

**NATIONAL REPORT DONE BY THE ODYSSEUS NETWORK FOR THE  
EUROPEAN COMMISSION ON THE IMPLEMENTATION OF THE DIRECTIVE  
ON RECEPTION CONDITIONS FOR ASYLUM SEEKERS IN:  
SLOVENIA**

by  
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**1. NORMS OF TRANSPOSITION**

Q.1. Identify the main norm of transposition (indicate the title, date, number, date of entry into force and references of publication into the official journal) and indicate its legal nature (legislative, regulatory, administrative); indicate in your answer if this norm was only devoted to the directive or if it has been included in a more general text and indicate in that case by quoting precisely the numbers of the provisions adopted to transpose the directive.

Act amending the Asylum Act (ZAzil-D), adopted on February 6, 2006, published in the Official Journal of the Republic of Slovenia (RS), No. 17/06, February 17, 2006, entered into force on March 4, 2006. The act of transposition is of a legislative nature. The act amended the existing Asylum Act (see Asylum Act – consolidated text, Official Journal of the Republic of Slovenia, No. 51/06, May 18, 2006, hereinafter: Asylum Act) which besides the reception conditions for asylum seekers also contains provisions on refugee status determination procedure (RSDP) and rights and obligations of refugees.

The norms of the Asylum Act transposing the directive are: 1, 2, 15.a, 16, 27, 42, 43, 45, 45.b, 46, 46.a, and 46.b. The norms of the Asylum Act transposing directive 2005/85/EC, which directly concern the reception conditions, are: 26, 37, 38, 40, 40.a, 41, and 56.

The norms of the Asylum Act which concern the reception conditions and were already included in the Asylum Act before the transposition of the directive, are: 3, 7, 8, 9, 11, 14, 15, 18, 28, 36, 44, 45.a, 57, 58, 63.b, 63.e, and 64.

Q.2. List by order of importance by using numbers (1, 2, 3) the others norms of transposition if there are more than one (indicate for each norm the title, date, number and references of publication into the official journal; include in your answer the administrative measures taken to ensure implementation of the directive and of the transposition norms like regulations, administrative circulars, special instructions,...)

1. The proposal of the Regulations on Manners and Conditions to Guarantee the Rights of Asylum Seekers (hereinafter: the proposal of the Regulations on Reception Conditions). When adopted (the adoption is foreseen in August 2006), this proposal will replace the

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<sup>1</sup> I would like to express gratitude to the Asylum Sector of the Ministry of Interior for their kind cooperation in gathering the information for this report. Also, I would like to thank the Red Cross Slovenia and the representatives of the non-governmental organizations active in the field of asylum that provided substantial amount of information on the practical implementation of the legislation. Finally, many thanks go to the UNHCR Regional Representation for Hungary, Poland, Slovenia and the Slovak Republic for extensive comments of the draft version of the report.

currently valid Regulations on Manners and Conditions to Guarantee the Rights of Asylum Seekers and foreigners who have been granted the special form of protection, adopted on June 1, 2002, published in Official Journal RS, No. 80/2002, September 13, 2002, entered into force on September 14, 2002.

2. Instructions on the Procedure and Method of Dealing with Aliens who Enter the Republic of Slovenia and Wish to Lodge Asylum Applications, and on Receiving, Contents and Processing of Applications Lodged by Asylum Seekers and Statements Put on Record (hereinafter: Instructions on the Procedure), adopted on July 7, 2000, published in the Official Journal RS, No. 65/2000, July 21, 2000, entered into force on July 29, 2000.

3. Internal Regulations of the Asylum Home (hereinafter: Internal Regulations), adopted on 19.09.2006, will enter into force on 18.10.2006.

- Put as an annex to your report a paper copy of each norm in the original language with a reference number to help the reader to find it easily;
- Send us as an electronic version of each norm or a weblink to the text (this will be used for the website we are building);
- Provide the texts of any translation of the above norms into English if they are available.

Q.3. Explain which level of government is competent to adopt the legal norms on reception conditions for asylum seekers (specify in particular in case of a federal or regional State, if it is the federal/central power or the components; in case, specify below when it is impossible for you to answer a question because it is about the competence of the components and it is impossible for you to gather reliable information about all of them)

Since Slovenia is a centralized state the competency for adopting legal norms on reception conditions in a form of legislative provisions lies with the National Assembly of the Republic of Slovenia. The competency for the adoption of administrative (implementing) norms lies within the Ministry of Interior of the Republic of Slovenia: the norms are adopted by the Minister of Interior, after a consultation with other relevant ministries. The competency for adopting Internal Regulations of the Asylum Home also lies with the Minister of Interior.

Q.4. Explain the legal technical choices done to transpose the directive (comment on the nature and level of the norms used to do the transposition: legislative, regulatory, administrative like instructions, etc). Add any other element about the technique of transposition of the directive which is interesting for the implementation of Community law.

The directive was transposed in a form of legislative amendments to the existing Asylum Act. Acts (laws, statutes) are the main form of regulation in Slovenia since according to paragraph 2 of the article 15 of the Constitution of the Republic of Slovenia, only the law can define the manner of implementation of constitutional rights (including the right to asylum). Furthermore, the methods of implementation of legislative provisions are defined with the administrative regulations or instructions, adopted by the Minister of Interior.

Q.5. Mention if there is a general tendency to just copy the provisions of the directive into national legislation without redrafting or adaptation them to

national circumstances? If yes, give some of the worst examples and explain if there is a risk that those provisions remain unapplied or will create difficulties of implementation in the future.

The tendency of just copying the provisions of the directive while transposing it into the national legislation is not general. However, there are cases where the provisions introducing new measures were simply copied into the national law without a thorough examination of possibilities for actual implementation. For example, according to article 15.a of the Asylum Act, vulnerable groups should receive specific treatment and counselling after an individual assessment of their needs, but neither counselling neither the process of assessment are defined nor are they existent in practice. The psychologists and social workers, employed in the Asylum Home (three staff members all together), are busy with accommodation checkups and other tasks (e.g. counting the applicants every morning) and are not able to engage in individual treatment of asylum seekers with an intention to find out whether they have been subject to abuse or domestic violence or whether they have special needs. Identification of their special needs mostly depends on the assertiveness of the applicants.

Generally, in the processes of legal transposition of the directives in Slovenia there is a tendency of taking the most extreme positions, foreseen with the directive, even if it is not mandatory for the state to adopt such extreme measures (e.g. access to the right to work after one year since lodging the asylum application). In addition, all transposition procedures in the National Assembly are carried out in urgent procedures which allows for one debate in a parliamentary committee, one chance to submit amendments to the proposal and one plenary discussion (contrary to three discussions and three opportunities to submit amendments, available in regular legislative procedures). The directives are being used as a justification for lowering the achieved standards.

As required by the official position of the government of the Republic of Slovenia, that in decision making the authorities have to cooperate with the civil society, both UNHCR and NGOs had an opportunity to comment extensively on the proposed draft amendments and appeared before the parliamentary select committee that reviews the legislation. Most of the comments were not accepted.

Q.6. Have all the texts necessary to ensure the effective implementation of the new rules of transposition been adopted, prepared or at least foreseen in the future (for example a regulation completing a new law and the necessary instructions telling the administration how to apply the new rules)?

No, all the texts foreseen to transpose the directive have not yet been adopted. While the main act of the transposition (i.e. amendments to the Asylum Act) and Internal Regulations of the Asylum Home have already been adopted, the main implementing act (i.e. the proposal of the new Regulations on Reception Conditions) is still in the preparation.

## **2. BIBLIOGRAPHY**

Q.7. Has an in-depth preparatory study been made public about the changes at the occasion of the transposition? If yes, thanks for trying to provide us a copy (*please contact to answer this question adequately the body and person who was responsible for the preparation of the transposition of the directive in the public administration*).

Yes, the preparatory study, prepared by the Asylum Sector of the Directorate for Internal Administrative Affairs (which is an organizational unit within the Ministry of Interior) has been made public: In the process of drafting the amendments the study has been sent to both UNHCR and the non-governmental organizations (NGOs), active in the field of asylum, that were invited to submit comments. When the proposed amendments were submitted by the Ministry of Interior to the Slovenian Government for a confirmation, the study and the proposed amendments were published on the official website of the Government ([http://193.2.236.95/dato3.nsf/OC/0511291400363/\\$file/50v5.doc](http://193.2.236.95/dato3.nsf/OC/0511291400363/$file/50v5.doc)). During the legislative procedure at the National Assembly, the study and the proposed amendments were published at the official website of the National Assembly ([www.dz-rs.si](http://www.dz-rs.si)). Both, the representatives of UNHCR and NGOs appeared before a parliamentary committee discussing the proposed amendments and presented their views on the proposal.

Q.8. Quote any recent scientific book or article published about the directive, the transposition rules or the question of reception conditions for asylum seekers in general (answer even if this literature is only available in your language and provide the complete title in your language (without translation) with all references; indicate author, title, in case name of periodical, year and place of publication).

Bardutzky, Samo: "Implementacija *acquis* na področju azila", Pravna praksa, No. 43/2005, 2005, Ljubljana, Slovenia.

Mrak, Andreja: "Še o spremembah zakona o azilu", Pravna praksa, No. 4/2006, 2006, Ljubljana, Slovenia.

Vrbnjak Urška: "Subsidiarna zaščita, EU in mednarodno pravo človekovih pravic", Pravna praksa, No. 10/2006, 2006, Ljubljana, Slovenia.

Zagorc, Saša: "Ustavno sporna ureditev predhodne policijske obravnave v azilnem postopku", No. 3/2006, 2006, Ljubljana, Slovenia.

Q.9. Quote any interesting decision of jurisprudence based on the implementation of the new rules of transposition of the directive (indicate references of publication if any)?

Immediately after the directive was transposed and the Asylum Act amended (March 2006), it has been sent into revision to the Constitutional Court by the opposition parliamentary parties and by a group of asylum seekers. Upon the request for interim measures the Constitutional Court suspended the application of several new provisions of the Asylum Act which were added pursuant to the transposition, until its final decision on the case. The suspended provisions are: the newly introduced police pre-procedure which would give the police the authority to consider whether the reasons for applying for asylum are in accordance with the Geneva Convention and decide whether or not a person is allowed to apply for asylum at all; and the newly adopted provision allowing for a non-suspensive effect of appeals in manifestly unfounded cases and safe third country cases (allowing for the execution of a first instance decision on asylum application).<sup>2</sup>

There was an interesting decision issued by the Slovenian Constitutional Court extending the reception conditions (but only accommodation and food) beyond a final decision on the

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<sup>2</sup> Decision of the Constitutional Court of the Republic of Slovenia, No. U-I-59/06-11 of 3 April 2006.

asylum application. The applications of two asylum seeking families were rejected with a final decision issued by the Supreme Court. The families were (together with minor children) transferred from the Asylum Home to the Deportation Centre (a prison-like facility). Their legal representative filed a complaint to the Constitutional Court jointly with a request for interim measure to suspend the execution of the final decision and release the children and their parents from the Deportation Centre. The Constitutional Court, invoking Article 3 of the Convention on the Rights of the Child (best interest of the child) and Article 8 of the European Convention of Human Rights (family reunion), decided in favour of the request for interim measure, suspended the execution and ordered the Ministry of Interior to re-accommodate the families in the Asylum Home until the final decision of the Constitutional Court is issued. With these two decisions the Constitutional Court extended reception conditions (accommodation and food) for rejected asylum seekers beyond the final decision on asylum applications.<sup>3</sup>

### **3. GENERAL INFORMATION ABOUT THE SYSTEM OF RECEPTION CONDITIONS**

*The purpose of the following two questions is to help the reader to understand easily and quickly the system of reception conditions in your Member State and also to avoid that you have to repeat general elements in other parts of the questionnaire. **Please do not write more than one or maximum two pages and do not include large historical developments.***

Q.10. Describe in general the system of reception conditions in your Member State (in particular which are the main actors in charge of reception conditions?)

Asylum seekers are accommodated in the Asylum Home in Ljubljana which is a state-ran accommodation centre. There are no other accommodation centres in Slovenia, either state or private. The Asylum Home is under the authority of the Asylum Sector of the Directorate for the Administrative Internal Affairs (an organizational unit within the Ministry of Interior). The Ministry of Interior is responsible for all issues concerning the reception conditions. In specific fields of reception conditions the Ministry of Interior coordinates its activities with other responsible ministries (e.g. in issues of health with the Ministry of Health, in issues of labour with the Ministry of Labour, Family and Social Affairs, in issues of schooling with the Ministry of Education). In the course of urgent daily matters, the Asylum Sector cooperates directly with elementary schools Vič and Livada (attended by asylum seeking minors) and the public health centre Vič (visited by the asylum seekers in need of medical treatment). All the stated institutions are the closest available to the Asylum Home, although they are still several bus stops away.

Asylum Home is the only open-type accommodation centre in Slovenia. It includes a detention unit. In addition, a limited number of asylum seekers (there were seven on June 15, 2006), whose right to move is restricted and who have been previously issued an expulsion decision (before they applied for asylum), are detained in the Centre for Aliens in Postojna, which is under the authority of the Police (hereinafter: Deportation Centre). It is not unimportant where asylum seekers are detained since the level of reception conditions is de facto higher in Asylum Home (even for those who are detained). Also, communication with refugee counsellors and NGOs from the Deportation Centre is often limited.

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<sup>3</sup> Decisions of the Constitutional Court of the Republic of Slovenia, No. Up-956/06 of 7 July 2006 and No. Up-859/06 of 7 July 2006.

In general, the NGOs play an important role in ensuring the awareness of rights and obligations of the asylum seekers, in providing services, legal aid, leisure and education activities as well as carrying out monitoring of reception conditions.

- Q.11. A. Explain if you have different types and levels of reception conditions following the different stages of the asylum procedure (this implies that you have to give briefly the necessary explanations about the asylum procedure). Make if relevant for reception conditions a distinction between the following procedural stages: determination of the responsible Member State on the basis of the Dublin II regulation, special procedures at the border (including transit zones in airports), accelerated procedures, admissibility procedures, eligibility procedures and the different possibilities of appeals (suspensive or not) against a refusal of the asylum request. Indicate what the main differences of reception conditions are between the different stages (if necessary by detailing between the different elements of reception conditions, in particular housing) and explain what the evolution of reception conditions is following the different stages of the procedure.

Legally, there is one uniformed level of reception conditions for all stages of the asylum procedure with an exception of legal assistance offered by the refugee counsellors which is only provided in appeal procedures before the Administrative and the Supreme Court. However, there are several situations when asylum seekers are subject to *de facto* lower level of reception conditions:

- when accommodated in the pre-reception area;
- when returned to Slovenia pursuant to the Dublin Regulation;
- when detained in the detention unit of the Asylum Home; and
- when detained in the Deportation Centre in Postojna because their applications are considered manifestly unfounded and abusive.

Pre-reception area: Upon their arrival to the Asylum Home the asylum seekers are accommodated in the pre-reception area where they wait for up to 12 hours for their asylum application to be taken. The pre-reception area is separated from the rest of the Asylum Home and is kept locked. The asylum seekers must sign a statement saying that they agree their asylum application will be deemed withdrawn if they leave the pre-reception area. This measure is foreseen neither with the Asylum Act nor with any of the implementing acts and can therefore be considered *de facto* limitation of movement. If asylum seekers, accommodated in the pre-reception area, ask the guards to open the door, they are free to go but in that case they are not considered as asylum seekers anymore. During the time of waiting in the pre-reception area they receive one daily food package, consisting of water, toast, chocolate, and tuna fish can per day (and not warm cooked meals as received by other asylum seekers in Asylum Home) which altogether amounts to 1200 Kcal. Upon the first 12 hours since the arrival they are treated less favourably than later in the procedure. Except for the Legal Information Centre for NGOs, which is also an implementing partner of UNHCR, none of the NGOs has access to the pre-reception area.

The asylum application of the asylum seekers who leave Asylum Home and do not return on time (i.e. within three days – see also the withdrawal of reception conditions, Q. 21. A), is deemed withdrawn, consequently their reception conditions are withdrawn and the asylum procedure is terminated. If they are returned to Slovenia pursuant to the Dublin Regulation,

their asylum procedure does not continue but they must lodge another asylum application. Such application is considered a repeat application and they have to wait for a decision detained in the Deportation Centre in Postojna (article 41, § 3 of the Asylum Act). In practice their applications are considered as manifestly unfounded, abusive and lodged for the sole reason to suspend the deportation.

Asylum seekers detained for filing repeat applications or asylum seekers detained for other reasons, are entitled to *de facto* lower level of reception conditions. E.g. detained minors cannot attend elementary school; detained asylum seekers cannot choose to settle outside accommodation centre and receive financial aid. This does not concern only asylum seekers detained in the Deportation Centre in Postojna, but also those detained in the detention unit of the Asylum Home. In addition, for the asylum seekers detained in the Deportation Centre, health care is limited to the capacity of the nurses and a physician visiting the centre. Their access to NGOs and the access of NGOs to them are limited. In addition, the asylum seekers detained in Deportation Centre are entitled to one hour recreation outside (although for prisons there is a legal minimum of two hours for adults and three hours for minors). Those detained in the detention unit of the Asylum Home have the right to exercise outdoors for two hours but mostly do not go outside at all. Namely, from the detention unit of the Asylum Home it is only possible to exit into a compound cage-like area of 4 x 15 square meters which is not protected from the sun. There is no organized recreation time available for them. For more information on reception conditions in detention please see Q. 33. I. – M.

- B. Indicate precisely for which stage(s) of the asylum procedure the answers on reception conditions you give below are valid.

Asylum procedure in Slovenia consists of three stages: the first (administrative) stage is carried out before the Asylum Sector of the Ministry of Interior, the second is the appeal procedure before the Administrative Court and the third is the appeal procedure before the Supreme Court. The answers on reception conditions are valid for all three stages of the asylum procedure from lodging an asylum application to the final decision issued by the Supreme Court. Below, it is made clear when the information is given for the pre-reception area, for the detention unit of the Asylum Home, or for the Deportation Centre in Postojna. The answers include appeal procedures in Dublin and Safe Third Country cases since currently (as of July 2006) until a decision of the Constitutional Court is issued, these appeals still have a suspensive effect.

#### **4. GENERAL RULES ON RECEPTION CONDITIONS**

- Q.12. A. Are material reception conditions provided in kind, in money or in vouchers or in a combination of these elements (see article 13, §5 which is an optional provision)? Distinguish between the different elements (housing, food, clothes, health, transportation, pocket money,...). **If reception conditions are provided in money (in general or in some cases, for instance when no places are anymore available in accommodation centres), indicate the precise amount given to the asylum seekers. Indicate in your answer what is provided in general and if there are exceptional cases.** Specify in your answer if reception conditions are different from the general system of social aid for nationals or aliens and if yes, if and when (which stage of the asylum procedure) can asylum seekers have access to the general system of social aid?

In general, material reception conditions are provided in kind (articles 43-46 of the Asylum Act). Most asylum seekers are accommodated in Asylum Home under the same conditions (except for those detained in the Deportation Centre). Reception conditions are provided in money, only if asylum seekers are accommodated in private apartments. This is only allowed for medical reasons or if other type of accommodation in Asylum Home or its branch office is not available, and if the hearing of the asylum seeker has already taken place. In this case (if an asylum seeker has no money of his or her own) he or she has the right to financial aid, provided by the state (article 45.b of the Asylum Act) in the amount of a minimal income, set by the Minister of Labour, Family and Social Affairs according to the index of growth of living expenses in the past year (on June 5, 2006 the financial aid allowance was 48.062,00 SIT – approximately 200 EUR per person per month). This amount is lowered by 15% if the asylum seeker has free housing, by 40 % if he or she has free food, 55% if he or she has free housing and food. The asylum seekers have to apply for financial aid at the Centre for social work. Financial aid is paid to the asylum seeker each month (article 20 of the proposal of the Regulations on Reception Conditions).

Besides accommodation, asylum seekers have the right to food, clothing and footwear, articles for personal hygiene, humanitarian assistance, emergency health care, elementary schooling, work and legal assistance in appeal procedures (article 43 of the Asylum Act and article 3 of the proposal of the Regulations on Reception Conditions). In practice, they also receive bus tokens if they need to go to the doctor. Before the transposition of the directive, the asylum seekers also had the right to pocket money in allowance of approximately 8 EUR per month which enabled them to afford a telephone card, a bus ride to the city centre or other small things that maintain a dignity of a person. With the transposition the pocket money was cancelled due to a reason of rationalization of asylum procedure and the fact that the reception conditions in kind suffice for all the needs asylum seekers have in the course of asylum procedure.<sup>4</sup> This represents a problem concerning the transposition of the directive.

Transportation costs of asylum seekers (to the police station, from the police station to the Deportation Centre, from the police station to Asylum Home, to and from health centres, to and from school, etc.) are covered by the state. However, the budget for bus tokens needed to accompany children to school is low and many times the parents need to cover these expenses from their own resources (for more information see Q. 31. B.).

- B. **Can the reception conditions in kind, money or vouchers be considered as sufficient “to ensure a standard of living adequate for the health of applicants and capable of ensuring their subsistence” as requested by article 13, §2 of the directive (which is a mandatory provision but leaves a certain space to Member States)?** In order to help to assess the respect of this rule when reception conditions are provided in money, include if necessary in your answer points of comparison with the minimum amount of social aid guaranteed for nationals in your Member State.

Accommodation is generally well provided for. The Asylum Home was built in September 2004. The centre and the reception conditions in kind are in principle sufficient to ensure a basic standard of living adequate for the health of the applicants and capable of ensuring their

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<sup>4</sup> As it was indicated in the justification of the legislative amendments, transposing the directive.



subsistence (except for the vulnerable groups with special needs which are often not met). The Asylum Home has four wards; separate accommodation is foreseen for unaccompanied minors, women, families and single men. The Asylum Home staff generally follows the principle of accommodating each asylum seeker in the department specially foreseen for his or her group. Although the capacity of the Asylum Home is rarely exceeded, the capacity of each ward often is and it is therefore not always possible to separate all the groups. In principle, single women are separated from the rest of the applicants, but are also accommodated in the same ward as unaccompanied minors (including males). Special premises and restrooms for disabled persons are available, but since disabled persons are rarely accommodated in the Asylum Home, single men are put in the rooms intended for the disabled (because the ward for single men is usually overcrowded). Other vulnerable groups are accommodated with regard to their needs if there are free facilities available, e.g. elderly people are accommodated on the ground floor and pregnant women and other vulnerable groups who need a more peaceful and quiet environment are accommodated with less people in the room or in more peaceful parts of the Asylum Home, if the capacities are available. In the ward for unaccompanied minors and single women there are also single parents with children and couples with no children. This way, families have more room (although it needs to be stressed that lack of availability of the facilities often requires two families to share the same room).<sup>5</sup>

Legally, besides accommodation, the asylum seekers have the right to food, clothing, footwear, and articles for personal hygiene. The proposal of the Regulations on Reception Conditions foresees for vulnerable groups to have the right to additional or different meals, if that will be approved by the social or medical worker; children under the age of 14 will have the right to two additional snacks (which already exists in practice); and if possible, meals will be prepared in accordance with the asylum seeker's religious belief (article 11 of the proposal of the Regulations on Reception Conditions). In practice, they receive three meals per day, one thereof is a warm meal, but many asylum seekers are buying additional food in stores. The calorie value of the meals amounts to 2100 – 2300 Kcal per day. Concerning the asylum seekers' beliefs with regard to food it is assured that there is no pork meat on the menu (only chicken, beef and tuna) but otherwise the menu is standard. For other provisions stipulated in the proposal of the Regulations it is not possible to assess if and how they will function in practice.

Clothing and footwear, which is mostly provided by Red Cross or Caritas, is stored in a warehouse. Generally, the amount of clothing is sufficient but there is a lack of rules on how the articles from the warehouse should be distributed. Consequently the asylum seekers often experience arbitrary and discriminatory manner of distribution by the warehouse manager. They also receive articles for personal hygiene but if they run out of them it is often problematic to obtain additional articles because sufficient resources are not allocated for this purpose. Problems such as insufficiency of hygienic napkins or baby napkins have occurred.

With regard to the right to health care (article 46 of the Asylum Act) there are applicants whose needs are not met because the level of health care is limited to emergency health care and essential treatment of disease. E.g. the applicants with serious health conditions the treatment of which is not considered as urgent or essential; the applicants in need of medicine that is not enlisted on the "positive list" – i.e. list of medicine, fully covered by health insurance; and the applicants with special needs are in danger of health deterioration. For that

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<sup>5</sup> Report of the Human Rights Ombudsman of the Republic of Slovenia on visiting the Asylum Home on 23.05.2006.

purpose (as well as for other purposes when the asylum seekers need financial assistance to meet their basic needs which are not provided by the state) the NGOs carry out supplementary programs funded by UNHCR and by the NGOs' own resources. One of them is the eligibility committee, a program organized by the NGO Slovene Philanthropy. The eligibility committee is receiving and considering applications for financial assistance to those asylum seekers whose needs are not covered by the emergency health care or reception conditions in general. The eligibility committee has mostly been granting financial assistance to mothers with small children and people with health issues (e.g. who were in need of glasses, crutches, specific medicine, vitamins for the babies, etc.).

The proposed implementing acts foresee a possibility for asylum seekers with special health conditions to be granted additional health care services. The request for additional health care services will have to be lodged at a commission of the Asylum Home (article 15, § 3 of the proposal of the Regulations on Reception Conditions). The purpose of this commission will be to replace the eligibility committee, organized by the NGO Slovene Philanthropy, funded by UNHCR. At this point it is not possible to assess how this commission will function in practice.

When reception conditions are provided in money, the amount stated under Q.12.A, equals the minimum amount of social aid guaranteed for nationals of Slovenia. However, it is questionable whether 200 EUR per month can maintain a dignity of a person.

## **5. PROCEDURAL ASPECTS**

**Q.13. A. Does the national legislation specifically provide that a request for international protection is presumed to be under the Geneva Convention unless explicitly requested otherwise? (see article 2, b which is a mandatory provision)**

The national legislation specifically states that the request for international protection is presumed to be under the Geneva Convention and the New York Protocol (article 1, §2 of the Asylum Act). Only if the applicant does not meet the criteria for a refugee status, the decision-making body examines the eligibility for subsidiary protection, i.e. if there is a justified reason to believe that the applicant would risk a serious harm if returned to his or her country of origin (article 1, § 3 of the Asylum Act). Both examinations (for refugee status and for subsidiary protection) are carried out in a single procedure (article 1, § 4 of the Asylum Act).

B. Explain if the scope of application of reception conditions is extended to other asylum seekers than refugees in the sense of the Geneva Convention, in particular to persons asking for subsidiary protection or to other forms of protection like humanitarian statuses (see article 3, § 4 which is an optional provision)? If not, explain briefly which the differences between these special regimes and the directive are.

The scope of reception conditions described above is also extended to those applicants who apply for or are only eligible for subsidiary protection. In practice, all applicants first apply for asylum according to the Geneva Convention. Subsidiary protection is considered once it is established they do not meet the criteria for a refugee in the meaning of the Geneva

Convention. Even if an applicant first applies for subsidiary protection, he or she would enjoy the same scope of reception conditions. There are no special regimes for different types of applicants.

- C. Are there specific provisions in national law for reception conditions in case of diplomatic or territorial asylum requests submitted through a diplomatic or consular representation (see article 3, §2 which is an optional provision)?

No, in Slovenian legislation there are no specific provisions for reception conditions in case of applying for a diplomatic or territorial asylum.

**Q.14. Are reception conditions available as from the moment one asylum application is introduced? How is article 13, §1 which is mandatory legally understood? Do asylum seekers have to satisfy any other condition in order to get reception conditions?**

In practice, asylum seekers are divided into two categories: 1) those who expressed their intention to apply for asylum but their asylum application has not yet been taken, 2) and those who already lodged their asylum application. The first group of people is accommodated in the pre-reception area and is treated less favourably than the asylum seekers. According to the national legislation, foreigners who at their entry into Slovenia declare their intention to apply for asylum must be treated as asylum seekers, have to be allowed to enter the country (article 7, §1 of the Asylum Act), and reception conditions have to be available for them (article 43, §1 of the Asylum Act). Accordingly, a person becomes an asylum seeker as soon as he or she expresses the intention to apply for asylum.

In practice, they are not treated as asylum seekers until the asylum application is taken which has to be done in 12 hours at the latest after their arrival to the Asylum Home (article 12, §1 of the Instruction on the Procedure). Lodging (taking) the asylum application means conducting a short interview with the applicant, taking his or her statement and writing it in the application, and issuing a confirmation that the asylum application has been lodged. According to law, the reception conditions are therefore available to the applicant from the moment of lodging the asylum application, but not during the time of waiting in the pre-reception area.

It is important to mention that with the transposition of the directives a new police pre-procedure was introduced (article 26 of the Asylum Act). The provisions introducing the police pre-procedure are at the moment of completing this study (October 2006) being reviewed by the Constitutional Court which has already suspended their application in practice since it is not clear whether or not they are in accordance with the Constitution of the Republic of Slovenia. The provisions under scrutiny give the police the authority to treat the applicant as an illegal immigrant if (*inter alia*) the reasons for which an applicant would be entitled to international protection (the refugee status in accordance with the Geneva Convention and the subsidiary protection) are not evident from the applicant's statement. Whether or not the reasons are evident the police would establish together with the RSD authority (i.e. Asylum Sector of the Ministry of Interior) before the asylum procedure would even begin (article 26, §3 of the Asylum Act). In practice this means that the applicant whose statement *on the face* does not reflect the reasons from the Geneva Convention or the reasons for the subsidiary protection, would not be allowed to lodge the asylum application, would be

treated as an illegal immigrant and would therefore not be entitled to reception conditions under the directive (although the RSDP carried out by a competent body has not even been conducted yet). Such measure, enabling the police to return foreigners without a thorough examination of their claim would increase the possibility of a violation of the principle of non-refoulement. As already stated, these specific provisions should currently not be in use because of the on-going procedure before the Constitutional Court. If the Constitutional Court does not annul the stated provisions, the applicant – in order to get the reception conditions – will have to satisfy the preliminary police test on whether his or her reasons correspond to the reasons for a refugee status or for subsidiary protection.

**Q.15. Explain when reception conditions end, for instance after refusal of the asylum request** (include in your answer the link with the right of appeal against a decision of refusal of the status, in particular the question of its suspensive effect)

In regular asylum procedures the reception conditions end with issuing a final decision on the asylum application. The decision is final with the expiration of a deadline for the appeal to the Administrative Court, if the appeal was not submitted or, if it was submitted, after the deadline and the delay is not justified; with the expiration of a deadline for the appeal to the Supreme Court, if the appeal was not submitted or if it was submitted after the deadline and the delay is not justified; and with serving the Supreme Court decision dismissing or rejecting the appeal (article 40, §2 of the Asylum Act).

In the regular asylum procedures the appeals have a suspensive effect. In Dublin and Safe Third Country procedures, however, pursuant to the 2006 amendments to the Asylum Act, the appeals to the Administrative Court do not have a suspensive effect (articles 37, §2 and 40.a, § 2 of the Asylum Act). These provisions are also under the scrutiny of the Constitutional Court and until its final decision the appeals will have a suspensive effect.

The proposed implementing acts stipulate that the asylum seeker may remain in the Asylum Home until the expiration of the deadline to leave the country (article 10, § 2 of the proposal of the Regulations on Reception Conditions). If the asylum seeker does not leave the country, he or she is relocated to the Deportation Centre in Postojna.

Q.16 Are there special rules or practices regarding reception conditions in case of successive applications for asylum introduced by the same person?

In case of successive (repeat) applications the applicants are detained in the Deportation Centre (article 41, §3 of the Asylum Act) – a prison like facility for illegal migrants. They are detained because they are considered to be abusing asylum procedure, their repeat applications are considered manifestly unfounded and they are considered to be only lodging repeat applications with a purpose to suspend the execution of a negative decision. Although legally they enjoy the same reception conditions, the fact that they are detained means de facto lower level of reception conditions (see also Q. 33.).

Q.17<sup>6</sup>. Information of asylum seekers about their rights and obligations in terms of reception conditions, in particular about established benefits (see article 5 which is to a large extent a mandatory provision; do not confuse this question

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<sup>6</sup> To be answered with the help of UNHCR local office competent for your Member State or to be completed on the basis of the answers of NGOs and accommodation centres to the practical questionnaire.

with the information to be provided to asylum seekers about the asylum procedure):

**A. Are asylum seekers informed, and if yes about what precisely?**

Legally, the asylum seeker has to be informed about his or her rights and obligations (article 9, §2 of the Asylum Act). They receive information before the asylum application is taken. They are informed about the rights they are entitled to (residence, basic subsistence, financial assistance if they live in a private apartment, basic health care, free legal aid, humanitarian assistance, primary education, right to work – each right is described in a short paragraph) and their obligations.

**B. Is the information provided in writing or, when appropriate, orally?**

The Asylum Sector provides the information to them in writing. The applicants are given a brochure when they are placed in the pre-reception area where they wait for their asylum application to be taken. The brochures are given to the applicants by the guards. In the process of taking asylum application the competent official asks them whether they have received the brochure and whether they have understood the information provided to them in a brochure. If the asylum seekers reply that they have not understand the information, the officials explain the content of the procedure once again.

While waiting in the pre-reception area the applicants are visited by a representative of the Legal Information Centre for NGOs (implementing partner of UNHCR and the only NGO that has access to the pre-reception area). The representative of the NGO talks to the applicants, explains their rights and obligations to them in detail, and makes sure the applicants understood the information. This activity is conducted upon the initiative of the NGO and is financially supported by UNHCR.<sup>7</sup>

**B. Is that information in general provided in a language understood by asylum seekers? Specify the list of languages in which it is available**

Information on rights and obligations is provided in writing in most of the languages that the asylum seekers who come to Slovenia speak: Serbian/Croatian, Russian, Albanian, Turkish, Kurdish, Arab, Persian, Bengali, Urdu, English and French. There are no brochures provided in a language of Georgians and Bangladeshi.

**C. Is the deadline of maximum 15 days respected?**

Information on the rights and obligations of the asylum seekers are made available to them in writing as soon as they are brought to the pre-reception area of the Asylum Home and before their application is taken. Normally, that is within the 12-hour deadline after they are brought to the pre-reception area. At the acceptance of the application (normally within the 12-hour

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<sup>7</sup> The visits in the pre-reception area are a replacement for the information sessions that were held in the Asylum Home until May 2005. The sessions were conducted jointly by the Asylum Home employee and an NGO representative. At the sessions, the Asylum Home staff and the NGOs made sure the asylum seekers received and understood the information about their rights and obligations which, according to the NGOs, often proved useful later in the procedure. In May 2005 the information sessions were discontinued by a decision made unilaterally by the Asylum Sector. There was no official explanation for the cancellation provided.

deadline at the latest) they have the opportunity to ask additional questions. Formally, the 15-day deadline is respected (please see Q. 17. B.).

Q.18<sup>8</sup>. Information of asylum seekers about the existence of organisations or groups promoting their interest and defending their rights (see article 5 which is to a large extent a mandatory provision):

A. **Is there a list of organisations dressed by the authorities and if yes is it comprehensive? Is this in particular the case about the possibilities to get legal assistance and health care?**

According to the law, the applicants must be informed about the possibility to contact the NGOs, offering assistance to asylum seekers, in a language they understand (article 9, § 2 of the Asylum Act). In practice the applicants do not receive a list of organizations offering assistance to asylum seekers nor are they systematically informed about the NGOs by the Asylum Home employees. The NGOs approach the applicants on their own initiative and provide information to them. The activities of the NGOs differ: some are more focused on legal counselling (e.g. Legal Information Centre for NGOs, Foundation GEA 2000), some offer psycho-social assistance to the applicants (e.g. Slovene Philanthropy, Novi Paradoks), while others organize various activities and classes (e.g. Mozaik, Slovene Philanthropy, Jesuit Refugee Service, etc). There are no specialized NGOs for health care in Slovenia.

B. **Is the information provided to the asylum seekers, and if yes, in writing or, when appropriate, orally?**

There is no organized system of providing comprehensive information on the NGOs, their role or their activities neither in writing nor orally. The applicants get the information on NGOs because they approach them themselves or because NGOs organize activities and are present in the Asylum Home. The applicants may receive the information from the social workers or from other asylum seekers but the information is not provided to them in an organized way.

C. **Is that information in general provided in a language understood by asylum seekers? Specify if possible the list of languages in which it is available.**

There is a schedule of the NGO activities hung on the board in a format of a chart (specifying the days and hours of the activities) but there is no written translation available into other languages. Upon request the charts are explained to the applicants by the social workers in a language they understand, which is mostly in Serbian and English (currently, most of the asylum seekers in the Asylum Home are from Serbia, Montenegro as well Bosnia and Herzegovina).

D. How many organisations are active in that field in your Member State?

In the field of asylum there are currently twelve active NGOs:

- Amnesty International Slovenia (monitoring, lobbying)
- Association Ključ (prevention and assistance to victims of trafficking)
- Association Mozaik (activities for children)

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<sup>8</sup> To be answered with the help of UNHCR local office competent for your Member State or to be completed on the basis of the answers of NGOs and accommodation centres to the practical questionnaire.

- Foundation GEA 2000 (legal assistance, monitoring activities)
- Institute for African Studies
- Jesuit Refugee Service (leisure activities for women and single men)
- Legal Information Centre for NGOs – PIC (legal assistance, providing information about the rights, obligations and asylum procedure, monitoring activities)
- Matafir – Association for Intercultural Relations (research, monitoring activities)
- Peace Institute (private research institute, also conducts monitoring activities)
- Racio Social (psycho-social assistance)
- Slovene Philanthropy (psychosocial assistance, guardianship).

In general, the NGOs active in the field of asylum have a limited capacity. On one hand, there is a lack of funding (they receive only 10% of the grant provided to the Republic of Slovenia by the European Refugee Fund) and a lack of skilled personnel (which is connected to the lack of funding and consequently the instable working environment). Two of these NGOs (Slovene Philanthropy and Legal Information Centre for NGOs) are extensively funded by UNHCR and are functioning as their implementing partners which enables them to provide the most essential activities such as guardianship, psycho-social assistance to vulnerable groups, eligibility committee, providing information, monitoring activities etc.). For many of their activities they engage students and volunteers.

**Q.19. Documentation of asylum seekers (see article 6):**

- A. What kind of document is delivered to the asylum seeker? Explain the legal value of this document (just a certification of the status as asylum seeker or also prove of identity?) (see §1 of article 6 which is a mandatory provision)**

Asylum seekers receive a certificate of the submission of an asylum application and documents; and asylum applicant identification card (article 56, § 1 of the Asylum Act). The certificate of the submission of the asylum application confirms the fact that a person is an asylum seeker and that the application has been lodged. The identification card which, according to the law, should be issued to the applicant within 12-hours after his or her arrival to Asylum Home is mandatory (article 60, § 1 of the Asylum Act). It serves as a proof of identity and as a permission for temporary residence in Slovenia until the end of asylum procedure, i.e. until the final decision upon the asylum application is served to the applicant (articles 11 and 57, § 1 and 3 of the Asylum Act; article 2, § 1 and 2 of the Proposal of the Regulations on Reception Conditions).

- B. Are there situations or specific cases in which another equivalent document or even no document is issued? (in particular is there an exception for “procedures to decide on the right of the applicant legally to enter the territory” as made possible by §2 of article 6)?**

According to the Asylum Act issuing an ID card to asylum seekers is mandatory (article 60, § 1 of the Asylum Act). There are no situations foreseen with the law when the ID would not be mandatory. The ID cards of the asylum seekers detained in the Deportation Centre are kept by the management of the Deportation Centre.

In addition, if the provisions of article 26 of the Asylum Act which introduced the police pre-procedure, remain valid (i.e. if the Constitutional Court does not annul them), the applicants might need to spend some time at the border or in other police-controlled premises in order to

be allowed to legally enter Slovenia. In such case, no identification document for the time of waiting on such decision will be issued. However, in the moment of completing of this study (October 2006) it is still not clear whether or not the police pre-procedure will remain valid since the Constitutional Court has not yet decided upon the constitutional complaint against these provisions.

**C. For how long is this document in principle valid and is it necessary to renew it after a certain period?**

There is a discrepancy in the provisions of the Asylum Act and the proposal of the Regulations on Reception Conditions. On one hand the Asylum Act states that the identification document is valid until the end of the asylum procedure (i.e. until the decision upon the asylum application becomes final – see also Q. 15.) (article 57, § 3 of the Asylum Act). It does not mention any duty of the asylum seeker to apply for extension of the document. On the other hand, the proposal of the Regulations on Reception Conditions foresees the issuing of the identification document of the asylum seeker with a validity of a maximum of 60 days with a possibility of extension. The applicant must apply for the extension of the identification document in person in official hours of the competent body before the expiration (article 2, § 3 of the proposal of the Regulations on Reception Conditions). Such proposed procedure may be too bureaucratic. In practice, in official hours no official is present in the office that is intended for administrative affairs of the asylum seekers. If the applicants wish to talk to the officials of the Asylum Sector, they must notify the guards that they want to see one of the officials and tell the guards about what they need. The guards then call the official and notify him or her on the asylum seeker's request. The official decides whether he or she would see the applicant. Considering such practice it is questionable how the extensions of the ID cards will be achieved in practice.

It is also not clear what will happen if the applicant will miss the expiration date and apply for extension after that date. The danger is that the applicant, whose identification document is expired because he or she forgot to apply for extensions, would not be entitled to health care or that he or she would be treated as an illegal migrant by the police although he or she would legally still be an asylum applicant.

**D. What is the deadline for the delivery of that document? Is the mandatory deadline of 3 days set by article 6, §1 respected?**

The identity card is issued to the applicant within 12 hours after he or she arrived to the Asylum Home. This deadline is connected to the 12 hour period in which the asylum application must be taken. Until June 2005, there was a lack of staff taking the asylum applications and they were only working on weekdays but not on Saturdays, Sundays and holidays. Consequently, both deadlines (12 hours according to Asylum Act and 3 days according to the directive) were often not respected. In June 2005 the Asylum Sector increased the number of officials taking the asylum applications and organized the on-call system of taking the applications on weekends and holidays.<sup>10</sup> Since then the deadline of 3 days is respected.

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<sup>9</sup> To be answered with the help of UNHCR local office competent for your Member State or on the basis of the answers of NGOs and accommodation centres to the practical questionnaire.

<sup>10</sup> Report of the Human Rights Ombudsman of the Republic of Slovenia on visiting the Asylum Home on 23.05.2006.



**E. Is it possible for an asylum seeker to get a travel document for serious humanitarian reasons (see §5 of article 6 which is an optional provision)?**

Legally, the possibility of receiving a permit for border crossing for the applicants is foreseen (article 56, § 1 of the Asylum Act), but there are no such cases in practice. In general, the asylum seekers are not allowed to leave Slovenia during the asylum procedure (article 58 of the Asylum Act).

**F. Is there a central system of registration of asylum seekers and is it or not separate from the registration of aliens? If yes, describe it briefly (content) and indicate in particular if it is an electronic database.**

A central register of asylum seekers is kept in electronic form separately from the registration of aliens. It contains personal data (name, date and place of birth, sex, nationality, personal status, address of residence, ethnicity or tribe, religion, education, profession, membership of a political party or organization, identification documents, criminal record, special needs), route information (countries of residence after leaving the country of origin, date of entry in Slovenia, place and type of entry), data on previous asylum applications in Slovenia and elsewhere, family data of an unaccompanied minor, close family members accompanying the asylum seeker, other relatives accompanying the asylum seeker, relatives of the asylum seeker already residing in the Republic of Slovenia, close family members living in the country of origin, family members living outside the country of origin, statement of the asylum seeker and other findings of the competent body (articles 63.b, § 1 and 63.e of the Asylum Act). Further, the register also contains data on the procedure (rejected or approved applications, deadline to leave the country etc) and some specific data on reception conditions enjoyed by the applicant, e.g. social aid, elementary schooling, and working (article 63.e, § 4 of the Asylum Act).

**Q.20. Residence of asylum seekers<sup>11</sup>:**

**A. Is in principle an asylum seeker free to move on the entire territory of your Member State or only to a limited part of it and in case, which part? (see article 7, §1 which is a mandatory provision)**

In principle, the asylum seekers are free to move across the entire territory of Slovenia. However, in practice they need to notify the social worker every time they wish to leave the Asylum Home. Leaving and entering is subject to time limitations since it is not allowed to leave the Asylum Home before 6 a.m. and after 10 p.m. (11 p.m. in the summer time). If they want to leave the Asylum Home for periods of up to three days they must obtain a written permission from the Head of Asylum Home. If they wish to leave the Asylum Home for periods longer than three days, they must obtain a written permission from the Head of the Asylum Sector on the proposal of the Head of the Asylum Home (Article 5, § 3 and 4 of the Internal Regulations). In addition, every morning at 7.30 the social workers count the asylum seekers and check their IDs. If they are caught outside Ljubljana (especially in a direction closer to the border with Italy) they are considered to be abusing the asylum procedure and their applications are seen as manifestly unfounded. See also Q. 20.E.

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<sup>11</sup> Nota bene: the case of detention is covered by other questions and should be ignored under this question.

- B. About the place of residence (see §2 of article 7): explain to which extend the person is free to choose her residence and if this depends of the stage of the asylum procedure (for instance before and after admissibility); if there are constraints limiting the choice, explain which ones and their reasons (for instance processing of application, attribution of reception conditions,...).**

Most asylum seekers are accommodated in the only existing Asylum Home in Slovenia (article 45 of the Asylum Act) (some are detained in the Deportation Centre; for detention reasons and reception conditions in detention please see Q. 33). They are allowed to be accommodated in private apartments only if other type of accommodation in Asylum Home or its branch office is not available and if the hearing of the asylum seeker has already taken place, or for health reasons (article 45.b, § 2 and 3 of the Asylum Act). These provisions were introduced with the transposition. Before that, persons were free to choose their residence.

- C. About the place of reception (meaning where the asylum seeker has to stay to benefit from reception conditions) (see § 4 of article 7): explain which are the general rules about the determination of this place (to which extend are the decisions determining the place taken individually and do they take into account the personal situation of the asylum seeker?) and to which extend the person is free to choose it and if it depends of the stage of the asylum procedure (for instance before and after admissibility); if there are constraints limiting the choice, explain which ones and their reasons (for instance attribution of reception conditions, processing of the application,...).**

The only personal situation taken into account for allowing the applicants to choose their residence are health reasons (please see answer to Q.20. B.). In general, the actual presence in Asylum Home is a condition for eligibility for reception conditions. Every morning at 7.30 a.m. the asylum seekers are counted and their presence at the Asylum Home is verified by checking their identification documents. If a person is not present during the counting for three consecutive days his or her asylum application is deemed withdrawn and the asylum procedure is terminated. This is a practical administrative measure, not foreseen in the law.

- D. If all asylum seekers are not placed in accommodation centres because of capacity limits, explain how the persons are distributed between accommodation centres and other accommodation facilities (which authority takes the decisions, on the basis of which elements, can that decision be appealed by the asylum seeker,...)<sup>12</sup>**

Up until the moment of completing this report (October 2006) on a few occasions the number of asylum seekers exceeded the capacity of the Asylum Home. On those occasions the Asylum Sector used measures to transform the multipurpose facilities of the Asylum Home into a temporary accommodation area with foam beds and additional bathrooms until the circumstances normalized. In case of a need to distribute the applicants into other areas (or when the branch offices of the Asylum Home will be established, as foreseen with the law), the competent body to take decisions on the distribution will be the Asylum Sector of the

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<sup>12</sup> To be answered with the help of UNHCR local office competent for your Member State or on the basis of the answers of NGOs and accommodation centres to the practical questionnaire.

Ministry of Interior. With the proposal of the Regulations on Reception Conditions it is foreseen that the applicants move to other facilities if the Asylum Home is full. However, there are no criteria foreseen to define on the basis of which elements the applicants would move to other facilities. In the proposal of the Regulations it is foreseen that the Asylum Sector issues a decision on moving of the applicant to another facility, therefore the applicant should have the right to appeal to the Administrative Court in 30 days in accordance with general provisions on asylum procedure. However, this is not specifically mentioned in the proposal.

- E. How can an asylum seeker ask to leave temporarily the place of residence or of reception or an assigned area? How is the individual AND impartial character of the decision ensured? (see §5 of article 7 which is a mandatory provision)

The asylum seekers must inform the social worker every time he or she wants to leave Asylum Home or its immediate vicinity. In general it is only allowed to leave the Asylum Home after 6 a.m. and return before 10 p.m. (11 p.m. in the summer time). The asylum seekers are obliged to inform the social worker about the place of their whereabouts and their overnight stay, and a contact telephone number where they can be reached (article 5 of the Internal Rules).

The individuality of the decision is ensured since a social worker is taking decisions on a case by case basis. Impartiality of decision making is not ensured since the social worker is employed by the Asylum Home and is in contact with the asylum seeker every day. Also, there is no appeal possible if temporary leave is not allowed since no written decision is issued which represents a problem concerning the transposition of the directive.

- Q.21. A. Do rules on reduction or withdrawal of reception conditions exist in internal legislation and if yes in which cases (mention in particular if there are cases not foreseen by article 16, § 1 and 2 which are optional provisions)? Distinguish in your answer between cases of reduction and withdrawal and explain which conditions can be reduced and if access to emergency health care is always ensured as requested by article 16, §4, last sentence.**

Reception conditions are withdrawn when the asylum application is deemed withdrawn for reasons for which the asylum seeker is responsible. In these cases the asylum procedure of the applicant is terminated. Regardless of the stage of the asylum procedure, the reception conditions are withdrawn for two general reasons: if the asylum application is rejected and if the asylum seeker withdraws his or her application. However, the asylum application is *deemed withdrawn* and consequently the reception conditions withdrawn in case of (article 42, § 1 of the Asylum Act):

- non-compliance with reporting duties or with requests to provide information: if in spite of a received summon, the asylum applicant fails to attend the interview or oral hearing without prior justification; if the asylum applicant fails to notify the change of his or her address which leads to unsuccessful deliveries of summons or other mail; if the asylum applicant refuses to co-operate in establishing his/her identity
- abandoning the place of residence: if it appears clearly from the official record kept by the competent asylum authority that the asylum applicant has without due notice left the Asylum Home or its branch and did not return within 3 days from her/his arbitrary

departure; if within three days from the notice made by the landlord to the competent authority for conducting the asylum procedure, the asylum applicant has not returned to his or her declared residence.

In spite of the obligation of asylum seekers who can rely on their own financial means, to bear their expenses (article 45, § 4 of the Asylum Act) there is no specific provision in the Slovenian legislation that the reception conditions would be withdrawn from an asylum seeker who concealed to have had sufficient material means to cover material reception conditions. In practice those asylum seekers accommodated in Asylum Home are not required to pay for reception conditions (although the enforcement of this in measure is already in preparation). On the contrary, this measure has always been enforced in the Deportation Centre in Postojna: the money of asylum seekers detained in Postojna is used to cover their reception conditions.

The possibility of reducing the reception conditions are not foreseen with the Slovenian legislation. In practice though, there are informal ways of reducing reception conditions concerning the right to health care and the right to subsistence. The asylum seekers in need of medical assistance are not aware of the fact that they can visit the public health centres on their own but they go to the nurse employed at the Asylum Home and ask her to make an appointment at the public health centre for them. Whether or not they will get the appointment depends on whether the nurse will believe them that they are sick or in pain. In such cases it is impossible to file an appeal because there are no written decisions issued to the applicants. It is therefore questionable if access to emergency health care is always insured. For more information please see Q. 27. B. and C.

In addition, the asylum seekers who are detained are entitled to de facto lower level of reception conditions which amounts to a reduction of reception conditions (e.g. no right to work, de facto limited access to health care, no right to schooling). For more information please see Q. 33.

**B. Has article 16, §2 dealing with refusal of reception conditions for unreasonably late applications for asylum been transposed by your Member State (or was this case already applicable before transposition)? Are there cases in practice<sup>13</sup>?**

According to Slovenian legislation it is required to lodge an asylum application without delay (article 8, § 1 of the Asylum Act), but there are no specific provisions sanctioning unreasonably late applications. However, in practice late lodging of the asylum applications can be interpreted as abusing the asylum procedure. Consequently the applications are considered as manifestly unfounded since late lodging of the application is seen as an attempt to postpone a forced deportation (article 36 of the Asylum Act). In practice such cases are numerous.

**C. How is it ensured that decisions of reduction or withdrawal are taken individually, objectively AND in particular impartially (for instance through and independent arbitrator) (see article 16, §4 which is a mandatory provision)?**

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<sup>13</sup> To be answered with the help of UNHCR local office competent for your Member State or on the basis of the answers of NGOs and accommodation centres to the practical questionnaire.

All first instance decisions on the withdrawal of reception conditions, issued by the Ministry of Interior, can be challenged by filing a complaint to the Administrative Court and afterwards to the Supreme Court. This is only possible, however, if a written decision is issued. In such cases individuality, objectivity and impartiality is secured due to judicial review.

However, an oral decision (which is most common in cases of actual reduction) cannot be appealed against. Therefore the individuality, objectivity and impartiality are not ensured.

- D. Is statement 14/03 adopted by the Council at the same moment as the directive respected (see the documentation pack you received at our meeting in Brussels in April)?

Some provisions of the Statement 14/03 adopted by the Council are respected while others are insufficiently followed. The prohibition of inhuman and degrading treatment is respected. Neither the NGOs nor the asylum seekers complain in those terms. However, there is a discrepancy between the legal provisions and the reality in terms of respect for human dignity, treatment of vulnerable groups and emergency health care. With respect for human dignity the asylum seekers often experience arbitrary and discriminatory treatment from the nurse and the warehouse manager in the Asylum Home, and there is no possibility to complain against that and receive a written decision. With the transposition of the directive the access to labour market was restricted to after one year since lodging the asylum application while at the same time the pocket money has been cancelled. Consequently, the asylum seekers have been deprived of any legal income which would enable them to afford small things, such as a bus ride to the city centre, a phone call etc., and maintain the minimum level of human dignity. Many asylum seekers are detained in the Deportation Centre without a formal decision on detention issued to them, although they have not been found guilty of any crimes and although the reasons for their detention have not been established. For more information on reception conditions in detention please see Q. 33.

Moreover, arbitrary behaviour of the nurse in Asylum Home and the fact that in the Deportation Centre anti-depressants and pain-killers are massively prescribed to the asylum seekers are facts that de facto restrict the right to emergency health care of the asylum seekers. For more information on health care please see Q. 27. B and Q. 33. I.

With respect to vulnerable groups the discrepancy between the law and the practice is most visible. While the law stipulates special programs and treatment of the vulnerable groups, no such measures exist in practice. There is no procedure for determining that a person belongs to a vulnerable group and there are no programs or specialized counselling sessions available because the two social workers and one psychologist, employed in the Asylum Home, are preoccupied with tasks concerning accommodation and control of the asylum seekers. The only specialized programs for vulnerable groups are conducted by the NGOs and these activities are mostly funded by their own sources or by the UNHCR.

- E. Are there already administrative appeal decisions or judgements on cases of reduction, withdrawal or refusal which have been taken, and if yes, what has been the outcome<sup>14</sup>?

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<sup>14</sup> To be answered with the help of UNHCR local office competent for your Member State or on the basis of the answers of NGOs and accommodation centres to the practical questionnaire.

There are no specific cases on withdrawal or reduction of reception conditions, except for the cases where asylum applications were treated as manifestly unfounded because of an alleged abuse of the asylum procedure. The appeals in these cases do not counter a reduction of reception conditions as such but are filed as any other appeal against a rejection of the asylum application.

It is important to mention again the decisions of the Constitutional Court which extended the duration of reception conditions (accommodation and food) beyond the final decision on asylum application. For more information please see Q. 9.<sup>15</sup>

**Q.22. A. Appeal against a negative decision relating to the granting of benefits or based on article 7 (see article 21 which is a mandatory provision): indicate against which decision an appeal can be introduced, describe the system of appeal in general and include in particular in your answer the information given to asylum seekers about possibilities of appealing, deadline for appealing, if the appeal has or not a suspensive effect, if there are different steps (for instance first an administrative appeal and in particular if the guarantee of an appeal before a judicial body in the last instance is respected)?**

Against all first instance decisions issued by the Ministry of Interior an asylum seeker has the right to file an appeal to the Administrative court and after that to the Supreme Court (both are judicial bodies). However, the possibility to appeal depends on whether the reception conditions are *withdrawn* or *reduced*.

If they are withdrawn and consequently the asylum procedure is terminated (due to reasons for which the asylum seekers are responsible – see Q. 21.A), they are issued a written decision against which they can file an appeal to the Administrative court and after that to the Supreme Court. The deadline for appealing to the Administrative court is 3 days (article 38, § 3 of the Asylum Act) and for appealing to the Supreme Court 15 days. Both appeals have a suspensive effect. The asylum seekers are informed about the possibility to appeal against a negative decision and about the appeal procedure in writing through a leaflet they receive in the pre-reception area before lodging their application. The information about the possibility to appeal is also included in the decision on the termination of the procedure.

If the reception conditions are reduced (which is not foreseen by law but happens in practice – see Q. 12. for subsistence and Q. 27. C for health care) there is no possibility to appeal which represents a problem concerning the transposition of the directive.

**B. Explain which are the possibilities for asylum seekers to benefit from legal assistance when they introduce such an appeal (see article 21, §2 which is a mandatory provision but leaves space to Member States)?**

Legally, in the case of *withdrawal* of the reception conditions the asylum seekers have the right to free legal assistance in the second and third instance of the asylum procedure, i.e. in the appeal procedures before the Administrative and Supreme Court (article 43, § 1 of the Asylum Act). The legal assistance is provided free of charge and is offered by the refugee

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<sup>15</sup> Decisions of the Constitutional Court of the Republic of Slovenia, No. Up-956/06 of 7 July 2006 and No. Up-859/06 of 7 July 2006.

counsellors, whose expenses and rewards are covered by the state budget (article 16, § 5 of the Asylum Act). The refugee counsellors are appointed by the Ministry of Interior (article 16, § 1 of the Asylum Act) – the same body that also decides upon the asylum applications. Before the transposition, the Ministry of Justice was appointing and paying the refugee counsellors, which may have been more appropriate since the Ministry of Justice is not an interested party in the asylum procedure. Before the directive was transposed the asylum seekers also had the right to free legal assistance, offered by the refugee counsellors, at the first instance of the asylum procedure which might be problematic because if there is no free legal assistance available in the first instance procedure, the asylum seekers without a legal representative often fail to stress certain facts or submit evidence that would be useful for their procedure. Having a legal representative only on the second and third level of procedure is often meaningless because new facts and evidence cannot be invoked in appeal procedures if they were not invoked already in the first instance procedure. Since the free legal assistance is cancelled the NGOs set up programs to supplement for the legal counselling in the first instance that was previously offered by the refugee counsellors. In practice, there are also many problems concerning the right to free legal aid and the refugee counsellors which make the access to free legal aid more difficult. For more information please see Q. 26. B.

In case of *reduction* of the reception conditions there is no free legal assistance available which represents a problem concerning the transposition of the directive.

- C. Are there already administrative appeal decisions or judgements which have been taken and if yes, which are the main important ones<sup>16</sup>?

No, there are no appeal judgments concerning the withdrawal of reception conditions (in case of reduction it is not even possible to appeal). There are only appeal judgments concerning the manifestly unfounded applications which result in a withdrawal of reception conditions because of the alleged abuse of the asylum procedure. No appeals have been filed in cases the reception conditions were withdrawn because an applicant had not returned to the Asylum Home for three days, since such person is normally not in the country anymore.

There was a case that needs to be mentioned concerning the refusal of the request to move to a private apartment. The refusal was not issued in a form of an official decision but in a form of an informal letter/notification. The legal representative of the asylum seeker filed an appeal to the Administrative Court asking the court to consider the notification as a decision and to accept the appeal into consideration. Namely, this has been the only written response the applicant has received from the Asylum Home when he requested to be allowed to move. However, the Administrative court declared the appeal inadmissible because according to the opinion of the judges this “notification” could not be understood as a “decision”.<sup>17</sup>

- D. Is a mechanism of complain for asylum seekers about quality of receptions conditions in general (even if they are not personally concerned) organised? If yes, before which authority? Is it linked to the system of guidance, control and monitoring of reception conditions (see below question n° 39)?

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<sup>16</sup> To be answered with the help of UNHCR local office competent for your Member State or on the basis of the answers of NGOs and accommodation centres to the practical questionnaire.

<sup>17</sup> The author of this report was present at the session of the Administrative Court on 14.12.2005 where such legal reasoning was adopted.

Legally, there is no special mechanism for complaints about the quality of the reception conditions foreseen with the law. In practice, if an asylum seeker is not satisfied with the level or quality of the reception conditions he or she can file an anonymous complaint into a box, available for this purpose. The disadvantage of this mechanism is that the asylum seekers who complain do not receive a written response to their complaint. A complaint can also be submitted to the social worker who either acts upon the complaint himself or herself or forwards the complaint to the management of the Asylum Home. It is also possible to file a complaint to the Administrative Inspectorate but there were no such cases so far because the asylum seekers are not informed about this possibility: it is neither mentioned in the information leaflet they receive when accommodated in the pre-reception area, nor is it known by the Asylum Home staff. This system is not linked to the control mechanism because a formal control mechanism of the reception conditions in Slovenia does not exist.

In addition, due to the lack of efficient and impartial complaint mechanism there were occasions when the asylum seekers resorted to signing a petition (e.g. the last petition was being signed in January 2006).

## **6. RIGHTS AND OBLIGATIONS OF ASYLUM SEEKERS**

**Q.23. Family unity of asylum seekers: define how a family is defined in relation with article 2, (d) which is a mandatory provision and explain how housing is provided to a family (see articles 8 which is a mandatory provision but leaves space to member States and 14, §2, (a) which is a mandatory provision).**

In Slovenia, the status of an asylum seeker is also recognised to the asylum seeker's close family members. The persons considered to be close family members are the asylum seeker's spouse and minor unmarried children as well as parents of a minor asylum seeker. The authorised custodian of a child is regarded as a close family member of an unaccompanied minor (article 3, § 1 and 3 of the Asylum Act). The status of asylum seeker and the right to asylum is recognised to a spouse of the asylum seeker only if the marriage existed before arriving in the Republic of Slovenia (article 3, § 2 of the Asylum Act). The asylum seeker's unmarried partner in a stable relationship is not explicitly mentioned in the Slovenian legislation among the close family members. However, in Slovenia non-married couples are in practice treated as married couples. The couple does not even have to fulfil the condition of being together before lodging asylum application or before entering Slovenia.

In practice, close family members are accommodated together in the same room in the family department of the Asylum Home.

Family unity was also invoked in the recent decision issued by the Constitutional Court which was already mentioned (see Q. 21. E.). With this decision the Constitutional Court extended the reception conditions (accommodation and food) beyond the issuing of the final decision upon the asylum application. It found that in accordance with article 3 of the Convention on the Rights of the Child (best interest of a child) a child cannot be detained in a Deportation Centre while waiting for a decision of the Constitutional Court upon the complaint filed against a negative decision on the asylum application. Respecting the principle of the family unity in accordance with article 8 of the European Convention on Human Rights the Court ordered that the child is moved back to the Asylum Home together with his parents. At the



time of issuing the decision only the child's mother was present in Slovenia. When his father joined them in Slovenia, the head of the Asylum Sector refused to admit the father into the Asylum Home, arguing that the Constitutional Court decision did not specifically mention the father's name.

**Q.24. A. How is housing of asylum seekers organised: describe the system in general and indicate in particular what is the most frequently system used (see article 14, §1 which is a mandatory provision but leaves space for Member States; distinguish between accommodation centres, private houses and apartments, hotels places or other premises).**

Most asylum seekers are accommodated in the only existing Asylum Home in Slovenia (article 45 of the Asylum Act), except for those that are detained in the Deportation Centre. They can remain in the Asylum Home until the expiration of the deadline to leave the country, if their asylum application is rejected (article 10, § 2 of the proposal of the Regulations on Reception Conditions). Their right to choose their own residence is limited: they are only allowed to be accommodated in private apartments if other type of accommodation in Asylum Home or its branch office is not available and if the hearing of the asylum seeker has already taken place. Vulnerable groups (e.g. children, unaccompanied children, the elderly, pregnant women, single parents with children, and persons who have survived rape, torture or other forms of psychological, physical or sexual violence) also have the right to chose their own residence if that is required for reasons concerning their health (article 15.a, § 1 and article 45.b, § 2 and 3 of the Asylum Act).

Each asylum seeker has the right to his or her own bed and to use the accompanying furniture in the rooms. There are also tea kitchens, sanitary premises and laundry rooms that the applicants can use (article 5 of the proposal of the Regulations on Reception Conditions). However, the applicants cannot use the laundry machines by themselves but must hand the laundry over to the Asylum Home staff who do the laundry for them.

B. What is the total number of available places for asylum seekers?<sup>18</sup>  
Distinguish in your answer between accommodation centres, private houses and apartments, hotels or other premises.

The housing capacity of the Asylum Home is 202 persons while accommodation at private addresses is not limited.

C. Is this number of places for asylum seekers sufficient in general or frequently insufficient?<sup>19</sup>

Normally, the total number of places for asylum seekers is sufficient. There were cases of overcrowding and some wards of the Asylum Home are constantly overcrowded (family ward, single men ward). See the following question and Q. 48, indent 1.

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<sup>18</sup> To be answered with the help of UNHCR local office competent for your Member State or on the basis of the answers of NGOs and accommodation centres to the practical questionnaire.

<sup>19</sup> To be answered with the help of UNHCR local office competent for your Member State or on the basis of the answers of NGOs and accommodation centres to the practical questionnaire.

- D. Are there special measures foreseen in urgent cases of a high number of news arrivals of asylum seekers (outside the case of application of the directive on temporary protection)?

Occasionally and for shorter periods of time the current housing capacity was exceeded due to an increased number of asylum seekers. In these cases the multipurpose area and the common premises where the asylum seekers spend their free time, were temporarily transformed into accommodation facilities and additional bathrooms were activated. The Human Rights Ombudsman of Slovenia reported that in March 2005 when the capacity of the Asylum Home was temporarily exceeded the accommodation conditions in multipurpose area were inappropriate (instead of beds and mattresses the asylum seekers were offered provisory foam beds and slept on the floor) and hygienic conditions insufficient. Also, on occasions of a higher number of asylum seekers there are two families accommodated in one room of only 6 beds, with parents and children together which completely eradicates a possibility of intimacy between partners. In general, the problem which is more persistent is the constant overcrowding of particular wards of the Asylum Home (e.g. insufficient number of rooms for all the families and for the single men who then have to be accommodated in the wards that are not intended for them).

Currently there are no back up plans set up for urgent situations of a high number of new arrivals. With the proposed regulations it is foreseen that the asylum seekers are to be accommodated in other appropriate premises (e.g. homes for elderly persons, safe houses, psychiatric institutions, student dorms, and appropriate social institutions), if the competent body cannot ensure an appropriate accommodation for them. Asylum seekers can only be accommodated in a psychiatric institution on the basis of a referral by their personal physician or psychiatrist (article 6, § 1 of the proposed Regulations on Reception Conditions). Also, most elderly homes require a person to have permanent residency in Slovenia and Slovenian citizenship, they are highly overcrowded, and it is therefore not clear how that could function in practice.

Q.25. Accommodation centres (**important note: all the following questions are about open and not closed centres where asylum seekers are detained which are covered by another question**)

- A Are there different categories of accommodation centres, for instance depending of the stage of the procedure (admissibility and eligibility)?

Yes, there are two different categories of accommodation: The first is pre-reception (waiting) area for accommodating the asylum seekers who expressed their intention to apply for asylum, before their asylum application is taken. The second (and main) category of accommodation is a residential facility for asylum seekers after their asylum application is taken until the final decision is issued. Both types of facilities are located in the Asylum Home but are physically separated. The period of waiting for the asylum application to be taken is maximum 12 hours. After that the asylum seekers have to be moved to the residential facility. The reception conditions in the pre-reception area are lower than in the reception part: they receive one cold food package per day (consisting of toast, water, chocolate and tuna fish can, amounting to 1200 Kcal per day) and they are not entitled to any of the rights as the asylum seekers. The pre-reception area is locked. When they enter the pre-reception area they must sign a statement that if they leave the pre-reception area their asylum application will be deemed withdrawn. Neither this statement nor locking the pre-reception area have a basis in the law. Except for Legal Information Centre, that is also an implementing partner of

UNHCR, the NGOs do not have access to the pre-reception area. Asylum seekers in the pre-reception area are not separated with regard to their age, sex and special needs.

- B. Is there a legal time limit for accommodation in a centre after which the asylum seekers have access to private houses or apartments or is this limit linked to a stage of the asylum procedure?

No, access to private houses is not limited either to a certain period of time or to the stage of the asylum procedure. Asylum seekers are allowed to be accommodated in private apartments only if other type of accommodation in Asylum Home or its branch office is not available and if the hearing of the asylum seeker has already taken place. Vulnerable groups with special needs (e.g. children, unaccompanied children, the elderly, pregnant woman, single parents with children, and persons who have survived rape, torture or other forms of psychological, physical or sexual violence – article 15.a, § 1 of the Asylum Act) may access private apartments even if they do not fulfil these two conditions if that is required for reasons concerning their health (article 45.b, § 2 and 3 of the Asylum Act). The asylum seeker must file an application for accommodation in a private apartment to the Asylum Sector. With the application the applicant has to enclose a renting agreement or a consensus of the apartment owner to receive the applicant and a copy of the apartment owner's ID. If the applicant wishes to move to a private apartment for medical reasons, the proof of his or her health condition must be enclosed as well. The body deciding upon the application to move to a private apartment will be a special commission of the asylum home, established for giving opinions on this and other issues (article 8 of the proposal of the Regulations on Reception Conditions). It is not yet clear how this will function in practice.

- B. Is there a general regulation about the internal functioning of those centres and the rights and duties of the asylum seekers? If yes, is this general regulation applicable to public and private centres? If not, are the centres supposed to adopt an internal regulation and does a central authority have or not a kind of control about its content?

Yes, there are Internal Regulations adopted regulating the internal functioning of the Asylum Home. These regulations are only applicable to the public accommodation and not to private apartments - private accommodation centres do not exist in Slovenia; the law only provides a possibility for the non-governmental organizations to run and operate accommodation centres (article 45, § 1 of the Asylum Act), however this is also non-existent in practice.

The Internal Regulations define the organization of living in the Asylum Home, the rights and obligations of the asylum seekers regarding their accommodation in the centre, internal regulations and respect thereof, and sanctions for violating its provisions (article 1 of the proposal of Internal Regulations). The obligations of the asylum seekers are: to enable carrying out the control by the competent body, to respect the time restrictions on departure out of and entry into the Asylum Home, to respect the schedule of meals and activities, to take care of personal hygiene and hygiene of their clothes, to clean the room at least once a day and to thoroughly clean the room at least once a week, to participate in cleaning and managing of the common areas and the surroundings of the Asylum Home, to report to the competent body any damage to the premises or equipment, to allow necessary sanitary and disinfection measures, to notify the competent body on contagious diseases, to use water, electricity and equipment economically, to clean their rooms when moving and to return the bedding and towels to social workers, to notify the competent person about losing an ID

card, to act respectfully towards the employees in the Asylum Home and to other persons, and to respect the conflagration instructions (article 9 of the Internal Regulations).

With a purpose to maintain order in the Asylum Home it is forbidden to express any kind of intolerance based on race, nationality, sex or political opinion, to possess or use arms, explosives or pyrotechnics, to purposefully destroy equipment, pollute the premises of the Asylum Home and its surroundings or to act violently, to smoke outside of assigned area, to cook in the rooms, to bring in pets or other animals, to bring in heaters, furniture, technical equipment, except for TVs, radios, computers, carpets and other equipment, to bring in and consume alcohol or other intoxicating substances, to bring in food that is easily perishable, to play games for money, to take food and cutlery from the dining room and tea-kitchen (except if that is specifically allowed for health reasons), to purposefully write or put stickers on the walls or equipment, to bring visitors into the rooms, to move without authorization in other parts of the Asylum Home, to enable overnight stay or accommodation to other persons (article 12 of the Internal Regulations).

Since there are no other types of centres in Slovenia but one public centre, it is not yet clear what kind of regulations will be in force in other types of centres.

- C. Do the regulations foresee the possibility of sanctions against asylum seekers in case of breach of the rules? (see article 16, §3) If yes, which sanctions for which rules? Which is the competent authority to decide? How is it ensured that decisions are taken individually, objectively and in particular *impartially* (for instance through an independent arbitrator) as requested by §4 of article 21 which is mandatory provision? Which are the possibilities of appealing against those decisions if the system is different from the general one under question n°22? Are there already administrative appeal decisions or judgements which have been taken and if yes, which are the main important ones?**<sup>20</sup>

Yes, the Internal Regulations foresee a possibility of sanctions against the asylum seekers in case of breach of the rules. The breaches of rules from article 9 and all but the first three prohibitions from article 12 of the Regulations are considered as minor breaches, while breaches of the first three prohibitions of article 9 of the Regulations (inflation of intolerance, possessing or using arms, explosives or pyrotechnics, purposefully destroying equipment, polluting the premises of the Asylum Home and its surroundings or acting violently) are considered as serious breaches. The sanctions for minor breaches are: oral reminder, written reminder (which is given for three minor breaches), and denial of possibility to leave the asylum home for up to three days or over three days (given for five minor breaches). It is foreseen that the social worker will be issuing these sanctions. Against the decision of the social worker the asylum seeker will be able to file and appeal in three days to the head of the Asylum Home or other authorized person. If the asylum seeker purposefully pollutes or destroys the premises or the equipment, he or she can be required by the social worker to compensate the damages. Against such decision it is also possible to file and appeal in three days to the Head of the Asylum Home or other authorized person. If the asylum seeker brings in heaters, furniture or technical equipment to the rooms, the head of the Asylum Home may

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<sup>20</sup> To be answered with the help of UNHCR local office competent for your Member State or on the basis of the answers of NGOs and accommodation centres to the practical questionnaire.

order the withdrawal of the objects. Against such decision it is possible to file an appeal with the Head of the Asylum Sector (article 21, 22, 23 and 24 of the Internal Regulations).

For serious breaches the head of the Asylum Home may issue a decision ordering that the asylum seeker is moved to one of the branches of the Asylum Home (when they are established). An appeal to the Minister of Interior is allowed in 5 days. The appeal does not have a suspensive effect. The Minister must issue a decision in 10 days (article 25 of the proposal if Internal Regulations).

In all these cases it is questionable whether the decisions will be taken individually, impartially and objectively since the bodies deciding upon the breaches are interested parties to all these procedures and are therefore not impartial. There is also no independent outside review of the decisions foreseen. In all cases the sanctions are imposed by the staff of the Asylum home (either by a social worker or by the head of the Asylum Home).

**D. Are asylum seekers involved in the management of these centres? If yes, how (advisory board, appointment or election of representatives)? (see article 14, §6 which is an option provision)**

No, asylum seekers are not involved in the management of the accommodation centre.

**E. Do specific rules exist on work of asylum seekers inside the accommodation centres different from the general ones about employment (see below)? If yes, which ones? Can working inside accommodation centres be considered as a (mandatory) contribution of the asylum seekers to the management of the centres, is it or not paid and considered as implying access to the labour market and subject to the same rules?**

Yes, the asylum seeker can help in the Asylum Home with the chores connected to maintenance (article 46.b of the Asylum Act and article 17 of the proposal of the Regulations on Reception Conditions). For this work an asylum seeker may receive remuneration. The type of tasks that can be performed by asylum applicants are: gardening, laundry, ironing, cleaning and managing the surroundings of the Asylum Home, assistance in the warehouse etc. In practice, the asylum seeker would receive two bus tokens for cleaning another person's room after moving or for maintenance work in the Asylum Home's surroundings. Currently, working inside the Asylum Home cannot be considered as a mandatory contribution to the management (since sanctions for not working are only a reminder and limitation of certain benefits).

In general, work of the applicants inside the Asylum Home is not subject to the same rules as labour and it is not considered as access to the labour market.

**Q.26. A. How can asylum seekers communicate with legal advisers, representatives of UNHCR and NGOs? (see article 14, §2, (b) which is a mandatory provision).**

At lodging an asylum application the asylum seekers receive a leaflet with information on the asylum procedure, and their rights and obligations, generally in a language they can understand (except for Georgian and Bangladeshi applicants). At the back of the leaflet there

is a list of refugee counsellors whom they can contact to represent them in asylum procedures. The list includes names and addresses of the refugee counsellors, but no phone numbers. This list is not updated – there are numerous names on it of lawyers who have not been taking asylum cases for years. Usually the asylum seekers obtain phone numbers of the refugee counsellors from the NGOs and from other asylum seekers, who were already accommodated in the Asylum Home. Usually, the asylum seekers contact the legal advisers by phone. There is no telephone booth available at the Asylum Home. This forces the asylum seekers to ask social workers to make the call for them or to obtain cellular phones, which makes calls more expensive (either they have a cellular phone from home or they need to use pre-paid cards). All telephone booths are in the city centre, far from the Asylum Home. Since asylum seekers receive no pocket money the costs for phone calls can represent an insuperable obstacle for communicating. Possibilities of communication are therefore extremely limited.

According to the national legislation an asylum seeker has the right to demand to contact his or her refugee counsellor at any time (article 9, § 5 of the Asylum Act). If an asylum seeker asks a social worker to make a phone call, the social workers are present when the applicant phones a legal representative. It is also questionable how the asylum seekers can communicate with his or her legal representative since the interpreters are not always available (they are only available in conducting procedures, e.g. interviews, taking the applications, etc). Currently, the social workers are also forbidden by the management of the Asylum Home to call a legal representative when requested by an asylum seeker, if he or she has already received a final negative decision from the Supreme Court.

Since UNHCR is not permanently present in Slovenia but is only able to perform occasional visits, the asylum seekers are physically unable to communicate with it. It is only possible to communicate with the NGOs which are implementing partners of the UNHCR. These NGOs are present in the Asylum Home on a daily basis.

It is very important to stress that there are many problems with legal advisers (refugee counsellors) and legal representation in Slovenia, which is an issue closely connected to asylum seekers' access to legal assistance. First, with the transposition of the directive free legal aid on the first instance of asylum procedure was cancelled. As a result, refugee counsellors have no interest anymore in representing asylum seekers on the first instance of the asylum procedure since they are not paid for their work (most of the asylum seekers are not able to pay for it). Second, the fee of the refugee counsellors is 50 % of the attorneys' fee in Slovenia which is a deterring factor for taking new cases. Third, the body responsible for paying the refugee counsellors for their work, i.e. the Ministry of Interior, is regularly late in processing the payments while some payments are never processed at all. Consequently, out of more than thirty officially appointed refugee counsellors there are only four that actually represent asylum seekers. Of these four, at least one is not taking new cases because of late payments. Due to poorly paid (or not at all) refugee counsellors the possibility of the asylum seekers (upon whose rights it is deciding) to succeed in asylum procedure is diminished. Fifth, the refugee counsellors are not paid for their work before the asylum procedure is completed. Sixth, before the transposition of the directive, the responsible body for the refugee counsellors was the Ministry of Justice. With the transposition, the competency for the refugee counsellors was transferred to the Ministry of Interior, a body that is also an interested party to the asylum procedure, deciding upon the asylum applications and the opposite party if the case is appealed at the Administrative or Supreme Court. Seventh, the requirements for refugee counsellors are easy to meet and no specific knowledge on asylum procedure and asylum law is required to obtain this status. All the stated problems cause a poor functioning

of the legal representation for asylum seekers in Slovenia and decrease their chances in succeeding in asylum procedure.

**B. What are the rules about access of legal advisers, UNHCR and NGOs regarding access to accommodation centres and other housing facilities (see article 14, §7 which is a mandatory provision)**

In principle, the representatives of the UNHCR, NGOs and the refugee counsellors have an unlimited access to the asylum seekers accommodated in the Asylum Home. UNHCR and the refugee counsellors can access the asylum seekers anytime (article 9, § 4 of the Asylum Act), while the NGOs can access them according to the schedule, available at the board of the Asylum Home. The asylum seekers have the right to request contact to the representatives of UNHCR and the NGOs as well as their legal representatives at anytime (article 9, § 5 of the Asylum Act).

Since UNHCR does not have a permanent presence in Slovenia and can only engage in occasional monitoring missions, the NGOs which are UNHCR implementing partners are those who have the access in principle. As far as the pre-reception area is concerned only the Legal Information Centre has access to it. The NGOs, however, may conduct visits following a schedule which means that they may not pay unannounced visits.

**C. Can the access of legal advisers, UNHCR and NGOs be limited for security reasons or any other reason (see article 14, §7, last sentence)?**

There is no legal basis for limiting the access of NGOs. In practice though, the access of all NGOs but Legal Information Centre for NGOs is limited with regard to pre-reception area. Furthermore, even Legal Information Centre for NGOs has to comply with the schedule agreed with the Asylum Sector which makes the access limited.

**Q.27. A. Is a medical screening organised by the receiving State, is it mandatory or voluntary? Does it include HIV tests? (see article 9 which is an optional provision)**

Legally, the competent body must conduct a physical examination of the applicant while taking the asylum application (article 15, § 1 of the Instructions on the Procedure – see Q. 1). The preventive physical examination is conducted by a contract-based doctor who visits the Asylum Home on a daily basis. The costs of physical examination are covered by the Ministry of Interior. The examination is organized by the state and is obligatory for all applicants. The doctor only checks the applicants for signs of visible diseases on their stomach and hands. The examination does not include an HIV test or any blood or urine examinations.

**B. Do the legal provisions on reception conditions ensure that asylum seekers receive at least emergency care and essential treatment of illness as requested by article 15 §1 which is a mandatory provision? Do they have a further access to health care?**

The extent of health care services includes the right to:

1. emergency medical care, emergency ambulance transport, and emergency dental care;

2. essential treatment based on the decision by the physician in charge of treatment, which shall consist of: the preservation of vital functions, stopping serious bleeding or preventing fatal bleeding; the prevention of a sudden deterioration of health that could cause permanent damage to individual organs or vital functions; treatment of shock; services relating to chronic diseases and states of illness the abandonment of which could directly and imminently result in disability and other permanent health defects and in death; treatment of states of fever and prevention of the spread of an infection that could lead to a septic state; treatment and prevention of poisoning; treatment of bone fractures, sprains and other injuries requiring emergency medical assistance; medications included in the positive list and issued on the basis of a prescription for the treatment of the states specified above; emergency transport using ambulance and other vehicles in the cases specified above;
3. medical care for women: contraceptives, abortions, and medical care during pregnancy and upon giving birth (article 46 of the Asylum Act).

Legally, asylum seekers have no right to further health care. The proposing implementing acts however, foresee a possibility for the asylum seeker to apply for additional health care services. The request must be lodged at a commission of the Asylum Home which is planned to be established (article 15, § 3 of the proposal of the Regulations on Reception Conditions). This commission is foreseen to replace the eligibility committee organized within the NGO Slovene Philanthropy and supported by UNHCR with a purpose of financially assisting asylum seekers who have special needs not covered by the emergency health care (e.g. glasses or crutches).

- C. What is the practice regarding access of asylum seekers to health care and how is it organised? In particular, what is the situation in accommodation centres (are doctors coming to the centres or do asylum seekers go to doctors outside)?<sup>21</sup>

The Asylum Sector concluded contracts with six doctors who visit the Asylum Home and conduct preventive medical examinations. Curative medical treatment is provided by the doctors working at the competent health centre (according to the address of residence of the asylum seeker; for the applicants living in the Asylum Home that is the health centre Vič in Ljubljana). These doctors do not visit the Asylum Home; for sick asylum seekers the nurse employed in the Asylum Home makes an appointment and the asylum seekers visit the health centres on their own by a city bus for which they receive bus tokens. In practice, the sick asylum seekers often experience barriers in accessing health care due to arbitrary decisions taken by the nurse on whether or not she would believe the asylum seeker is sick or in pain, and whether or not she would make an appointment at the health centre for him or her. Making appointments is not necessary though since asylum seekers have the right to visit the health centre on their own. However, if they do it they risk being rejected because the health centres are not sufficiently informed about the status of the asylum seekers and their entitlement to receive urgent medical care, essential treatment of disease and special care for women in terms of contraception, abortion, pregnancy and labour.

In addition, by law vulnerable groups are entitled to special additional care in accordance with their special needs. In practice, even their basic needs (glasses, crutches, vitamins for children, sometimes even life-important medicine, etc.) are often not covered and additional

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<sup>21</sup> To be answered with the help of UNHCR local office competent for your Member State or on the basis of the answers of NGOs and accommodation centres to the practical questionnaire.



sources for them have to be provided by the eligibility committee of the Slovene Philanthropy, financed by the UNHCR.

**Q.28. A. What is the length of the period determined by the concerned Member State during which asylum seekers have no access to the labour market? (see article 11 which is a mandatory provision)**

An asylum applicant can work if his or her identity is indisputably established. He or she can begin to work one year after applying for asylum if in this period of time the competent authority did not issue a first instance decision, and this delay can not be attributed to the asylum seeker (article 46.a, § 1 of the Asylum Act). In practice, most asylum seekers are issued the first instance decision within one year after lodging the asylum application and therefore the right to work is de facto non-existent for them. At the time of writing of this report (July 2006) there were only two asylum seekers who have not been issued an asylum decision for long enough to obtain the right to work. In addition to that, when asylum seekers legally obtain the right to work, they must first obtain a confirmation from the Asylum Sector that no decision has been issued in one year. They have to send this confirmation to the Unemployment Office and apply for a work permit. Then they need to look for work on their own since they are not entitled to any employment programs, generally available for Slovenian nationals. Practically, access to work is extremely limited and actually non-existent for a large majority of the asylum seekers. Due to a long waiting period (one year) and only minimum needs covered, many asylum seekers engage in illicit work in order to pass the time usefully and obtain at least a minimum income to cover for daily expenses.

**B. After that period, are asylum seekers or not obliged to obtain a work permit? In case is there a limit for the administration to deliver the permits and how quick are they delivered? What is their length?**

If the first instance decision is not issued in one year the applicant may request the Sector for Asylum for a confirmation that no decision was issued for him in the period of one year and on the basis of this confirmation the applicant can apply for a work permit. The asylum applicant has to acquire a work permit in line with the established regulations in the field of employment and work of aliens. The asylum applicant can obtain a work permit for the period of three months with a possibility of extension and a possibility of cessation in case of finality of his or her asylum procedure (article 64. a, § 2 and 3 of the Asylum Act). The permits need to be delivered in one month (in accordance with the general provisions of the Administrative Procedure Act) and this deadline is usually respected. An asylum seeker who obtains work must report the information about his or her work (employer, working hours, payment) to the Asylum Sector. If the asylum seeker works, he or she is not entitled to free subsistence, except accommodation (article 16 of the proposal of the Regulations on Reception Conditions).

**C. After that period, what are the conditions for access of the asylum seekers to the labour market? (in particular, are there rules concerning the maximum allowed of working hours or days per week, month or year, limits in terms of type of work or of professions authorised?**

There are no specific rules on what type of work or profession the applicant can perform. The rules for maximum working hours per week, month or year are the same as for Slovenian citizens (as long as the time for which the work permit is issued is not exceeded).

**D. What are the rules in terms of priorities between asylum seekers on the one hand and nationals, EU or EEE citizens and legally third-country nationals on the other?**

After obtaining the work permit, the asylum seekers are legally equal in their access to labour market as nationals, EU or EEE citizens and legal third country nationals. However, it is difficult to actually obtain work because usually they do not have diplomas or school certificates with them to have their level of education recognized.

**E. Do asylum seekers have access to vocational training, does this or not depend of their right to access to the labour market, and in case at which conditions? (see article 12 which is optional regarding §1 and mandatory regarding § 2)**

No, the asylum seekers in Slovenia do not have the right to vocational training. Vocational training in Slovenia is part of the regular post-primary education from which adult asylum seekers are excluded and to which minor asylum seekers generally do not have access (see also Q. 31. B.).

**F. Are the rules regarding access to the labour market adopted to transpose the directive more or less generous than the ones applicable previously?**

Previously the rules regarding access of the asylum seekers to the labour market were the same as for the temporarily displaced persons, who were upon their request allowed to engage in temporary and occasional type of work in accordance with the provisions of the Temporary Protection Act. If they wanted to work they received a referral from the Asylum Sector on the basis of which they could conclude a contract with an employer for a maximum of 60 days per year, 8 hours per week. Temporary and occasional work was regulated with the previous Labour Relations Act which was revised on January 1, 2003. In the meantime until March 4, 2006, when the new Asylum Act entered into force, no law regulated the work of the asylum seekers. Arguably, it is questionable whether the rules adopted to transpose the directive are more or less generous than before: under the previous system, the asylum seekers were allowed to start to work immediately and once they were working in practice no one was controlling the working hours. Now they only have the right to access the labour market after one year. In practice many of them are forced to take up illicit work in the meantime. Illicit work enables them to maintain contact with everyday life, pass the time usefully, maintain their working habits and earn some money to cover for their needs and the needs of their families that are not covered by the minimum reception conditions (especially considering that their pocket money was also cancelled).

There are currently (July 2006) only two asylum seekers who were not issued a decision upon the asylum application within one year and were therefore eligible for a work permit. For all the others whose decisions were issued before the deadline of one year, the right to work is not accessible.

- Q.29. Are reception conditions subject to the fact that asylum seekers do not have sufficient resources? Are asylum seekers requested to contribute to reception conditions when they have personal resources (for instance if they work) or to refund the authorities if it appears that they have resources? (see article 13, § 3 and 4 which are optional provisions)

The asylum seekers who can rely on their own financial means or whose living expenses are provided for in a different way, are obliged to bear their expenses or part thereof (article 45, § 4 of the Asylum Act). Although this measure is provided for in the law, it has not yet been exercised in practice.

## **7. SPECIAL NEEDS OF PARTICULAR CATEGORIES OF ASYLUM SEEKERS**

- Q.30. **A. Which of the different categories of persons with special needs considered in the directive are taken into account in the national legislation (see article 17, §1 which is a mandatory provision): disabled people, elderly people, pregnant women, single parents with minor children, persons who have been tortured, raped or victims of serious physical or psychological violence? Include in your answer all other categories envisaged in national law.**

According to the law, specific care and attention shall be provided to persons with special needs and vulnerabilities, especially children, unaccompanied children, the elderly, pregnant woman, single parents with children, and persons who have survived rape, torture or other forms of psychological, physical or sexual violence (article 15. a, § 1 of the Asylum Act).

- B. How is their specific situation taken into account (see articles 13, §2, second indent, 16 §4 second sentence and 17 which are mandatory provisions)?**

The Asylum Home staff takes into account the special needs of persons while accommodating them in one of the wards foreseen for each particular group (as foreseen with article 5, § 6 of the Asylum Act). Please also see Q. 12. B.

In general, there are no specific programs organized by the Asylum Home with a purpose to deal with vulnerable groups. The Asylum Home employs two social workers and one psychologist (3 people for 150-200 applicants) who cannot perform specialized counselling for vulnerable groups because they are overburdened with tasks such as counting the asylum seekers in the mornings and accommodation of the new arrivals. The only vulnerable groups-related activities are carried out by the NGOs and funded by UNHCR or NGOs' own sources. E.g. an NGO Slovene Philanthropy carries out a project Sex and Gender Based Violence Program (SGBV) aiming at the prevention of gender based violence with women, and association Ključ carries out a Project against Trafficking and Sex and Gender based Violence (PATS), aiming at a prevention of trafficking with human beings and assistance to victims.<sup>22</sup> There are no specific counselling programs for children, pregnant women and elderly people.

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<sup>22</sup> The NGOs made attempts to have discussion groups with female migrants with an aim of empowerment and discovered that women know little of the asylum procedures since they are mostly handled by their husbands. Domestic violence, gender related violence, emancipation, abortion, and sometimes even contraception are taboos; women are not prepared to talk about this, which is conditioned by their cultural backgrounds, but they are also not encouraged to deal with such topics.

**C. How and when are the special needs of the concerned persons supposed to be legally identified (see article 17 § 2 which is a mandatory provision and clarify how it has been interpreted by transposition)?**

The Slovenian Asylum Act does not define when the vulnerability of a person should be legally identified. The Asylum Home staff is trying to identify the vulnerability of the asylum seekers on the basis of an individual assessment of their needs either at accommodating them or while accepting their asylum application, or later in the asylum procedure. The identification of vulnerability depends on the perceptivity of individual psychologists, employed by the Asylum Home, and persistence of the applicants. However, as stated above, there are three persons employed (two social workers and one psychologist) to deal with 150-200 applicants, but even these three persons are overburdened with basic reception activities.

The procedure to establish vulnerability legally is also not defined with the Asylum Act, nor is it existent in practice. There are no questionnaires or procedures developed to determine post-traumatic stress disorder, suicidal states or other disorders.

**D. Is the necessary medical and other assistance provided to persons with special needs as requested by article 15, §2 which is a mandatory provision and in particular to victims of torture and violence as requested by article 20 which is a mandatory provision?**

Legally, vulnerable groups have additional rights in terms of health care and counselling (article 15.a, § 3 of the Asylum Act). In practice, the level of medical assistance provided for vulnerable groups is equal to medical assistance provided to other asylum seekers (except for contraception, abortions, treatment during pregnancy and labour which are available for women). Persons with special needs (glasses, crutches and vitamins for children are the most frequent) are often financially supported by the eligibility committee of the Slovene Philanthropy (an NGO), funded by UNHCR. Medical care for vulnerable groups is therefore often not always sufficient.

Regarding minors there were instances when Asylum Home staff contacted a Centre for Counselling for Children and Young People if they dealt with a child whose needs were beyond their expertise. If needed, an interpreter was also provided.

Other programs are not available. The Asylum Home employs a psychologist who is overburdened with other tasks and mostly does not provide individual counselling. In the past there was a case of a female applicant with a post traumatic stress disorder, whose husband insisted she needs to be checked up. A psychologist who was previously employed by the Asylum Home engaged herself and achieved that the applicant was accepted into a group therapy in an external institution, which is a unique case. Please also see Q. 30. C.

**Q.31. About minors:**

**A. Till which age are asylum seekers considered to be minor?**

Asylum seekers are considered as minors until the age of 18 (article 14, § 1 of the Asylum Act).

**B. How is access of minor asylum seekers to the education system ensured? Is it at school or in case inside accommodation centres and can it be considered as similar to the conditions for nationals as requested by article 10, §1?**

Legally, minor asylum seekers have the right to elementary schooling (article 43 of the Asylum Act). The schooling is carried out in two nearby public schools (Livada and Vič) under the same conditions as the nationals. In Slovenia it is obligatory to attend elementary school between the ages of 6 and 15 which applies to asylum seeking children as well. For older minors (between the ages of 15 and 18) attending schools is no longer mandatory in Slovenia. Minor asylum seekers between 15 and 18 can only attend classes if there are free places available in secondary schools and depending on the readiness of the secondary school to accept them. In practice though the management of the Asylum Home try to enable the asylum seeking minors between the ages of 15 and 18 to attend classes in secondary schools if they express such wish. The main problems encountered are: i) proving the completion of elementary school since asylum seekers are mostly lacking such proofs, ii) differences in the existing knowledge of the asylum seekers, and iii) lack of proficiency in Slovenian language. Due to these problems for minors between the ages of 15 and 18, the right to education is not ensured by law which represents a problem concerning the transposition of the directive.

In practice there are problems in accessing schools. While access to school “Livada” is well organized (children are picked up and brought back by a school bus), access to school “Vič” is problematic: it is only possible to access it by a public bus. In accordance with article 91, § 5 of the Road Traffic Safety Act, children in their first year of school have to be accompanied by an adult on their way to school. However, for accompanying all the children, there are only five bus tokens available per week. That means that one of the parents can use these tokens to take a bus in the morning together with the children but there are no tokens available for the parent to come back, pick the children up and bring them back in the afternoon. Such system is not only dangerous because there is only one parent accompanying many children, but the parents must also pay the additional three bus tokens per day with their own money. This is specifically difficult for the parents because they are not allowed to work in the first year and they are given no pocket money (it was cancelled with the transposition of the directive). Occasionally the Asylum Sector is giving the parents additional bus tokens which are otherwise intended for visiting a doctor, a lawyer or for other purposes.

The proposed implementing act stipulates that minor asylum seekers attending schools will have the right to free usage of textbooks. If their parents have no resources of their own, the children may receive workbooks, notebooks and other schooling equipment (article 25 of the proposal of the Regulations on Reception Conditions). In practice there are also numerous problems with insufficient availability of textbooks, workbooks and other school equipment.

**C. Is access to education ensured not later than 3 months as requested by article 10, §2 (or after maximum one year if specific education for asylum seekers is provided) and till an expulsion decision is really enforced?**

In practice, the minors start attending school in one month after lodging the asylum application. Legally, schooling must last until the final decision upon their asylum application is issued and served to them. This norm is respected in practice. After that the children are not entitled to go to school although the expulsion decision is not yet enforced.

**D. Is specific education (like language classes) available for asylum seekers, in particular to facilitate their effective access to the education system of the reception Member State (see article 10, §2 which is an optional provision)?**

In Asylum Home the asylum seekers have a possibility to attend classes on Slovenian and English language, and computer classes. Children below the age of 6 and children above the age of 15 who never went to school attend literacy classes. Other children attend classes on Slovenian language from the moment of filing the asylum application and throughout their stay. These classes are organized by the NGOs (association Mozaik carries out classes on Slovenian language for children and Slovene Philanthropy for adults).

The schools have offered to provide afternoon tutoring with a purpose of providing assistance with the language and homework. However, attending the afternoon tutoring is not possible due to the transportation constraints. Those minors attending Livada who are taken to school and brought back by a school bus cannot attend tutoring lessons because of the early departure of the school bus. Those minors attending Vič cannot use the tutoring hours due to already described bus tokens problem.

In addition, the NGOs carry out various practical workshops for children and women, and sport activities for single men. However, these classes cannot be considered education classes but more as an active way of passing time.

**E. Are minors in general accommodated with their parents or with the person responsible of them? (see article 14, § 3)**

Minors, who entered the country together with their parents or other relatives or responsible persons, are accommodated with them in a family ward of the Asylum Home.

**F. Do minors with special needs enumerated by article 18, §2 which is a mandatory provision, have access to appropriate mental health care and qualified counselling?**

There are no specific counselling programs for vulnerable groups or for the children available. The only programs that exist are the programs of the NGOs which are mostly not funded by the state. There were instances when Asylum Home staff contacted a Centre for Counselling for Children and Young People if they dealt with a child whose needs were beyond their expertise. If needed, an interpreter was also provided. Please also see Q. 30. B.

**G. How and when is organised the representation of unaccompanied minors (guardianship, special organisation) and regularly assessed? (see article 19, §1 which is a mandatory provision)**

Legally, a legal guardian should be appointed to an unaccompanied minor before the start of the asylum procedure (article 28, § 1 of the Asylum Act). The competent bodies to deal with guardianship are centres for social work. In practice, the police in the Deportation Centre or the officials in the Asylum Home request one of the centres for social work to issue a decision on guardianship for a minor. Guardianship of the unaccompanied minors is coordinated by Slovene Philanthropy (SF), an NGO specialized in working with minors. Volunteers affiliated

with the Slovene Philanthropy are appointed as guardians. The centre for social work notifies Slovene Philanthropy on the minor immediately, however it then takes in average one week to issue a decision on guardianship. Before the decision is issued, Slovene Philanthropy is not entitled to access the child.

A formal system of assessment of guardianship does not exist. Each guardian has to submit regular reports on the guardianship to the centre for social work but it depends on the centre whether these reports are reviewed.

**H. How is placement of unaccompanied minors organised (with adult relatives, a foster family, in special accommodation centres or other suitable accommodation)? (see article 19, §2 which is mandatory provision)**

Unaccompanied minors (minors who are not accompanied by parents or other adult relatives) should be placed in a separate department of the Asylum Home. Due to overcrowded wards, the unaccompanied minors are usually placed in the same ward as single women.

**I. How is the tracing of the family members of the unaccompanied minors organised? Are measures taken to protect confidentiality of information when necessary? (see article 19, §3 which is a mandatory provision)**

The system of tracing of the family members is available through the Red Cross tracing service. In practice, there were only a few cases when Red Cross inquired about family members in Slovenia upon the request of other EU member states. However, there are no cases of Slovenian competent body inquiring through this service which signals that there is a lack of awareness about it. In a few cases where tracing of family members was necessary tracing was carried out on ad hoc basis through contacting UNHCR, NGOs and police in the countries concerned. Generally, confidentiality is respected.

## **8. EXCEPTIONAL MODALITIES OF RECEPTION CONDITIONS**

**Q.32. Apart from detention covered by the next question, are there exceptional modalities for reception conditions in the following cases and if yes, which ones and for how long are they applicable, knowing that they should be “as short as possible” (see article 14, §8)?**

**A. Persons with specific or special needs, regarding in particular the period of assessment of those needs?**

There are no exceptional modalities foreseen with the law or in practice for persons with special needs.

**B. Non availability of reception conditions in certain areas**

Slovenia is a very small country which means that most of the asylum seekers are brought to Asylum Home, located in the capital Ljubljana.

**C. Temporarily exhaustion of normal housing capacities**

In the proposed Regulations on Reception Conditions it is foreseen that the asylum seekers are accommodated in other appropriate premises (e.g. homes for elderly persons, safe houses, psychiatric institutions, student dorms, and appropriate social institutions), if the Asylum Sector cannot ensure an appropriate accommodation for them (article 6, § 1 of the proposed Regulations on Reception Conditions) due to overcrowding. It is not yet clear how this will function in practice.

**D. The asylum seeker is confined to a border post**

Slovenia is very small and it would therefore not be reasonable to build detention facilities at the border post. Instead, asylum seekers are brought either to the Asylum Home in Ljubljana or to the Deportation Centre in Postojna.

- E. All other cases not mentioned in the directive (for instance urgent situation in case of a sudden high number of applicants outside a case of application of the directive on temporary protection).

There are no other exceptional modalities foreseen in the legislation neither do they exist in practice.

**Q.33. Detention of asylum seekers (we do not cover the situation of rejected asylum seekers detained for the purpose of their return) (see articles 6 §2, 7 §3, 13, §2 2<sup>nd</sup> indent and 14 §8 which implies that the directive is in principle applicable in case of detention):**

- A. In which cases or circumstances and for which reasons<sup>23</sup> (identity verification in particular if the persons have no or false documents, protection of public order or national security, refugee status determination, way of entry into the territory, etc) can an asylum seeker be detained during the asylum procedure till his request has been finally rejected. Quote precisely in English in your answer the legal basis for detention of asylum seekers in national law.**

According to article 27, § 1 of the Asylum Act, if necessary, the movement of an asylum applicant can be temporarily limited on the grounds of: establishing the identity of the applicant; preventing the spread of contagious diseases; suspicion of misleading or abusing asylum procedure; or preventing the threat to other persons' life or property. Formally, detention order is issued to those asylum seekers who have previously been issued a security measure of expulsion. Misleading or abuse of the asylum procedure is presumed when a person applies for asylum when already in the Deportation Centre (because he or she is presumed to be filing the application for a sole reason of suspending the expulsion from the country) and when a person files a repeat application, including a person that is returned on the basis of the Dublin Regulation and wants to re-initiate his or her asylum procedure.

- B. Has your member State adopted measures to transpose §3 of article 7 which is an optional provision? If yes, how**

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<sup>23</sup> Please specify if article 18 §1 of the directive on asylum procedures of 1 December 2005 which specifies that “Member States shall not hold a person in detention for the sole reason that he/she is an applicant for asylum” is or not respected (even if has not yet to be transposed).



**has this provision been legally understood (is it a case of detention or an obligation to stay in and not leave a certain place?) and for which reasons can an asylum seeker be “confined” in such a place?**

Beside the reasons for detention, stated under Q. 33. A., when the asylum seeker is detained after lodging asylum application, there is another situation when asylum seekers’ freedom of movement is de facto limited. Namely, after they are brought to the Asylum Home and before their asylum application is taken, which should take maximally 12 hours, they are accommodated in a pre-reception (waiting) area – a part of the Asylum Home which is locked and physically separated from the rest of the accommodation facilities. When asylum seekers are brought to the pre-reception area they need to sign a statement that if they leave the pre-reception area their asylum application will be deemed withdrawn. Leaving the pre-reception area means leaving the building itself. This measure (signing of the statement, the fact that the asylum application will be deemed withdrawn) is not defined by the Asylum Act nor any other law.

**C. Are there legally alternatives to detention, like obligation to report to the authorities, obligation to stay in a place, provision of a guarantor or of a financial guarantee?**

According to article 27, § 2 of the Asylum Act, movement of the asylum seekers can be limited by means of prohibition of movement beyond a certain area; by means of prohibition of movement outside the Asylum Home or its branches; or by means of prohibition of movement outside a certain border crossing if accommodation is available there. The latter option is not exercised in practice since there is no accommodation available at the border crossings. The first alternative (prohibition of movement beyond a certain area) has also never been used in practice.

**D. Which is the competent authority to order the detention of an asylum seeker? Explain if different authorities are involved to first take and later confirm the decision.**

The competent authority to order detention of the asylum seekers is the Asylum Sector of the Ministry of Interior (article 27, § 5 of the Asylum Act).

**E. For how long and till which stage of the asylum procedure can an asylum seeker be detained?**

Legally, limitation of movement may stay in effect until the grounds for it subsist, but not longer than three months. If the grounds for limitation of movement still exist after the three month period, the limitation can be extended for a further period of one month. Limitation of movement on the ground of preventing the spread of contagious diseases shall stay in effect until the grounds therefore subsist (article 27, § 5). In practice, there are asylum seekers in the Deportation Centre (see the following question) detained for more than four months (in July 2006 there was at least one asylum seeker detained since January 2006).

**F. In which places (can we call them “closed centres”?) are asylum seekers detained (places in a special closed centres reserved only to asylum seekers, together with**

**returnees like illegal aliens or even in a normal prison, in case within separated areas or with the other detainees)? Indicate if a difference has to be made following the location of the “closed centres” at the border or on the territory? Which is the authority managing those places and is it the same as the one in charge of reception conditions?**

Limitation of movement outside Asylum Home or its branch is carried out in designated facility of the Asylum Home or other appropriate facility of the Ministry of Interior (article 27, § 3 of the Asylum Act). In practice that means that beside the detention unit of the Asylum Home, where only asylum seekers can be detained, applicants are also detained in a Deportation Centre in Postojna together with illegal migrants. Detention area of the Asylum Home is under the authority of the Asylum Sector of the Ministry of Interior, while Deportation Centre is under a direct authority of the Police. Detention unit of the Asylum Home is located in one of the buildings in the middle of the group of accommodation buildings comprising the Asylum Home.

Limitation of movement based on the prevention of contagious diseases is carried out in the separate facility of the Asylum Home intended for the isolation (article 27, § 4 of the Asylum Act). The facility is under the authority of the Asylum Sector.

**G. Does UNHCR and NGOs have access to the places of detention and under which conditions?**

Legally, UNHCR and legal representatives have access to all asylum seekers, including those in detention, at all times (article 9, § 4 of the Asylum Act). UNHCR implementing partners, who should also have access because they are authorized by the UNHCR to act in their name, are experiencing limitations in accessing certain premises. In practice, their access to asylum seekers and the places of detention is often restricted on both locations – Asylum Home and the Deportation Centre. There were cases when while trying to access the detention area of the Asylum Home, they were informed that there were no detained asylum seekers in detention at that time and were not let into the premises to check. The UNHCR-authorized NGOs also report that in the Deportation Centre in Postojna they could not access the living premises of detention with an explanation that for practical reasons the asylum seekers were accommodated together with illegal migrants and since access to illegal migrants is forbidden, they could not see the place of detention (although a visit has been previously agreed upon with the authorized inspectors). This way the NGOs never know whether they had access to all asylum seekers or not. Making unannounced visits to Deportation Centre in Postojna is not allowed for NGOs: they must announce the visit and obtain a permission.

**H. What appeal(s) can asylum seekers introduce against the fact he is detained? Is article 18 of the directive on asylum procedures of 1 December 2005 following which “Where an applicant for asylum is held in detention, Member States shall ensure that there is a possibility of speedy judicial review” respected (even if it has not yet to be transposed)?**

An asylum applicant has the right to appeal against the written detention order to the Administrative Court within three days after a decision has been served to him. The Administrative Court shall call for a hearing and decide on the appeal within three days (article 27, § 6 of the asylum Act). Provision of article 18 of the Directive on Asylum Procedures of 1 December 2005 (speedy judicial review) is in principle respected although it is questionable whether speedy judicial review also enables short appeal deadlines. The fact that such short deadlines can be easily missed may prevent a person from obtaining any judicial review.

**I. Is the directive on reception conditions considered to be in principle applicable to the places where asylum seekers are detained? In particular which information do they receive about their rights, which access do they have to legal advice and health care?**

The Directive on Reception Conditions is fully applicable to the places where asylum seekers are detained. There are no legal provisions in the Asylum Act or in the implementing acts that would limit the applicability of the directive in detention.

**J. Apart from freedom of movement, what are the main differences between normal reception conditions and exceptional modalities for reception conditions in case of detention, knowing that they should be “as short as possible” (see article 14, §8)? If it is about closed centres, are the regulations of those places in line with the requirements of the directive (is article 13, §2, second indent of the directive following which “*Member States shall ensure that standards of living is met (...) in relation to the situation of persons who are in detention*” respected?).**

Legally detained asylum seekers have the right to the same level of reception conditions as those who are in open-type accommodation centers (basic subsistence, hygienic goods, clothing, footwear and food), although there is no provision in the Slovenian asylum legislation that would explicitly state this. In practice, however, the level and quality of de facto reception conditions is much lower comparing to those received by asylum seekers in the open-type reception centre.

Asylum seekers detained in the Deportation Centre do not receive any leaflets with information on the asylum procedure, their rights and obligations and refugee counsellors. Their access to information is much more limited comparing to the open-type accommodation centre. Their access to legal advice is substantially lower, since they have a limited access to phone calls. (Many asylum seekers in an open-type accommodation centre are engaged in illicit work. This allows them to provide for them and their families a bit more than they receive from the state. In detention that is not possible. Even if they have their own financial means they are taken away from them to cover for their expenses, therefore they are left with very limited options to contact anyone.) An additional restricting factor for those who are in the Deportation Centre in Postojna is the distance of the location from the capital of Slovenia where most active refugee counsellors are located. In detention there are also no books, magazines and newspapers for the detainees to read.

Not only that the freedom of movement of the asylum seekers is limited, they also have restricted possibilities for recreation outdoors. In the Deportation Centre outdoor recreation is allowed only for one hour per day (although it should be minimum two hours and three hours for the minors as guaranteed by articles 43 and 117 of the Enforcement of Penal Sentences Act, Slovenian national legislation regulating prison regimes). Furthermore, the applicants detained in the detention unit of the Asylum Home, which is located in the middle of the accommodation area, have no organized recreation activities available. Behind the detention unit there is a fenced cage-like open space of 4 x 15 square meters. Apart from the “cage” which most asylum seekers refuse to enter, there are no organized sport or recreation activities for these detainees.

Asylum seekers detained in the Deportation Centre in Postojna complain about the poor quality and quantity of food; they reported on at least two occasions of worms in the food or food with a particularly rotten or non-eatable smell and taste; small portions and the last meal received at 6 p.m.; only one warm meal per day (out of three). They are not allowed to leave the premises and cannot supplement for their food by buying it elsewhere but are depended on the food offered by the institution and the sellers of goods which are let into the detention centre (e.g. in Postojna) to sell goods to the asylum seekers.

The right to work is also limited. If an asylum seeker is detained after already obtaining the right to work (i.e. after one year since lodging asylum application if a first instance decision has not yet been issued), his or her access to the labour market is prevented since work is not available in detention. Due to the nature of detention, confined asylum seekers do not have the right to move to a private address.

The right to health care (which is already low since it is restricted to emergency health care and essential treatment of disease, which is not suitable for those residing under such conditions for a longer period of time) is substantially lower in detention places, especially in Postojna: asylum seekers only have access to the doctors who visit the places of detention (and not to public health centres as those in open-type accommodation centres). Usually, they receive either painkillers or anti-depressants for any illness they suffer from. Moreover, anti-depressant medication is prescribed to them massively. Asylum seekers with serious illnesses are encountering difficulties in accessing treatment they need. For example, an asylum seeker suffering from an advanced stage of hepatitis C complained about a constant pain and insufficient treatment of his disease. Only upon the intervention of an NGO he was taken to the hospital for a liver check and for appropriate treatment.

**K. Are measures taken to avoid detention of asylum seekers with special needs (if yes, which ones?) or are special measures taken because of their needs?**

Although there are no provisions in the legislation prohibiting detention of vulnerable groups, families, minors, unaccompanied minors and disabled are in principle not detained. However, due to the lack of specific provisions, that will not necessarily always be the case (especially in the case of prevention of transmitting contagious diseases). If a person who is considered to belong to one of the vulnerable groups lodges his or her asylum application in Deportation Centre they are usually immediately transferred from Deportation Centre to Asylum Home. In the legislation there are no special measures foreseen for vulnerable groups in detention and neither are they existent in practice.

**L. Can minor asylum seekers be detained together with relatives? Can unaccompanied minor asylum seekers be detained? If yes, are there special measures which take into account that children are concerned?**

In the legislation there is no specific provision prohibiting minors (those with relatives or unaccompanied) from being detained. However, in practice minors are usually not detained (there was one case of a minor who was detained because he refused to separate from a group of 13 people he entered the country with). There are no special measures for minors in detention foreseen with the law nor are they existent in practice. There was a Constitutional Court decision ordering the Deportation Centre to release a minor and his parents. For more information please see Q. 23.

**M. In particular is article 10 regarding access to education of minors respected in those places?**

In the case of detention of minors, their right to education would be limited since there is no education organized in detention centres. For adults only a course of Slovenian language is organized in detention centres.

**N. How many asylum seekers are for the moment detained in your Member State? Which proportion does this represent in comparison of the total number of asylum seekers at the same moment?**

On June 6, 2006 10 asylum seekers were detained, which is 3.83% of all applicants present in the Slovenia on that day.

## **9. ORGANISATION OF THE SYSTEM OF RECEPTION CONDITIONS**

Q.34. Explain if the system of providing reception conditions is centralised or decentralised (which levels of government do provide practically reception conditions?) (do not confuse this question with question number 3 about the competence to make rules about reception conditions).

There is only one Asylum Home in Slovenia and the system of providing reception conditions is centralized and ran by the Asylum Sector of the Ministry of Interior (central government). Many activities contributing to maintaining a basic level of reception conditions are carried out by the NGOs using their own resources or with a support of UNHCR.

Q.35. In case, are accommodation centres public or/and private (managed by NGOs? If yes, are the NGOs financially supported by the State?)<sup>24</sup>

The Asylum Home and the Deportation Centre in Postojna, where some asylum seekers are confined, are managed by the state and financed by the Ministry of Interior. In Slovenia there are no accommodation centres which would be managed by private actors or NGOs.

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<sup>24</sup> To be answered with the help of UNHCR local office competent for your Member State or on the basis of the answers of NGOs and accommodation centres to the practical questionnaire.

Q.36. In case, how many accommodation centres are there in your Member State (distinguish in your answer between public and private centres)?<sup>25</sup>

Please see answer to Q. 35.

Q.37. Is there in the legislation a plan or are there rules in order to spread the asylum seekers all over the territory of your Member State to avoid their concentration in some areas like big cities or to share the costs of their reception between central, regional and local authorities?

The legislation provides for a possibility of additional branches of the Asylum Home in different parts of the country to be established in the future. The Government of the Republic of Slovenia shall determine the number, criteria and conditions for the establishment of Asylum Home's branches by taking into account the possibilities of local communities (article 45.a, § 2 of the Asylum Act).

Q.38. Does a central body representing all the actors (like NGOs) involved in reception conditions exist? Does it play a consultative role for the State authorities, a coordination role for the actors or any other role?<sup>26</sup>

None of the NGOs involved in reception conditions represents other NGOs and other actors nor does it speak in their name. All NGOs play a consultative role for the state authorities. The NGOs and the authorities meet on monthly coordination meetings with a purpose to acquaint the authorities with the NGO concerns and to resolve the most pressing issues. Some NGOs which are present in the field on a daily basis (e.g. Legal Information Centre for NGOs, Slovene Philanthropy, Mozaik and others) play a particularly important role in reversing and influencing the practices in a positive direction.

Q.39. **A. Which is the body in charge of guidance, monitoring and controlling the system of reception conditions as requested by article 23 which is mandatory provision? Include in your answer which is the competent ministry (Interior, Social affairs, etc) for reception conditions?**

There was no body specifically established with a purpose of guidance, monitoring and controlling the system of reception conditions (neither with the legislation nor in practice). The body which is generally responsible to visit any premises where persons are detained, including Asylum Home and Deportation Centre, is the Office of the Human Rights Ombudsman of the Republic of Slovenia (in accordance with article 159 of the Constitution of the Public of Slovenia). However, no additional resources were allocated to the Ombudsman's Office to monitor and control the reception conditions of asylum seekers. The responsible ministry for the reception conditions is the Ministry of Interior of the Republic of Slovenia.

B. Has your Member State (like the Czech Republic did recently) approved quality standards (not necessary legally binding) for housing

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<sup>25</sup> To be answered with the help of UNHCR local office competent for your Member State or on the basis of the answers of NGOs and accommodation centres to the practical questionnaire.

<sup>26</sup> To be answered with the help of UNHCR local office competent for your Member State or on the basis of the answers of NGOs and accommodation centres to the practical questionnaire.

services (for instance about the number of persons per bedroom on the basis of its size, number of accessible toilets, bathrooms, showers and washing machines per number of persons, existence of common rooms with radio, television, newspapers, books, computers, accessibility of telephone, existence of recreative rooms for children,...) to be respected in particular in accommodation centres?<sup>27</sup>

No, quality standards for reception conditions in Slovenia were not legally adopted or approved. However, the Asylum Home is a modern institution, built in 2004 in accordance with the prescribed legal provisions and standards. In the rooms there are usually four beds except for the family department where the rooms are bigger with six beds. Each floor has modern bathrooms (separated for women, children, and men), showers, a tea kitchen, a washing room and common space with a TV. In practice, more and more asylum seekers have their own TVs, radios and even computers in their rooms.

**C. How is this system of guidance, control and monitoring of reception conditions organised?<sup>28</sup>**

Within the Ministry of Interior, there is no formal system of guidance, monitoring and control of the reception conditions in Slovenia that would be established specifically for the purpose of systematic monitoring the implementation of this directive.

In accordance with its mandate, both the Asylum Home and the Deportation Centre have been visited by the Ombudsman of the Republic of Slovenia, whose activities are based on article 159 of the Constitution. However, these visits are rare, not systematic and are performed following the complaints filed by asylum seekers or NGOs (in 2006 the Ombudsman paid one visit and one follow up visit to both Asylum Home and the Deportation Centre, both on the initiative of the NGOs). Visiting the premises where asylum seekers are accommodated is not at all a priority of the Ombudsman's office; the priority is to visit all detention premises in the country (including prisons, police stations, criminal proceeding detentions, and psychiatric hospitals). However, for visiting the Asylum Home and the Deportation Centre no additional resources were allocated to the Ombudsman's office and no training on reception conditions for the Office of the Human Rights Ombudsman was provided. At its visits, the Ombudsman checked the same type of conditions as in regular prisons but did not perform checks that would be specific for the reception conditions of asylum seekers. For example, reception conditions such as the right to education, the right to enter the labour market, the right to clothes and footwear, access to information, as well as access of UNHCR, NGOs and legal representatives were not checked.

The Asylum Home has also been visited by the European Committee for the Prevention of Torture and Inhuman and Degrading Treatment or Punishment, sanitary inspectorates of the Republic of Slovenia, UNHCR and NGOs. However, these visits can not be considered as a system of guidance, monitoring and control. This represents a problem concerning the transposition of the directive. If the monitoring, guidance and control, required by the directive need to be regular and systematic, the directive is not correctly transposed. If a couple of visits in the Asylum home and the Deportation centre by the Ombudsman's

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Office, responsible for all other detention facilities in the country, are sufficient, then the directive is correctly transposed.

- D. Does the body in charge of guidance, control and monitoring produce reports about the level of reception conditions? If yes, how frequently and are they public?<sup>29</sup>

As already stated, there is no body in charge of guidance, monitoring and control in Slovenia.

The organizations and bodies that visited the reception facilities produce reports on their findings concerning the reception conditions. The report of the Ombudsman is made public once a year. The report of the European Committee for the Prevention of Torture and Inhuman and Degrading Treatment or Punishment is also made public. The reports of the UNHCR and its implementing partners are not made public but remain internal. They are used to conduct demarches with the authorities in line with its mandate responsibilities under the Geneva Convention.

In addition, UNHCR implementing partners and some government counterparts came together in 2005 in multi-functional teams and engaged in the gender, age and diversity participatory assessment with asylum seekers, refugees and other persons of concern. The persons interviewed raised a number of issues concerning quality and standard of reception conditions. These reports were published in English and in the local language. This will now be a regular activity.

- Q.40. A. What is the total number of asylum seekers covered by reception conditions for the last year for which figures are available (see article 22 obliging Member States to calculate those statistics about which we also asked the Commission to require them from Member States for mid June)?

In 2005 there were 1674 asylum seekers accommodated in the Asylum Home.

- B. What is the total budget of reception conditions in euro for the last year for which figures are available?<sup>30</sup>

Total budget for reception conditions for 2004 was 1,057,365.21 EUR. The figure for 2005 is not available.

- C. What is the average cost of reception conditions in euro per asylum seeker for the last year for which figures are available?<sup>31</sup>

The average cost of reception conditions in 2005 were approximately 18.19 EUR per asylum seeker per day.

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<sup>30</sup> To be answered with the help of UNHCR local office competent for your Member State or on the basis of the answers of NGOs and accommodation centres to the practical questionnaire.

<sup>31</sup> To be answered with the help of UNHCR local office competent for your Member State or on the basis of the answers of NGOs and accommodation centres to the practical questionnaire.



- D Are the costs of reception conditions of asylum seekers supported by the central/federal or federated government or are they shared with regional and/or local authorities?

The cost of reception conditions are supported by the central government through the Ministry of Interior.

It is important to mention the activities of the NGOs which contribute significantly to maintain the basic level of the reception conditions and are funded by the European Refugee Fund, UNHCR, local government and the European Commission (EQUAL projects and other tenders).

- E. **Is article 24 § 2 of the directive following which “*Member States shall allocate the necessary resources in connection with the nationals provisions enacted to implement this directive*” respected?**<sup>32</sup>

The necessary resources for building the new Asylum Home and for providing basic reception conditions were allocated in order for the minimal standards to be generally respected. There are issues of concern regarding the areas where there is a lack of funds to ensure a normal functioning of the system (medical care and counselling for the vulnerable groups, textbooks and other necessary equipment for schooling children, bus tokens for the parents, etc.) which is a problem concerning the transposition of the directive. Besides the lack of basic reception conditions in the stated areas there are also issues of concern arising from the attitudes and lack of training of the Asylum Home staff on the sensibility issues concerning diversity and cultural differences.

It is also problematic that 90% of the funds allocated to Slovenia by the European Refugee Fund (ERF) are used by the Ministry of Interior to meet the requirements for the reception conditions. Only 10% of the ERF funds are allocated for the activities of the NGOs.

- Q.41. A. What is the total number of persons working for reception conditions?<sup>33</sup>

There are 18 people working for reception conditions in the Asylum Home: one nurse, 7 people for accommodation and subsistence, 7 people for processing asylum applications and for other operational matters, and 3 persons for psycho-social matters (1 psychologist and 2 social workers). NGO staff is not included in these numbers.

- B. **How is the training of persons working in accommodation centres organised? Does it take into account specific needs of unaccompanied minors when relevant as well as the gender dimension? (see article 14 §5, 19 § 4 and also 24 §1 which are mandatory provisions)?**<sup>34</sup>

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<sup>32</sup> To be answered with the help of UNHCR local office competent for your Member State or on the basis of the answers of NGOs and accommodation centres to the practical questionnaire.

<sup>33</sup> To be answered with the help of UNHCR local office competent for your Member State or on the basis of the answers of NGOs and accommodation centres to the practical questionnaire.

<sup>34</sup> To be answered with the help of UNHCR local office competent for your Member State or on the basis of the answers of NGOs and accommodation centres to the practical questionnaire.

All Asylum Home staff that deal with psycho-social work, who are directly involved with managing various departments in Asylum Home, completed university studies or have a college education in the fields of psychology, sociology or social work. Some have Master degrees, PhD or specialization. They passed professional exams under the mentorship of Slovene Social Chamber.

The system of training of the Asylum Home staff is not institutionalized and is carried out on ad hoc basis, depending on the programs of the NGOs, UNHCR, Ombudsman, Faculty of Social Work, Faculty of Social Sciences and other institutions that organize seminars within specific projects. In the beginning of the establishing the Slovenian asylum system (after 1999) there were numerous training programs organized (mainly by UNHCR) for the Asylum Home staff. In the last few years the number of trainings decreased. On average, a staff member participates in two trainings per year. Some members of the staff also take part in international events in the field of asylum. The trainings cover various issues but mostly basic concepts such as international protection. There is a lack of training on sensibility for cultural differences and vulnerable groups.

- C. Are there rules about the deontology of persons working in accommodation centres, in particular on confidentiality?<sup>35</sup>

All employees of the Asylum Home are obliged to protect personal data of the asylum seekers (article 64, § 3 of the Asylum Act). Personal data collected and obtained during the asylum procedure by competent authorities and other state authorities shall be protected in accordance with the Law on Personal Data Protection and the provisions of this Law. All declarations, statements, explanations and data presented to authorities mentioned in the previous paragraph by an asylum applicant in the asylum procedure shall be considered as confidential. Authorities mentioned in the first paragraph shall use particular care in protecting any declarations, statements, explanations and data presented in the procedure by an asylum applicant from the authorities of his or her country of origin (article 18 of the Asylum Act).

## **10. IMPACT OF THE DIRECTIVE**

Legal impact of the transposition of the directive:

- Q.42. Specify if there are or not big problems with the translation of the directive in the official language of your Member State and give in case a list of the worst examples of provisions which have been badly translated? (please note that this question has in particular been added to the questionnaire concerning the new Member States)

The assessment is that there are no problems with the translation of the directive into Slovenian. However, there is one remark that needs to be mentioned concerning the translation of all sentences containing “shall” that imply the mandatory nature of the directive provision (e.g. “the Member States shall inform...”). Namely, instead of translating these sentences in a way which would imply their mandatory nature in the Slovenian language as well (e.g. by using the translation of a word “have to” which in Slovenian implies an obligation), they were translated in the same way as any other sentence in present tense would be (e.g. “the Member States inform...”). Such translation might be technically correct and is

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usually applied in regard to international conventions, but it does not reflect the obligation to the same extent as the word “have to” would.

Q.43. Where there precise legal rules on reception conditions for asylum seekers before the adoption of the norms of transposition of the directive (if yes, specify what the nature of those rules was (legislation, regulation, administrative instructions,...))?

Precise legal rules on the reception conditions for asylum seekers existed even before the directive was transposed. The law regulating the reception conditions was Asylum Act – the same law which was amended as a consequence of the transposition. In addition, the reception conditions were regulated by administrative regulations (Regulations on Reception Conditions, Internal regulations) which will also be changed shortly with an aim of synchronization with the Asylum Act.

Q.44. Did the legal rules applicable to reception conditions become more clear, precise, coherent or detailed with the adoption of the transposition norms (for instance do you now have after the transposition one basic text dealing with reception conditions instead of numerous different texts in the past)?

The legal rules applicable to reception conditions became more precise and detailed in certain areas (e.g. the definition of vulnerable groups, the right to work, the right to live in a private apartment, the right to health care), however, it also needs to be mentioned that the level of these rights are more restricted than before the transposition. Otherwise, the number and hierarchy of the legal documents regulating the reception conditions, remains unchanged.

Q.45. Did the transposition of the directive imply important changes in national law or were the changes of minor importance? In case, list the most important changes that have been introduced.

The transposition of the directive implied important negative changes in the national law. The right to work, the right to health care, and the right to live in a private apartment were defined in a clearer but also in a more restrictive way. The right to participate in maintenance work in the Asylum Home was introduced. The right to free legal aid provided by the refugee counsellors in the first instance procedure and the right to pocket money were cancelled.

Generally speaking, the process of transposition has been traumatic for both the asylum seekers and the NGOs. Comments and recommendations submitted by UNHCR, NGOs and even some government bodies with a view to make the legislation more favourable and more humane were not accepted. In the process of transposition, there is a tendency to choose the most extreme positions which are foreseen by the directives. E.g. if the directive stipulates that the asylum seeker should have access to labour market one year after lodging asylum application at the latest, the legislator would choose the period of one year (and not nine months or six months as it would also be a possibility under the directive). Such legislation, which not only forbids the asylum seekers to work, but requires them to obtain work permits, look for work by themselves, takes away the minimum pocket money and free legal counselling in the first instance procedure, drives people underground and enhances the possibility of social exclusion.

Political impact of the transposition of the directive:

Q.46. Explain briefly if there has been an important debate about the transposition of the directive (in particular in the Parliament, but possibly also in the government, between political parties, including in medias, etc; underline in case the main points which have been discussed or have created difficulties)

The amendment of the Asylum Act of the Republic of Slovenia due to the transposition of two directives (2003/9/EC and 2005/85/EC) was accompanied by a heated debate throughout the legislative process (in the government, between the Ministry of Interior and the NGOs, in the parliament between coalition and opposition political parties, and consequently in the media). The main characteristic of the debate was that on one hand the government and the coalition political parties were defending the changes as legitimate since they were transposing the directive in accordance with the minimal standards, while on the other hand the opposition political parties and the NGOs were advocating for retaining the standards that existed before and to introduce more favourable provisions than required by the directive. Specifically, the focus was on whether or not the right to free legal assistance provided by the refugee counsellors in the first instance should be kept, whether or not the access to labour market should be restricted, what should be the level of health care, and whether or not the asylum seekers should be free to choose their residence. Also the introduction of the Police pre-procedure was a heated topic, as it would channel asylum seekers away from the asylum procedure into the alien policing procedure with the consequent result of them not having the same level of reception conditions as asylum seekers admitted into the procedure as such.

**Q.47. Did the transposition of the directive contribute to make the internal rules stricter or more generous? In particular, did your Member State use the occasion of the transposition to abolish more favourable provisions of national law? Does your Member State still have rules more favourable than the provisions of the directive (if yes, try to give the more important examples).**

In certain fields where the previous regulation was more favourable for the asylum seekers, Slovenia used the occasion of the transposition to abolish more favourable provisions (e.g. the right to pocket money was cancelled; previously the asylum seekers also had the right to free legal assistance provided by the refugee counsellors in all three instances of asylum procedure while after the transposition they only kept this right in appeal procedures; the right to work is more restricted than before the transposition, the right to move to a private address is more restricted; the right to health care is restricted to emergency health care and essential treatment which is less than before when they had the right to basic medical treatment). It can also be noted that Slovenia did not use the occasion of transposition to introduce all possibilities for restrictions which are available in the directive (e.g. there are no provisions in the Slovenian legislation for withdrawing the reception conditions if the applicant concealed he or she had sufficient means to cover the material reception conditions as foreseen with article 16, § 1(b) of the directive).

## **11. ANY OTHER INTERESTING ELEMENT**

Q.48. What are in your view the weaknesses and strengths of the system of reception conditions in your Member State?<sup>36</sup>

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<sup>36</sup> To be answered with the help of UNHCR local office competent for your Member State or on the basis of the answers of NGOs and accommodation centres to the practical questionnaire.

The weaknesses of the system of reception conditions in Slovenia are:

- Limited capacity of the Asylum Home: with the new premises of the Asylum Home which was built in 2004, the capacity of the Asylum Home significantly increased. However, on a few occasions since 2004 the capacities of the Asylum Home were exceeded. The management of the Asylum Home addressed the situation by transforming other premises which are normally not intended for accommodating the applicants (e.g. the multi-purpose room) to the provisional bedrooms with foam beds. Since these premises were not intended for such purposes the hygienic conditions soon became unacceptable and therefore, other durable solutions for such situations should be identified for the future.
- Incomplete implementation of sanctions foreseen with the Internal Regulations of the Asylum Home: Although there are sanctions foreseen with the Internal Regulations, their implementation is not consistent. The appeal procedure for withdrawing the reception conditions is not appropriate as well and no written decisions on withdrawal are issued.
- The lack of possibilities for the asylum seekers to participate in the management of the Asylum Home: asylum seekers are not allowed to participate in the management of the Asylum Home. The management, however, takes their suggestions into consideration whenever possible.
- Weak continuous training possibilities for the Asylum Home staff.
- No access to secondary schooling for minors between the ages of 15 and 18: Although the directive requires the Member States to provide education for all minors, those minors between the age of 15 and 18, who are no longer entitled to attend elementary school, do not have the access to secondary schooling.
- Elementary schooling is cut when the decision upon the asylum application is final and not when it is executed: A child whose application has been rejected and who has not yet been expelled and therefore has no status, does not have the right to attend elementary school.
- Limited access of NGOs to asylum seekers accommodated in the Deportation Centre in Postojna.

The strengths of the system of reception conditions in Slovenia are:

- Coordination meetings between NGOs and the authorities providing for an opportunity to address issues that need attention.
- Relatively new accommodation facilities.
- Anti-trafficking project carried out by association Ključ.

Q.49. Mention any good practice in your Member State which could be promoted in other Member States<sup>37</sup>

It is important to mention Association Ključ, an NGO carrying out a program for the prevention of trafficking of human beings and sexual harassment (the PATS project). Their work consists of informing all single women and unaccompanied minors with an aim for the victims to recognize themselves as victims of trafficking, to trust them about their problems and seek assistance and protection. In such case the association possesses a special safe house where a person can obtain refuge.

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<sup>37</sup> To be answered with the help of UNHCR local office competent for your Member State or on the basis of the answers of NGOs and accommodation centres to the practical questionnaire.

Q.50. Please add here any other interesting element about reception conditions in your Member State which you did not had the occasion to mention in your previous answers.