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Situation of asylum seekers and beneficiaries of protection with mental health problems in

Croatia

Report and recommendations of the Swiss Refugee Council

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1 Introduction

The application of the Dublin III Regulation[1] or of a Readmission Agreement[2] leads to a person's transfer back to a state that was mostly left voluntarily. The transfer back to that country is, therefore, rarely voluntary. It often includes the enforcement by arrest, detention and coercion. This causes in itself a risk for people's mental health. Since a relevant part of asylum seeking persons already suffers from psychological traumas[3], enforced return can lead to a significant deterioration of mental health.

Additionally, transfers back to the country of first entrance, first asylum application or even to the country that first provided protection imply long procedures and instability. Fixed routines and strong social networks as well as stable and continuing treatment are a known prerequisite for a successful recovery of a person's mental health and to overcome or at least deal with psychological illness or trauma. The risk of re-traumatization by using force to carry out a transfer itself cannot be ignored.[4]

The Swiss Refugee Council has been monitoring developments in Dublin member states for several years now, and regularly publishes reports on the countries of main interest and relevance according to current developments. A recurring theme is the question of treatment for persons with mental illness after transfer to a Dublin State or, in the case of persons with protection status in that state, to a safe third country.

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1 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

2 The list of Readmission Agreements currently in force between Switzerland and third countries (as well as countries of origin) can be found here: www.sem.admin.ch/sem/en/home/international-rueckkehr/ch-migrationsaussenpolitik/abkommen/rueckuebernahme.html.

3 Fazel, M., Wheeler, J. and Danesh, J. (2005). Prevalence of serious mental disorder in 7000 refugees resettled in western countries: A systematic review. The Lancet, 365(9467): «Refugees resettled in western countries could be about ten times more likely to have post-traumatic stress disorder than age-matched general populations in those countries. Worldwide, tens of thousands of refugees and former refugees resettled in western countries probably have post-traumatic stress disorder»; Mueller, J., Schmidt, M., Staeheli, A., Maier, T. (2010). Mental health of failed asylum seekers as compared with pending and temporarily accepted asylum seekers. Oxford University Press: European Journal of Public Health, Vol. 21, No. 2, 184 – 189: «Given the great vulnerability of these individuals, long and unsettling asylum processes as practiced in Western host countries seem problematic, as does the withdrawal of health and social welfare benefits. Finally, high rates of psychopathology amongst FAS indicate that refugee and humanitarian decision-making procedures may be failing to identify those most in need of protection.».

4 Médecines du Monde Belgique (MdM), Nearing a point of no return? Mental health of asylum seekers in Croatia (2018): «asylum seekers transferred to the Republic of Croatia under the Dublin III Regulation on average demonstrate more pronounced depressive symptoms and lower subjectively assessed quality of life; as well as lower levels of satisfaction with their own sense of future security [...]given the nature of transfers under the Dublin III Regulation, which imply a longer administrative response to the international protection application, as well as the interrupted process of integration in the EU country of destination; as well as re-traumatization through forced transfer and separation from family members, relatives and people who are close to them in some cases; these results are not surprising», page 14.

With the increased use of the so-called Balkan route, Dublin procedures with Croatia have become more relevant for other European countries, Switzerland included. According to the jurisprudence of the Swiss Federal Administrative Court (FAC), the highest instance in asylum cases, as well as the practice of the State Secretariat for Migration (SEM), the national asylum authority, Croatia generally complies with its obligations under international law. There were some doubts raised by the Court for take-charge Dublin-procedures in a reference judgement of 2019,[5] when the SEM was requested to clarify whether there was a general risk of inhuman or degrading treatment for asylum seekers in Croatia and whether there was a risk of chain deportation and a corresponding violation of the non-refoulement principle. The FAC also clarified that, contrary to the opinion of the SEM, the way in which Croatia deals with migrants and illegal entrants outside the Dublin framework is certainly relevant in terms of assessing how the country complies with its obligations under international law. Nevertheless, as of today, neither the SEM nor the FAC question the compliance of Croatia with international obligations for take-back cases. Removals to Croatia are generally considered admissible and reasonable, regardless the vulnerability of the concerned individuals.[6] The general assumption of Croatia acting according to international law has, however, to be doubted considering the various reports on state-organized pushbacks,[7] the judgment of the European Court of Human Rights (ECtHR) from November 2021[8] which found numerous violations of the European Convention on Human Rights (ECHR) by Croatia over the deadly pushback and detention of an Afghan family, as well as the just recently published report of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) [9], that shows the non-compliance of the Croatian authorities with international law.

Due to the mentioned indications of human rights violations, **a closer examination** is needed on a case-by-case basis as to whether refugee protection and human rights obligations are being complied with. **This is especially important in cases of vulnerable persons**. The strategic importance of Croatia and **the patchy jurisprudence** concerning the situation of Dublin returnees and status holders in the country are the basis for the Swiss Refugee Council's decision to proceed with the preparation of this report, which addresses the possibilities and problems of access and treatment for mentally ill persons in Croatia.

To gather information, reports were taken into account and organizations in Croatia provided information, first according to a questionnaire via e-mail. At a later stage, online meetings were conducted to clarify open questions and verify the information collected.

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5 FAC, E-3078/2019, 12 July 2019.

6 See for instance, FAC, F-5436/2020, 10 November 2020, para 5.2 ; F-4456/2020, 15 September 2020, para 6.2 ; E-829/2020, 11 March 2020, para 5.12 ; F-5933/2019, 23 January 2020, para 6.4; D-405/2020, 28 January 2020, para 6.1. The FAC pays more attention to the critical issue of push-backs at the border (FAC, E-3078/2019, para 5.6 ss). However, far from considering these push-backs as alarm bells for a possible malfunctioning of the reception system as a whole, the Tribunal considers them as a separate problem, which would not affect the overall efficiency of the Croatian reception system.

7 Research of Rundschau, Lighthouse Reports, «Der Spiegel», ARD Studio Wien, ARD Monitor, «Libération», Novosti, RTL Kroatien und «Pointer», revealed in 2021. Additionally, the Border Violence Monitoring Network (BVMN) has documented pushbacks affecting almost 1,000 people across the Balkan region in October 2020.

8 ECtHR, judgement of 18 November 2021, *M.H. and others v. Croatia*, applications nos. 15670/18 and 43115/18.

9 Report to the Croatian Government on the visit to Croatia carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 10 to 14 August 2020, published on 3 December 2021.

The report first sets out the legal background, including the relevant EU law and the provisions regarding health care in Croatian law. After a short overview of the rules concerning accommodation, it dives into the regulations regarding mental health care for asylum seekers and status holders in Croatia. The report closes with conclusions on the information gathered as well as recommendations.

2 Legal basis

2.1 International and European legal framework

The Geneva Convention

Article 33 of the Convention relating to the Status of Refugees (Refugee Convention)[10], signed in Geneva on 28 July 1951 and entitled 'Prohibition of expulsion or return ("*refoulement*")' provides, in paragraph 1: «No Contracting State shall expel or return ("*refouler*") a refugee in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion.»

Prohibition of torture and inhuman or degrading treatment or punishment

Article 3 ECHR[11] provides that no one shall be subjected to torture or to inhuman or degrading treatment or punishment. The same wording can be found in Article 4 of the EU Charter of Fundamental Rights[12]. Referring to this Article, the Court of Justice of the European Union (CJEU) stated in a judgement[13] concerning mental health that it is not enough to merely consider the consequences of physically transporting the person concerned from one Member State to another, but that **all the significant and permanent consequences which might arise from the transfer must be taken into consideration**. Even without assuming systemic flaws in the responsible Member State, the transfer of an asylum seeking person with a particularly serious mental illness could result in a real risk of a significant and permanent deterioration in the state of health of the person concerned. In this case, the transfer would constitute inhuman and degrading treatment according to the CJEU.

Return Directive (RD)[14]

According to the RD, Member States have to ensure that asylum seekers receive the necessary health care including, at the very least, emergency care and fast treatment of illness (Articles 17/19 RD). Furthermore, according to the RD, Member States have to provide asylum seekers with information on any established benefits and organisations that might be able to help with access to health care (Article 5 (1) RD).

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10 The 1951 Refugee Convention, Geneva, 1951, SR 0.142.30.
11 Convention for the Protection of Human Rights and Fundamental Freedoms, Rome 1950, SR 0.101.
12 Charter of Fundamental Rights of the European Union, 2012/C 326/02, Brussels, 2012.
13 CJEU, judgment of 16 February 2017, *C.K. and others*, C-578/16 PPU, para. 76.
14 Directive 2008/115/EC of the European Parliament and of the Council of 16 December 2008 on common standards and procedures in Member States for returning illegally staying third-country nationals.

Qualification Directive (QD)[15]

The QD provides that recognised refugees and beneficiaries of subsidiary protection are eligible for the same access to health care as nationals, including the treatment of mental disorders (Article 30 (1) and (2)).

The QD stipulates that as soon as possible after international protection status has been granted, beneficiaries must be provided with access to information, in a language that they understand or can be reasonably expected to understand, on their rights and obligations relating to their status (Article 22 QD). Furthermore, according to Article 17 (4) RCD, Member States may only require applicants to cover the cost of medical treatment if they have sufficient resources.

Procedures Directive (PD)[16]

Article 24 (1) of the PD requires Member States to assess within a reasonable period after the application is made whether an applicant is in need of special procedural guarantees.

Reception Conditions Directive (RCD)[17]

According to the RCD, vulnerable persons have special reception needs and must be accommodated accordingly. In order for that to happen, vulnerable persons must be properly identified at the earliest possible stage of their asylum application (Article 22 RCD)

Dublin III Regulation

While the receiving State must provide adequate reception conditions, the sending State must provide all the information needed in order to allow the receiving State to fulfill this obligation.

Article 31 in Section VI of the Regulation is therefore dedicated to the '**Exchange of relevant information before a transfer is carried out**'. Such provision states that the Member State carrying out the transfer of an applicant shall communicate to the Member State responsible relevant information within a reasonable period of time before a transfer is carried out, in order to ensure that its competent authorities in accordance with national law have sufficient time to take the necessary measures. This implicates of course that measures according to the provided information should be put in place.

Further, the second part of Article 31 Dublin III Regulation states that it is essential to transmit information on immediate special needs, in particular any immediate measures which the Member State responsible is required to take in order to ensure that the special needs

[15] 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).

[16] 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.

[17] 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).

of the person to be transferred are adequately addressed, including any immediate health care that may be required. Therefore, Article 32 Dublin III Regulation on the '**Exchange of health data before a transfer is carried out**', provides in paragraph 1: «For the sole purpose of the provision of medical care or treatment, in particular concerning [...] persons who have been subject to torture, rape or other serious forms of psychological, physical and sexual violence, the transferring Member State shall, in so far as it is available to the competent authority in accordance with national law, transmit to the Member State responsible information on any special needs of the person to be transferred, which in specific cases may include information on that person's physical or mental health. That information shall be transferred in a common health certificate with the necessary documents attached. The Member State responsible shall ensure that those special needs are adequately addressed, including in particular any essential medical care that may be required.»

2.2 Croatian national law

In Croatia, psychological treatment is considered as part of the general health system.[18]

The **Law on International and Temporary protection (LITP)**[19] states in Article 52 paragraph 1 the asylum seekers' (including persons returned under the Dublin III Regulation) right to health care and Article 15 specifies that appropriate support must be provided to applicants in relation to their personal circumstances, amongst other things their age, gender, sexual orientation, gender identity, disability, serious illness, mental health, or as a consequence of torture, rape or other serious forms of psychological, physical or sexual violence, for the purpose of exercising the rights and obligations within the LITP. Article 57 (below) provides further information on the content and payment of health care.

Article 57 LITP
(1) Health care of applicants shall include emergency medical assistance, and necessary treatment of illnesses and serious mental disorders.
(2) Applicants who need special reception and/or procedural guarantees, especially victims of torture, rape or other serious forms of psychological, physical or sexual violence, shall be provided with the appropriate health care related to their specific condition or the consequences of those offences.
(3) The Ministry competent for health care shall provide for the medical examination referred to in Article 52 paragraph 3, point 4 of this Act, and the health care referred to in paragraphs 1 and 2 of this Article.
(4) The costs of the health care referred to in paragraphs 1 and 2 of this Article and the medical examination referred to in Article 52, paragraph 3, point 4 of this Act shall be borne by the ministry competent for health care.

Serious mental disorders are those requiring hospitalization and psychiatric treatment. Additionally, vulnerable asylum seekers are to be provided with appropriate health care related to their specific condition, which includes psychological treatment.

[18] UNHCR Croatia, written information, 24 August 2021.
[19] Official Gazette 70/2015, Amended by Official Gazette 127/2017, English version: www.refworld.org/docid/4e8044fd2.html.

In 2020, an **Ordinance on health care standards**[20] for applicants for international protection and foreigners under temporary protection entered into force regulating, amongst other, a right to psychosocial support and assistance in appropriate institutions for different vulnerable groups of applicants. The Ordinance lists the different **vulnerable groups** entitled to health care as follows: persons deprived of legal capacity, children, unaccompanied children, el-derly and disabled persons, seriously ill persons, persons with disabilities, pregnant women, single parents with minor children, people with mental disabilities and victims of human trafficking, victims of torture, rape or other psychological, physical and sexual violence, such as victims of female genital mutilation.

3 Accommodation

A person's housing situation has a major impact on their health and on the success of medical and especially psychological treatment. Health, social and legal problems are interrelated. People requiring treatment must be given a place in a house or accommodation centre; otherwise, it is impossible to guarantee meaningful and targeted treatment.[21] Life on the street is detrimental to a person's health. It is impossible to provide suitable treatment for mental illness under these circumstances. In other words, adequate living conditions are a prerequisite for effective psychological or psychiatric treatment, and the treatment must be adapted to the person's living situation.

3.1 Dublin returnees

Dublin returnees are transferred to **Zagreb airport**. No NGO is available at the airport, even though for very serious cases, a psychologist may be made available.[22] Normally, a Ministry of the Interior officer is assigned to collect arriving people at the airport.[23] Provided that asylum seekers have access to the Croatian asylum procedure upon return,[24] they are placed in an asylum center. There is no different treatment or procedure for persons with special vulnerabilities.

If Dublin returnees do not want to apply for international protection, they are considered as irregular migrants, which means that they can also be detained.[25]

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[20] Ordinance on health care standards for applicants for international protection and foreigners under temporary protection; Official Gazette 28/2020 https://narodne-novine.nn.hr/clanci/sluzbeni/2020_03_28_658.html.

[21] Regarding this connection we refer to the Swiss Refugee Council's Report Reception conditions in Italy – Updated report on the situation of asylum seekers and beneficiaries of protection, in particular Dublin returnees, in Italy» from January 2020, chapter 8.7.

[22] MdM, written information, 7 December 2021.

[23] CMS, interview on zoom, 9 November 2021.

[24] ECRE/AIDA, Croatia-Country Report 2020; update: «Applicants who are returned from other Member States in principle do not face any obstacles to access the procedure for granting international protection in Croatia. However, those who had left Croatia before the end of procedure and therefore had their case suspended, have to re-apply for international procedure (if they wish) once they return to Croatia, and thereby re-enter their initial procedure, in line with Article 18(2) of the Dublin III Regulation. (…) On the other hand, persons whose application was explicitly withdrawn or rejected before leaving Croatia are considered subsequent applicants upon return, contrary to the requirements of the Regulation.»

[25] HPC, written information, 6 December 2021.

There are **two reception centers** for asylum seeking persons in Croatia where applicants have the right to be hosted until the final decision on their asylum application. One in the city of Zagreb (informally called 'Hotel Porin') with a capacity of 600 persons and the other one around 80 km outside of Zagreb (Kutina) with a capacity of 100 persons. Both centers are managed directly by the Ministry of Interior. At the time of writing this report, neither of them was overcrowded. The Croatian Red Cross assessed that living conditions improved thanks to renovation in the 'Hotel Porin' back in 2020.[26]

The centre in **Kutina** is aimed at the accommodation of vulnerable persons.[27] The LITP enumerates as vulnerable persons the following groups: persons without legal capacity, children, unaccompanied children, elderly and infirm persons, seriously ill persons, disabled persons, pregnant women, single parents with minor children, persons with mental disorders and victims of trafficking, as well as victims of torture, rape or other forms of psychological, physical and sexual violence, such as victims of female genital mutilation.[28] However, up until now the Ministry of Interior does not have a special unit dealing with vulnerable groups, and rather accommodates their needs in the general reception system.[29] Although the reception center in Kutina is formally appointed as an accommodation option for persons with vulnerabilities, the reality is different, according to the Rehabilitation Centre for Stress and Trauma (RCT) and the Center for Peace Studies (CMS). The only peculiarity is that the center in Kutina is smaller in terms of capacity than the one in Zagreb.[30] Families seem to be the only group actually placed in Kutina on the grounds of their vulnerability.[31]

Persons with a **final negative asylum decision** have no right to accommodation. They are issued a decision compelling them to leave the territory of Croatia within 30 days; during that time, they are on their own. If apprehended after that, they are usually placed in detention centers, where basic healthcare services are available, but no mental health care (except in emergency situations).[32]

3.2 Persons with protection status

Different than for Dublin returnees, beneficiaries are picked up at the **airport** by an NGO. The responsible NGO at the moment is named Centre for intercultural dialogue (CCD) and it is one of the NGOs working in the field of integration of persons with a protection status in Croatia.

[26] ECRE/AIDA, Croatia-Country Report, 2020 Update, page 77. According to the statistics provided by UNHCR Croatia, there were 1932 registered asylum seekers in 2020, the vast majority of whom Afghans. Of 40 Dublin returns to Croatia in 2020, 4 were from Switzerland. The number of pending asylum applications (1st and 2nd instance) was 378. These number should, though, be considered with some caution, since 2020 was a special year due to the Sars-Covid 19 pandemic, which also had an impact on migratory movements. It is possible, therefore, that the figures for 2021 will be higher.

[27] ECRE/AIDA, Croatia-Country Report, 2020 Update, page 77.

[28] Article 4 (14) LITP.

[29] ECRE/AIDA, Croatia-Country Report, 2020 Update, page 91.

[30] RCT, written information, 1 July 2021.

[31] CMS, interview on zoom, 9 November 2021.

[32] RCT, written information, 1 July 2021.

Persons with status have a right to accommodation (in practice it is an apartment or a house) for the period of **two years** from the day of the recognition of their status (asylum or subsidiary protection) – if they do not have money or property to support themselves.[33] If a person gets a job within the two years, he/she has to participate in the costs of accommodation with a certain percentage depending on the salary.[34]

Observers remark that lately, status holders are placed in **little towns** outside of Zagreb.[35] This makes access to services and work more difficult, same for access to psychological treatment; the chances of finding a psychologist/psychiatrist with knowledge of the system for foreigners (especially for those not employed without an insurance number, see below for further information) and with interpretation available are even lower outside of the big cities like Zagreb.[36]

If protection status holders are **sent back** from another country **within 30 days** after their departure and the time-frame of two years **has not yet** expired, their right to be accommodated again for the remaining time remains. According to RCT, returned people spend a lot of that time waiting in reception centers (generally 'Hotel Porin'), while accommodation is being searched for and granted, and being placed in locations where there are no networks they can connect with.[37]

However, if protection status holders leave Croatia for more than a month, it is very likely that their **right to accommodation will cease,** as this is the case if the person does not reside at the registered address without a justified reason continuously for more than 30 days.[38] If the right for state funded housing is expired, returned status holders **are on their own** to find and finance the accommodation.[39] There are homeless shelters in theory, but, administrative conditions must be met even to access these. More specifically, people concerned need first to apply at the social center who will decide on the access, and then they will be required to get a medical checkup beforehand. There are some over-night shelters which are only to be entered and used during certain hours in the night.[40] They are usually run by caritative organisations and the access is a bit more flexible access. Both types of homeless shelters are, however, inadequate and short-term solutions.[41]

33 JRS, written information, 31 July 2021.
34 CMS, written information, 15 December 2021.
35 According to the information provided by CMS in writing on 15 December 2021, this was not always the case. A couple of years ago, people were mostly placed in the city of Zagreb in flats that were available on the market. But it was difficult to find accommodation, often it took months to find any – because flat owners refused to rent flats to refugees. As this became an issue, the responsibility for accommodation was moved from Social Welfare Service to the State Housing Office which has access to state-owned flats to be provided to persons with protection status. As those flats are located all across the country, this led to the decentralization. Unfortunately, the state does nothing to prepare the small cities and communities for new neighbors – so people are put in a context where they have no support and know no one.
36 JRS-HR, interview on zoom, 15 November 2021.
37 RCT, written information, 1 July 2021.
38 HPC, written information, 8 June 2021.
39 RCT, written information, 1 July 2021.
40 JRS, interview on zoom, 15 November 2021.
41 RCT, written information, 15 December 2021.

In cases where the right of accommodation expired or ceased, there are **no alternatives** available apart from shelters for homeless persons.[42]

Non-removed **rejected asylum seekers** also face a risk of homelessness.

3.3 Accommodation of persons in need of psychological treatment

There is **no difference** regarding the accommodation for persons in need of psychological treatment and other asylum seekers. In very acute and serious situations if a person is in need of an inpatient treatment he or she will be hospitalized in the public healthcare system. As asylum seekers have very limited access to healthcare in general, this is in practice only the case in life threatening circumstances.[43]

4 Identification

Article 15 of the LITP introduced special procedural and reception guarantees for vulnerable applicants. Yet, Croatian authorities do not provide systematic assessment and identification of persons in vulnerable situations, because, at the moment, there is no further detailed guidance available in the law, nor an early identification mechanism in the form of internal guidance. Thus, according to the AIDA report, there are no adequate reception conditions and guarantees for persons with less visible vulnerabilities.[44] For example, there is no appropriate mechanism for the identification of torture victims in place and, consequently, **applicants for international protection who are victims of torture are not always provided with the necessary treatment and access to appropriate medical and psychological rehabilitation and care**. RCT reported that specific needs and rights of victims of torture are completely ignored within the health and social care system.[45] According to RCT, many victims of trafficking remain unidentified and unrecognized.[46]

[42] 2020 was a particularly hard year for asylum-seekers and beneficiaries of international protection. According to the ECRE/AIDA, Croatia-Country Report, 2020 Update, page 110: «COVID19 affected beneficiaries of international protection in the course of 2020. Those who were not entitled to subsidized accommodation and lost their jobs during the Covid-19 pandemic were transferred to the reception center for homeless people.»

[43] RCT, written information, 1 July 2021.

[44] ECRE/AIDA, Country Report: Croatia 2020 Update, page 54.«Less evident vulnerabilities such as those relating to victims of torture or trauma, victims of trafficking or LGBTI persons are much less likely to be identified in current practice».

[45] ECRE/AIDA, Country Report: Croatia, 2020 Update, page 54; FRA, Migration: Key fundamental rights concerns - Quarterly bulletin 3 – 2020 (1.4.2020 - 30.6.2020), available at: https://bit.ly/3ayiumt, page 27.

[46] See paragraph 5.4.

5 Treatment

5.1 Dublin returnees

In general, asylum applicants are **entitled to health care**. But they have very limited access to mainstream healthcare due to restrictive regulation: namely under the LITP they are granted only «emergency medical assistance, and necessary treatment of illnesses and serious mental disorders».[47] Psychiatric and psychological treatment for asylum seekers is covered therefore only in case of emergency medical care and essential treatment of diseases and serious mental disorders. This is mostly the case when a person needs to be hospitalized. Apart from this, there are no clear criteria in determining a case of emergency.[48]

To ensure these provisions in the LITP are met, the Croatian Ministry of Health together with the European Union's Asylum, Migration Integration Fund AMIF are funding a medical project implemented by Médicins du Monde (MdM). The agreement runs until the end of 2022.

According to the information received from MdM, their team consists of a medical doctor, a nurse and four interpreters for both Arabic and Farsi.[49] Two MdM's psychologists conduct a mental health initial assessment and individual psychological counselling sessions every working day for six hours in Zagreb and when necessary in Kutina.[50] An external associated psychiatrist visits the Reception Centre in Zagreb three times a month. During each visit, she is able to conduct about five consultations.[51] Based on the prescriptions from the psychiatrist, necessary medication is administered through MdM and/or the GP from the local outpatient clinic.[52] Psychological support is also provided through the CRC (Croatian Red Cross), they conduct for example group activities.[53] As both organizations are subcontracted by the Ministry of Interior through the national AMIF program, it needs to be stressed that these services are project based and therefore of uncertain sustainability.[54]

Other organizations emphasized the lack of appropriate and continuous psychological and psychiatric assistance for asylum seekers and Dublin returnees,[55] as many asylum seekers do not fall into the category of emergencies but are in need of continuous psychological treatment. They need to rely on the assistance by NGOs that are funded through projects and therefore dependent on the continuation of those funds.[56]

47 Article 57 (1) LITP.
48 JRS, written information, 31 July 2021.
49 ECRE/AIDA, Country Report: Croatia 2020 Update, page 87.
50 MdM, written information, 17 July 2021.
51 ECRE/AIDA, Country Report: Croatia, 2020 Update, page 90.
52 RCT, written information, 1 July 2021, MdM, written information, 7 December 2021.
53 RCT, written information, 1 July 2021.
54 RCT, written information, 1 July 2021.
55 JRS, written information, 31 July 2021.
56 JRS, written information, 31 July 2021.

In reception centers, Dublin returnees are in general subjected to initial health examination and screening, during which basic screening of mental health difficulties are assessed.[57] This is conducted through MdM.[58] According to their information, the outcome of this assessment may be shared with the Ministry of Interior, if the patient agrees with it. This is the case especially if special needs regarding the accommodation become apparent.[59]

Applicants who need **special reception** and/or procedural guarantees, especially victims of torture, rape or other serious forms of psychological, physical or sexual violence, should in theory be provided with the appropriate health care related to their specific condition or the consequences resulting from the mentioned acts. In practice, this type of specialized health care has been lacking for years, and is mainly covered by NGOs.[60]

According to the information of MdM, the psychological treatment in the reception centers cannot be in-depth until persons get protection status. This is because, from a therapeutic point of view, it might be counterproductive to start a long and complex process without being able to ensure the necessary support and follow-up.[61]

Residents of reception centers are also free to seek help in other NGOs who are providing psychological support.[62]

In 2020, **an Ordinance** on health care standards for applicants for international protection and foreigners under temporary protection entered into force regulating, amongst other, initial and supplementary medical examinations and the scope of health care for applicants of international protection.[63] Several organizations reported that it is not yet clear if the provisions of this Ordinance are actually applied. The **lack of identification mechanisms** is therefore insufficient, and was confirmed by all interview partners.

Conclusion

The public health system is deficient in providing psychological care to asylum seekers with mental problems. NGOs can partially remedy the problem, but they have to rely on intermittent funding for technical resources and personnel. Thus, the planning of a long-term support system is often not possible and, as a consequence, patients can only rarely benefit from stable treatments.

Persons with a final **negative decision** have no right to healthcare services, with exception to emergencies.[64]

[57] RCT, written information, 1 July 2021.
[58] MdM, written information, 17 July 2021.
[59] MdM, interview on zoom, 15 November 2021.
[60] ECRE/AIDA, Country Report: Croatia, 2020 Update, page 90.
[61] MdM, interview on zoom, 15 November 2021.
[62] RCT, written information, 1 July 2021.
[63] Official Gazette 28/2020, available in Croatian at: https://bit.ly/3asTWel.
[64] RCT, written information, 1 July 2021.

5.2 Persons with protection status

Persons with granted status have the right to the same health care as Croatian nationals.[65] There is a difference though in terms of insurance between employed and unemployed beneficiaries of international protection.

Persons with status who are **not employed do not** have immediate access to health insurance. Since they are nevertheless entitled to the same health care as persons with basic health insurance, the costs of the services should be covered by the **Ministry of Health**. However, there are many obstacles in accessing such right. Because of lack of clear instructions and protocols for practitioners, many are not familiar with the different statuses, the scope of their rights as well as with the reimbursement of their services.[66] For example, for the calculation and the payment of services in the Croatian health care system, patients need to provide their insurance number for the files. As persons whose services are paid by the Ministry of Health do not have such a number**, they are often not given access to treatment**. Also, there are significant delays in the payment from the State, which is problematic for the doctors who provided treatment. In some cases, people are have been given access to treatment, but due to a lack of knowledge, they received a bill for their treatment, which they were not able (and not obliged, but this would also require their awareness of their rights) to pay.

Persons with status who are **employed** are automatically insured for basic health insurance, they also have the right to healthcare services within the scope of basic health insurance.

Basic health care level covers theoretically the treatment of chronic psychiatric diseases. There are **barriers** though **in practice**, as the mental health services are **underdeveloped** in the public sector and inaccessible also for Croatian citizens, particularly to the underprivileged.[67] Usually, mediation and accompaniment of NGOs staff and volunteers (including interpreters) is the only way for refugees to access mental healthcare services in the public system.[68]

Psychological treatment in the public healthcare system is offered in general in psychiatric hospitals/psychiatric wards of the general hospitals, and to a lesser extent in Institutes of Public Health (they have mostly outpatient treatment of addictions and preventive activities). All options mentioned are pure possibilities: apart from psychiatric treatment (hospitalization and medication) of persons presenting severe symptoms of psychiatric disorder, observers are not aware of any persons with international protection (or asylum seekers) who received mental health services within the public system, regardless of their insurance situation. [69]

The lack of interpreters is mentioned frequently as one of the main obstacles (see also below). According to MdM, the main barriers in accessing psychological treatment after receiving a status in Croatia are language, lack of information and discrimination.

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65 UNHCR Croatia, written information, 24 August 2021.
66 RCT, written information, 1 July 2021.
67 RCT, written information, 1 July 2021.
68 RCT, written information, 1 July 2021.
69 RCT, written information, 1 July 2021.

The right to basic health insurance does not grant that the person will be provided timely, appropriate and quality psychological support.[70] To access specialized treatment, a referral by a general doctor is needed.

Persons with status are in general **left on their own**. They can get psychological support from specialized NGOs, provided they have information and are willing to seek that kind of service, and provided that the NGO has capacities and the need is recognised.[71] An example of such service is the one provided by the Society for psychological assistance (DPP-HR), which assists both asylum seekers and refugees free of charge. Usually, there are other pressing needs to address, so mental health difficulties often get unrecognized and unaddressed.[72] Further, competent and experienced NGOs suffer from chronical lack of funding, which causes discontinuation of services, high staff turnover and loosing of the expertise as a consequence.[73]

Conclusion

The gaps in health insurance and the lack of identification and treatment of mentally ill persons leave the mental health difficulties of many persons unaddressed and untreated.

5.3 Translation for psychological treatment

Translation is one of the main barriers and problems in regard to psychological treatment.[74] It is sometimes provided by NGOs, depending on their capacities.[75] As previously mentioned, in 2020 the MdM-team consisted of a medical doctor, a nurse and interpreters for Arabic and Farsi.[76] In some cases, when asked by MdM, the Ministry of Interior supports with their translators, who oftentimes are the same that sat through the asylum interview. This does not enforce the trust of the asylum seeker and may lead to them not sharing all information needed in the two very different settings of the psychological treatment and the asylum interview.

RCT employs two Arabic translators, a male and a female. If other languages are needed, they work with sub-contractors. According to their information, they had to turn people down in the past as there were no translators to be found or there was no funding available to hire them.[77]

[70] RCT, written information, 1 July 2021.
[71] RCT, written information, 1 July 2021.
[72] RCT, written information, 1 July 2021.
[73] RCT, written information, 1 July 2021.
[74] CMS, interview on zoom, 9 November 2021.
[75] MdM, written information, 17 July 2021.
[76] ECRE/AIDA, Country Report: Croatia, 2020 Update, page 54.
[77] RCT, interview on zoom, 15 November 2021.

In cases where psychological assistance was provided through NGO projects, translators were provided and paid through projects.[78] Insecure funding for this purpose is a serious obstacle, as it leads to high turnover of experienced and qualified interpreters working in the setting of psychological counselling, which is often irreplaceable.

In 2021, the Ministry of Interior decided to grant a contract to a faith-based organization for support in integration (Centre for Intercultural Dialogue), which includes engagement of cultural mediators. However, the scope of persons who are eligible to use their services is limited as it is only granted to beneficiaries of international protection, and in practice RCT and asylum seekers/Dublin returnees are encountering many restrictions in using this resource.[79]

Even for the Croatian authorities it seems to be difficult sometimes to find enough translators. In general, asylum seekers would have the right to ask for a specific gender of the interview team, but this can sometimes not be taken into account as such a person is not to be found.[80] Also MdM stressed that there is a severe lack of female translators.[81]

5.4 Specialised services for victims of torture or trafficking

If a person is identified as victim of torture or victim of trafficking, which may not always be the case as there is a general lack of identification mechanisms (see chapter 5.1), there are specialized services provided by NGOs.

The RCT (Rehabilitation Centre for Stress and Trauma) provides holistic rehabilitation services for **torture survivors**. But also their resources are limited and the access depends on the identification of the persons as victims of torture in the first place.

The CRC (Croatian Red Cross) is designated as a key stakeholder for providing care services to **victims of trafficking**, with other NGOs specialized in this field. There are four mobile teams covering the territory of Croatia, with defined geographical area of responsibility, and services are provided in these locations. There are standardized protocols for the identification, processing and care for victims of trafficking.[82] These safeguards formally in place do not work very well in practice.

Although the protocols seem to work in terms of processing and care, the gaps in the identification phase are still quite relevant. This is problematic because, without identification, there is no accessing the following (and better working) stages. The GRETA report of 2020, while acknowledging some improvements in the situation, still notes with concern that not all complaints about possible human trafficking offences are taken seriously by the police and

[78] JRS, written information, 31 July 2021.
[79] RCT, written information, 1 July 2021.
[80] RCT, interview on zoom, 15 November 2021.
[81] MdM, interview on zoom, 15 November 2021.
[82] The protocols are translated into English and can be found here: https://ljudskaprava.gov.hr/suzbijanje-trgovanja-ljudima/599.

urges the Croatian authorities to ensure that human trafficking offences are promptly investigated, leading to effective, proportionate and dissuasive sanctions.[83]

If persons are in need of **inpatient treatment** because of their serious mental health state, this does not imply a psychological treatment but rather that the person will be given tranquilizers to calm them down.[84] They will not be provided with further treatment after the situation seems not to be an emergency anymore. After hospitalization, persons will be sent back to where they were brought in from.

[83] GRETA, Evaluation Report Croatia, third evaluation round, Access to justice and effective remedies for victims of trafficking in human beings, published on 3 December 2020, https://rm.coe.int/report-on-the-implementation-of-the-council-of-europe-convention-on-ac/1680a09509. See also ECtHR, Judgement of 25 June 2020, *S.M. v. Croatia*, application no. 60561/14, which upheld the applicant's complaint of a lack of an adequate response by the authorities to allegations that she had been pressured into prostitution. Even though the compliant was not an asylum seeker, it testifies to the protection gaps still present in the system.

[84] RCT, interview on zoom, 15 November 2021.

6 Conclusions

Access to psychological treatment in Croatia is difficult in practice, even for Croatian nationals. For persons not speaking the language, the chances of stable long term treatment are **minimal**. The gaps in health insurance and the lack of translation and treatment of mentally ill persons leave the mental health difficulties of many persons unaddressed and untreated.

Translators are missing in all sectors connected with asylum and immigration in Croatia, in health care, but also in education and social care.[85] There is a general lack of specific languages but also of female translators. This general shortage of translators leads as a consequence to an overburdening of those existing, as well as to the risk that the individual **interpreter may have to play several different roles**, thus undermining his or her impartiality as well as the trust of the asylum seeker in the system.

The **lack of meaningful and thorough treatment** could interfere with the integration process. The effects of trauma and chronic stress on the mental health of refugees is underestimated and unacknowledged.[86]

All support and treatment for persons with psychological problems are conducted by **NGOs**. The state funds some of their activities, but does not provide any support itself. This is cause for instability, as these NGOs and the continuity of their work depends on the funds provided.

[85] CMS, interview on zoom, 9 November 2021.
[86] Confirmed by the RCT.

7 Recommendations

1. The Swiss Refugee Council **advises in general against the transfer of persons with serious mental health problems.** Regardless of the services provided in the other Dublin or safe third country, a Dublin/safe third country procedure and a possible transfer do not only take time but also cause unnecessary stress for the persons concerned. While this is the case for all persons, those with already existing serious psychological illness suffer a risk of further deterioration of their mental health.

2. In the specific case of **Croatia**, there is a general lack of identification of vulnerabilities and need of psychological or psychiatric treatment, a lack of stable long term treatment and a lack of interpreters. Therefore the Swiss Refugee Council **advises against the transfer of persons in need of long term psychological or psychiatric treatment to Croatia**.

3. If it is likely that the state of health of the asylum seeker concerned is not expected to improve in the short term, or that the suspension of the procedure for a long period would risk worsening the condition of the person concerned, the requesting Member State should choose to conduct its own examination of that person's application by making use of the '**discretionary clause**' in Article 17(1) of Regulation No 604/2013, or refrain from transferring a person with protection status under a bilateral readmission agreement.

4. If a transfer is to be conducted nevertheless, the Swiss Refugee Council advises the state authorities to make sure with individual confirmations and guarantees that the **Croatian authorities are aware of the specific need of the person** and take the necessary precautions. This is particularly crucial to avoid that the person concerned may depend on a flawed system to be identified in the first place, risking not getting access to the necessary treatment.

5. **The best interest of persons with mental health problems** should be a primary consideration when it comes to asylum procedures and transfers under the Dublin III Regulation or bilateral readmission agreements. According to expert organizations, health needs of asylum seekers represent invisible emergencies that can easily be treated before they escalate into irreversible complications. Access to early treatment is not only beneficial for the person concerned but also cost-efficient in the long-term as it reduces demand for emergency care by providing cheaper and more effective primary care. Early treatment is also important for tackling and protecting against the deterioration of mental health due to pre-existing traumas.87 Therefore, all possible measures must be taken to guarantee timely access to the necessary psychological or psychiatric treatment as well as adequate reception conditions, be that in the country where the person is currently in the asylum procedure or in the responsible Dublin/safe third country.

[87] MdM, Croatia – Hidden (human) faces of European Union's Dublin regulation from a health perspective, June 2018.

8 Annex

8.1 Contacts

Centre for Peace Studies (Centar za mirovne studije)

Croatian Law Centre (Hrvatski pravni centar)

Medecins du monde Belgique (MdM-HR)

Jesuit Refugee Service (Isusovačka služba za izbjeglice, JRS-HR)

Society for Psychological Assistance (Društvo za psihološku pomoć)

Rehabilitation Centre for Stress and Trauma (Rehabilitacijski centar za stres i trauma)

UNHCR - Croatia

CCD – Center for Culture of Dialogue

Croatian Red Cross (Hrvatski Crveni Kriz)

Ministry of Demography, Family, Youth and Social Policy (Ministarstvo za demografiju, obitelj, mlade i socijalnu politiku)

Ombudswoman for Children (Pravobraniteljica za djecu)

Welcome Initiative (Inicijativa Dobrodosli)

8.2 Literature

- CPT, Report to the Croatian Government on the visit to Croatia carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 10 to 14 August 2020, published on 3 December 2021.

- ECRE/AIDA, Country Report: Croatia, 2020 Update, 2021.

- ECRE, Balkan route reversed – The return of asylum seekers to Croatia under the Dublin system, December 2016.

- Médecins du Monde and UNICEF, Croatia – Hidden (human) faces of European Union's Dublin Regulation from a health perspective, June 2018.

- Medecins du Monde, Nearing a point of no return? Mental health of asylum seekers in Croatia, 2018.

- Medecins du Monde, Everyone has the right to healthcare, 2020.

8.3 Note of thanks

We would like to dedicate a special thanks to the following organizations for their tireless commitment and passion, as well as to the great generosity they showed in answering our questions: **Centre for Peace Studies** (Centar za mirovne studije, CMS); **Croatian Law Centre** (Hrvatski pravni centar, HPC); **Médecins du monde Belgique** (MdM); **Jesuit Refugee Service** (Isusovačka služba za izbjeglice, JRS); **Society for Psychological Assistance** (Društvo za psihološku pomoć); **Rehabilitation Centre for Stress and Trauma** (Rehabilitacijski centar za stres i trauma, RCT); **UNHCR Croatia.**

Without their expertise and knowledge, this desk-researched report would not have been possible. And without their work, the situation regarding the psychological health support for asylum seekers and beneficiaries of international protection would be much worse.

Another special thanks goes to the German **Stiftung Pro Asyl** for supporting and financing the project generously.

8.4 Abbrevations

AIDA	Asylum Information Database
AMIF	Asylum, Migration and Integration Fund
BIP	Beneficiaries of International Protection
CCD	Centre for Intercultural Dialogue
CJEU	Court of Justice of the European Union
CMS	Centre for Peace Studies | Centar za mirovne studije (Croatia)
CRC	Croatian Red Cross | Hrvatski crveni križ
CPT	European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment
EASO	European Asylum Support Office
ECHR	European Convention on Human Rights
ECRE	European Council on Refugees and Exiles
ECtHR	European Court of Human Rights
ELENA	European Legal Network on Asylum
EU	European Union
FAC	Federal Administrative Court (Switzerland)
GRETA	Group of Experts on Action against Trafficking in Human Beings
IOM	International Organization for Migration
JRS	Jesuit Refugee Service | Isusovačka služba za izbjeglice
LGBTI	Lesbian, gay, bisexual, transsexual and intersex
LITP	Law on International and Temporary Protection | Zakon o međunarodnoj i privremenoj zaštiti (Croatia)
MdM	Doctors of the World | Médecins du Monde
PD	Procedures Directive[88]
RD	Return Directive[89]
RCD	Reception Conditions Directive
RCT	Rehabilitation Centre for Stress and Trauma | Rehabilitacijski centar za stres i trauma
SEM	State Secretariat for Migration (Switzerland)
SPA	Society for Psychological Assistance | Društvo za psihološku pomoć
UNHCR	United Nations High Commissioner for Refugees
UNICEF	United Nations Children Fund
QD	Qualification Directive[90]

OSAR/SRC publications on various Dublin countries are available at www.refugeecouncil.ch/publications/dublin-state-situation-reports.

The OSAR/SRC newsletter (in German and French) provides information about the latest publications. Subscribe to it here: www.refugeecouncil.ch/subscribe-to-the-newsletter.

[88] 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).

[89] 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).

[90] 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 (recast).