information is currently not available.

Mechanisms for quality assurance

According to Article 11 of the rules on free legal aid, the selected legal aid provider must observe certain obligations:

- To provide legal assistance conscientiously and impartially, in accordance with the rules of the profession, in particular the Law on the Bar and the Code of Ethics for Lawyers, taking into account the best interests of the user.
- In case of inability to act, a replacement shall be designated from the list provided under Article 4.
- To inform the beneficiary of legal aid about the received decision of the administrative court and deliver it to him personally, in the presence of an interpreter for the language that it is reasonably assumed that he understands and can communicate in.
- May not refuse to provide legal aid, except in the case of reasons for denial of legal aid prescribed by the Law on the Bar.
- In case of unprofessional conduct, the Ministry or the administrative court shall notify the Bar and request and opinion, and if necessary, remove the legal aid provider from the list.
- A written warning is issued when the legal aid provider fails to notify the Ministry of submitting the appeal before the administrative court and the date of delivery of the administrative court judgment and fails to personally inform the beneficiary of legal aid of the judgment. If the legal aid provider ignores the written warning, then s/he can be removed from the list.

The Civil Rights Center Sisak organisation announced updates on an initiative on quality assurance and cooperation between authorised legal aid providers: - “Initiative to Improve the Functioning of the Free Legal Aid System”. The initiative started in 2016 and since then more activities were added, including regular reporting and advocacy to mitigate delays on tenders. An initiative by the CRP Sisak in November 2024 proposed to increase the maximum amount of funds for financing associations.

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The Free Legal Aid Commission was established to monitor the legal aid system as an advisory body to the Ministry of Justice pursuant to Article 47 of the Law on free legal aid. The Civil Rights Center Sisak held a third mandate in the commission.

Inter-institutional cooperation

Information is currently not available

Legal assistance and representation for related procedures

Reception conditions

Applicants receive information in writing about the possibility of free legal assistance from representatives of the UNHCR, and other relevant organizations who work to protect the rights of refugees.

Applicant receives information with the translation from the official interpreter both orally and in writing, in the applicant's native language or in a language he/she can communicate.

Amendments to the Croatian Law on International and Temporary Protection (22 March 2023) clarified the existing provisions on visits to reception centres by legal advisers, UNHCR, family members and the right to orally receive information on legal aid in a language the applicant can understand, when such information cannot be provided in writing. The Croatian Law Center is the only organisation which conducts visits to collective accommodation facilities throughout Croatia.

Family reunification

Information is currently not available.

Temporary protection procedure

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Legal aid is primarily offered by NGOs via email or telephone, for example the Croatian Law Centre, Jesuit Refugee Service, Centre for Peace Studies, Centre for Peace, Nonviolence and Human Rights Osijek and Centre for Missing and Abused Children and the Croatian Bar Association.

The Government of Croatia has a dedicated webpage "Croatia for Ukraine" with relevant information for displaced Ukrainian nationals.

Applicants or beneficiaries of temporary protection have access to legal aid under the general conditions provided by the Law on free legal aid. The requirements depend on the type of legal aid required. The Law on free legal aid provides for 2 types of legal aid:

primary legal aid which covers in any legal matter at the request of a person under temporary protection:

- if the person does not have sufficient knowledge and ability to exercise their right,
- if legal aid is not provided to them on the basis of special regulations,
- if the submitted request is not obviously unfounded and if their financial circumstances are such that the payment of professional legal assistance could jeopardise their maintenance and the maintenance of household members – see Article 10 of the Law on free legal aid.

In order to receive primary legal aid, the person shall address a request directly to the legal aid provider – pursuant to Article 11 of the Law on free legal aid.

Secondary legal aid can be provided pursuant to Article 13 (1) of the Law on free legal aid when:

- there is a more complex procedure,
- the applicant does not have the ability to represent himself,
- if the material circumstances of the applicant are such that the payment of the necessary professional legal assistance could jeopardise the maintenance of the applicant and household members,
- if it is not a pending litigation,
- if in the last six months from the date of submission of the application, the applicant's application was not rejected due to the intentional provision of incorrect data and if the applicant is not provided with legal aid on the basis of special regulations.

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The means test is provided under Article 14 of the Law on free legal aid for access to secondary legal aid and the scope of such legal aid is provided under Article 12 and includes legal advice, drafting submissions in court proceedings, representation in court proceedings as well as exemption from court fees.

Beneficiaries of international protection

Free legal aid in appeals is provided equally for asylum seekers, refugees and beneficiaries of international protection as provided under Articles 60, 72 and 84 (2-8) of the LITP.

Free legal aid is also available under the general conditions provided by the Law on free legal aid.

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