The practices in the Republic of Slovenia concerning the granting of non-EU harmonised protection statuses

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1. SUMMARY

The current legislation of the Republic of Slovenia (RS) stipulates three forms of protection, of which only one can be considered as a non-EU harmonised form of protection, namely permission to stay.

Permission to stay is a form of protection granted to an individual when his return to a country of origin or country of his last habitual residence could contravene prohibition of return (non-refoulement), while at the same time the individual does not comply with conditions for one of the harmonised forms of protection, namely refugee status or subsidiary protection. In spite of the fact that this institute represents a form of protection, it provides only a weak status to a person enjoying this status as the rights derived from the status are minimum. That is to say, between both EU harmonised protection statuses and the permission to stay a huge gap as far as the scope of rights and the possibility to further regulate ones status in the RS exist.

Researches and studies on permission to stay are nonexistent, especially those that would include also persons granted such permission. For the purpose of conducting this study it has been established, to at least some extent that the opinions of the state authorities regarding the need for such forms of protection and the scope of rights derived from different non-harmonised forms of protection differ greatly from the opinion of nongovernmental organisations working in this field. Such finding indicates that much of this field remains to be investigated, especially circumstances when permission to stay is applied as the finding that a person is in need of such protection could lead to conclusion that the person should be granted a harmonised protection status. Furthermore, questions on what the needs of persons with such protection status and if the current legislation provides the scope of rights to a sufficient extent in order to meet the needs of these persons and also to enable them to long-term regularise their status so that the need for protection would no longer exist.

Event in the world especially ones that were not foreseen at the time of adoption of the Geneva Convention or even later when the EU was adoption different directives for introducing a common European asylum system indicate that more and more forced migrations arise from other events such are environmental catastrophes, medical reasons, etc. Such changes should be taken into account by the current legislations which should be, especially due to dealing with such cases entirely, founded with analyses and researches on migrations.
2. INTRODUCTION

The study “The practices in the Republic of Slovenia concerning the granting of non-EU harmonised protection statuses” presents the grounds for a comparative study that the European Commission will perform within the European Migration Network.

The overall objective of the study is to analyse different national practices of granting of non-EU harmonised protection statuses that is all statuses which do not fall within refugee status and subsidiary form of protection as defined in the Qualification Directive 2004/83/EC. Namely, growing percentage of applicants granted subsidiary protection and other forms of protection status based on national law but not Geneva Convention refugee status which is probably the consequence of the fact that more and more persons seek protection for reasons not foreseen in the Geneva Convention such are as a result of environmental catastrophes, for humanitarian and medical reasons, etc. The latest trends regarding the granting of protection statuses even show a slow trend of positive decisions granting subsidiary forms of protection and protection for humanitarian reasons.

Such study shall, in accordance with objectives of the European Migration Network fill in the gaps in paying attention to different forms of protection not harmonised at the EU level and to add to alignment of national forms of protection status which do not currently fall under the EU’s regime of international protection.

The specific aims of the study are to provide information on:

1. forms of protection not harmonised at the EU level;
2. procedures for granting protection status and rights deriving from protection status.

Forms of protection in the Republic of Slovenia are not much analysed and in the public presented institutes; only a few people within nongovernmental organisations working in this field, apart from the competent state authorities are employ themselves with them. Some studies on this topic have been prepared by nongovernmental organisations for the need of the European Commission, assessing the level of transposition of the EU directives into national legislation of the EU Member States, but among national studies only the study “The Risk Group of Unaccompanied Minors: Protection Measures in an Enlarged European Union”¹, prepared by the Science and Research Centre of Koper, the University of Primorska in 2007, and the study “Policies on reception, return, integration arrangements for, and numbers of, unaccompanied minors in the Republic of Slovenia”, prepared by the Slovene Philanthropy and the Legal-informational Centre for Nongovernmental Organisations – PIC prepared in 2009, the order placed by the Ministry of Interior. Trend of forms of protection in the Republic of Slovenia also have gone towards lowering the forms of protection available. In 1999 the Act on Asylum² introduced as a form of protection asylum for humanitarian grounds for reasons when a return of a person could endanger his or hers security or physical integrity, in accordance with the Article 3 of the Convention on protection of human rights and basic freedoms in circumstances not covered by the Geneva Convention. Later with amendment and of the Act on Asylum³ in 2006 this form of protection was replaced with subsidiary form of protection.

¹ http://www.zrs-kp.si/SL/Projekti/MINORS/Daphne/MinOrs_Slovenia.pdf
protection. There were not any other changes except for introduction of the institution of permission to stay by the Aliens Act\textsuperscript{4} in 1999.

The methods used in this study are the following:

- Questionnaires distributed with the aim of acquiring statistics and information on the current situation in the RS;
- Interviews with the representatives of the relevant state institutions and non-governmental organisations active in this field of work;
- Overview of the legislation, relevant for the study;
- Overview of the reports;
- Overview of the existing studies.

Organisations and institutions that have taken part in providing the information for this study are the following:

- International Protection Status Section (hereinafter: IPSS), International Protection Division, Migration and Integration Directorate, Ministry of the Interior;
- Centre for foreigners (hereinafter: CF), Uniformed Police Directorate, General Police Directorate, Police, Ministry of the Interior;
- Border Police Division (hereinafter: BPD), Uniformed Police Directorate, General Police Directorate, Police, Ministry of the Interior;

The following data has been used in the study:

- Statistical data submitted by: CF for the period 2004 - 2008 on the number of issued decisions for permission to stay for other reasons as per indent 2, paragraph 2 of the Article 52 of the AA; SBP for the period 2004 – 2008 on the number of issued decisions for permission to stay if deportation would contravene prohibition of deportation as per the Article 51 of the AA, disaggregated by gender, age and country of origin, on the number of decisions for permission to stay if deportation would contravene the Article 51 when those persons were applicant in the protection procedures but issued with unfounded decisions, disaggregated by gender, age and country of origin, on the number of issued decision for permission to stay to stateless persons and victims of trafficking, disaggregated by gender, age and country of origin; OSZMZ for the period 2004 – 2008 on the number of applicants for international protection and asylum for humanitarian grounds, disaggregated by gender and country of origin while disaggregation by age was only available for year 2008, on the number of persons with international protection and asylum for humanitarian reasons, disaggregated by gender and country of origin.
- Data on the current situation in the RS obtained through interviews with the Head of the CF in Postojna, with the Head of the International Protection Status Section, with representatives of nongovernmental organisations PIC, SF, MI, JRS and Association Ključ;
- Information on the current situation in the RS submitted in a form of responses to the questionnaire by the Head of the CF, Head of the IPSS, a representative of the BPD, representatives of Association Ključ, SF, MI, JRS and PIC.
- Relevant legislation.

Statistical data that could not be obtained:
  • number of applicants for international protection or asylum for humanitarian grounds and persons recognised with international protection or asylum for humanitarian grounds, disaggregated by age.

With regard to the statistical data on applicants for international protection or asylum for humanitarian grounds and persons granted international protection or asylum for humanitarian grounds disaggregated by age the only information available was for the year 2008.

The Resolution on Immigration Policies in the Republic of Slovenia (adopted in 1999) and the Resolution on Migration Policies of the Republic of Slovenia (adopted in 2002) present the two founding documents of the Slovene migration policy. Chapter 5 of the Resolution on the Migration Policies defines the bases of the Slovene migration policy, i.e.: world solidarity and active engagement in prevention of causes of mass migration, Slovene active policy in Europe, Slovene active policy with regard to the neighbouring countries of the Central and South-Eastern Europe; protection and assistance to refugees and other asylum seekers and focus on the possibility of a voluntary return; regulation of immigration; prevention of illegal migration; integration and continuing update on the situation in Slovenia and worldwide.
3. PROCEDURES FOLLOWED AND RIGHTS PROVIDED

The Republic of Slovenia has introduced three forms of protection that can be divided into two groups:

1. refugee status and the status of subsidiary form of protection in accordance with the EU statuses covered by the Council Directive 2004/83/EC from 29 April 2004 on minimum standards for the qualification of third country nationals or stateless persons as refugees or as persons who otherwise need international protection and the content of the protection granted;
2. national status in the form of permission to stay which is not covered by the above mentioned directive.

The first two forms of protection, that is refugee status and the status of subsidiary form of protection are defined in the Act on international protection\(^5\) (hereinafter: AIP), which lays down the fundamental principles, procedure of granting and withdrawing of international protection, duration and content of international protection as well as the rights and obligations of applicants for international protection and persons who were recognized international protection (paragraph 1 of Article 1 of the AIP).

Permission to stay is defined in the Aliens Act\(^6\) (hereinafter: AA).

Refugee status and the status of subsidiary form of protection


**Refugee status** shall be granted to a third country national who, owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country, or a stateless person, who is outside the country of his former habitual residence as a result of such events and well-founded fear is unable or unwilling to return to it.

**The status of subsidiary form of protection** shall be granted to a third country national or a stateless person, who does not qualify for a refugee, when substantive grounds exist to suspect that upon his return to the country of origin, or in case of a stateless person, the country of last residence, the person would face real risk of being subject to serious harm as stipulated in Article 28 of the AIP.


Provision of Article 4 defines **grounds for cessation of international protection** that is refugee status shall cease if he:
- Has voluntarily re-availed himself of the protection of the country of origin;
- Has voluntarily re-acquired nationality of his country of origin;
- Has acquired a new nationality and enjoys the protection of the country of his new nationality;
- Has voluntarily returned to the country which he left and did not return to due to fear of persecution;
- Can no longer refuse to avail himself of the protection of the country of nationality, since the circumstances on grounds of which he has been recognized refugee status have ceased to exist;
- Being a stateless person with no nationality, is able to return to the country of former habitual residence, because the circumstances on grounds of which he has been recognized refugee status have ceased to exist.

A person granted subsidiary protection shall cease to be eligible for subsidiary protection when:
- The time defined by the AIP expires or
- The circumstances which led to the granting of subsidiary protection status have ceased to exist or have changed to such a degree that protection is no longer required.

In establishing reasons based on the change of circumstances the later have to be of such significant and non-temporary nature that the refugee’s fear from persecution can no longer be considered as founded, or that the person eligible for subsidiary protection no longer faces a real risk of serious harm.

According to Article 5 of the AIP the person can be excluded from both forms of protection which means that the protection is not longer given although the person fulfils the grounds for recognition of that protection as at the same time other circumstances which exclude such protection exist.

Therefore **a person is excluded from being a refugee**, if:
- He already enjoys assistance or protection of the United Nations’ bodies and agencies other than the United Nations High Commissioner for Refugees;
- He has been recognized equal rights and obligations as the nationals of the Republic of Slovenia by the responsible authorities of the Republic of Slovenia;
- Reasonable suspicion exists that he has committed a crime against peace, a war crime, or a crime against humanity, as defined in the international instruments;
- Reasonable suspicion exists that he has committed a serious non-political crime outside the Republic of Slovenia prior to his admission to the country as a refugee, also when committed because of supposedly political goals;
- Reasonable suspicion exists that he has been guilty of acts contrary to the purposes and principles of the United Nations as set out in the Preamble and Articles 1 and 2 of the Charter of the United Nations.

An applicant **is not recognized subsidiary protection**, when:
- prior to his admission to Slovenia, he has committed one or more crimes for which he would have been punished with imprisonment, had the crimes been committed in the Republic Slovenia, and if he left his country of origin with the sole purpose of avoiding sanctions resulting from these crimes,
or if a reasonable suspicion exists that the applicant:
- Has committed a crime against peace, a war crime, or a crime against humanity, as defined in the international agreements and regulations defining such crimes;
- Has committed a serious crime;
- Has been guilty of acts contrary to the purposes and principles of the United Nations as set out in the Preamble and Articles 1 and 2 of the Charter of the United Nations;
- Constitutes a danger to the security of the Republic of Slovenia.

In case of criminal offences and acts which are contrary to the purposes and principles of the United Nations, acts stipulated include also persons who instigate or otherwise participate in the commission of the crimes.

The AIP in Article 6 also stipulates **grounds for withdrawal of international protection** as defined in the Directive 2004/83/EC. A refugee’s status is withdrawn in cases when:
- One of the facts that enable exclusion of a refugee from protection is established;
- Facts that a refugee can no longer refuse to avail himself of the protection of the country of nationality, since the circumstances on grounds of which he has been recognized refugee status have ceased to exist or when a stateless person with no nationality, is able to return to the country of former habitual residence, because the circumstances on grounds of which he has been recognized refugee status have ceased to exist;
- The refugee’s misrepresentation or non-disclosure of facts, including false documentation, were decisive for the recognition of refugee status;
- Substantiated grounds exist that the person is considered a danger to the Republic of Slovenia, which especially shows in endangerment of the security of territorial integrity, sovereignty, execution of international obligations and endangerment of constitutional order;
- After final conviction for a crime against humanity and international law presents a danger to the Republic of Slovenia.

If during the procedure of recognition of international protection facts from indents four and five are established, a person is not recognized refugee status.

To person, to whom a refugee status has been withdrawn for reasons of indents four and five and to persons in a procedure for granting international protection, to whom reasons from indents four and five were established during the procedure and are therefore not granted refugee status, but who are in the Republic of Slovenia, are granted the rights set out in the Geneva Convention, i.e.:
- the right to equal treatment,
- the right to freedom of religion,
- the right to access to courts,
- the right to education and acquirement of qualifications,
- the right to impunity for illegal transit of state border,
- the right to prohibition of expulsion and application of the *non-refoulement* principle.

The **subsidiary protection status is revoked** when:
- One of the facts stipulated as grounds for not recognising subsidiary protection is established;
Circumstances which led to the granting of subsidiary protection status have ceased to exist or have changed to such a degree that protection is no longer required;
- The person’s misrepresentation or omission of facts, including false documentation, was decisive for the recognition of the subsidiary protection status.

Permission to stay

Aliens Act in Chapter VI, Deportation of aliens stipulates grounds for permission of stay of aliens as one of forms of protection granted to a person in cases when deportation is prohibited as it could otherwise constitute violation of internationally recognised obligations. Aliens Act in its Article 51 stipulates prohibition of deportation of an alien in cases when “the deportation or return of an alien to a country in which his/her life or freedom would be endangered on the basis of race, religion, nationality, membership of a special social group or political conviction, or to a country in which the alien would be exposed to torture or to inhumane and humiliating treatment or punishment”. It is a general principle recognised in international customary law, the principle of prohibition of deportation (non-refoulement which encompasses protection from persecution as defined in the Convention Relating to the Status of Refugee and protection from torture and other inhumane treatment or punishment as per the European Convention on Human Rights and the UN Convention Against Torture.

The permission to stay is “permission granted to an alien who has been given a deadline by which to leave the country, or to an alien who must be deported, to remain temporarily in the Republic of Slovenia” (Article 52 of the AA).

In accordance with the Article 52 of the AA permission to stay in the Republic of Slovenia shall be granted if:
- deportation would contravene Article 51 of the AA as described above;
- removal is not possible for other reasons.

For the purpose of this study only the first indent is relevant as the second indent encompasses cases where deportation is not permitted due to reasons such as lack of personal documents, lack of transportation, etc.

Extend of the permission to stay (Article 52 of the AA):
- for six months, or
- may be extended if the reasons still exist.

The permission to stay shall cease immediately when:
- there are no longer reasons preventing deportation or
- if the alien obtains a residence permit in the Republic of Slovenia on the basis of a legal act or international treaty (Article 53 of the AA).

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Aliens minors unaccompanied by their parents or other legal representatives and victims of trafficking in human beings

The act stipulates permission to stay for aliens minors who have entered the territory of the Republic of Slovenia unaccompanied by their parents or other legal representatives and who have entered illegally or illegally reside in the Republic of Slovenia (Article 60 of the AA) and for victims of trafficking in human beings (Article 38.a of the AA) on specific grounds.

In case of an alien minor unaccompanied by his/her parents or other legal representatives who has entered the territory of the Republic of Slovenia illegally or illegally resides in the Republic of Slovenia he/she must be immediately returned to the country of origin or handed over to representatives of the country of which he/she is a national. Exceptions as defined in the paragraph 2 of the Article 60 of the AA prohibit return of the minor to his/her country of origin or to a third country which is willing to accept him/her:
- until suitable reception is provided;
- in no case may unaccompanied minors be returned in violation of the European Convention on Human Rights and Basic Freedoms, adopted with Protocols 3, 5 and 8 and supplemented with Protocol 2 and its protocols 1, 4, 6, 7, 9, 10 and 11 (Ur. l. RS-MP, 7/94), the European Convention Against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment (Ur. l. RS-MP, 1/94), or the Convention on the Rights of the Child (Ur. l. RS-MP, 9/92) and the European Convention on the Exercise of Children's Rights” (Ur. l. RS-MP, 26/99).

In a case when a minor shall not be returned to his/her country of origin or to a third country which is willing to accept him/her, he/she shall be allowed to stay until his/her return to the other country.

A special category is also victims of trafficking in human beings as their permission to stay is conditional by their decision to participate as a witness in a criminal proceedings regarding the trafficking in human beings. Permission to stay is granted to the victim who resides illegally in the Republic of Slovenia, upon his/her own request or ex officio for a period of three months (Article 38.a of the AA).

Stay may be denied in exceptional circumstances for the following reasons:
- if residence of the victim of trafficking in human beings in the Republic of Slovenia would pose a threat to public order, security or international relations of the Republic of Slovenia or if it is suspected that his/her residence in the country will be connected with the commission of terrorist or other violent actions, illegal intelligence activities, possession of illicit drugs or the commission of other criminal acts, or
- if he/she comes from a region where infectious diseases are spread with a possible epidemic listed in the international health rules of the World Health Organisation or from regions where infectious diseases are spread which could threaten the health of people and which require the prescribed measures to be adopted pursuant to the act governing infectious diseases.

If a victim of trafficking in human beings is prepared to cooperate as a witness in criminal proceedings and his/her testimony is important, which is confirmed by the body competent for the criminal prosecution, his/her status shall be additionally regularized as a temporary residence permit may be issued to a victim of trafficking in human beings regardless of other conditions defined by this Act regarding the issue of a residence permit (paragraph 4 of the Article 38.a of the AA).
Temporary residence permits shall not be issued to victims of trafficking in human beings if:

- they have not fulfilled the conditions for the issue of a temporary residence permit;
- their residence in the Republic of Slovenia would pose a threat to public order, security or international relations of the Republic of Slovenia or if it suspected that their residence in the country will be associated with the commission of terrorist or other violent actions, illegal intelligence activities, drug trafficking or the commission of other criminal acts;
- during the procedure of the issue of a permit it is established that the victim comes from regions where infectious diseases are spread with a possible epidemic listed in the international health rules of the World Health Organisation or from regions where infectious diseases are spread which could threaten the health of people and which require the prescribed measures to be adopted pursuant to the act governing infectious diseases;
- during the procedure for the issue of a permit it is established that the victim has had voluntary contact with the suspect, defendant or the persons charged with the criminal offence of trafficking in human beings (paragraph 5 of the Article 38.a of the AA).

The temporary residence permit shall be issued to the victim of trafficking in human beings for the foreseen duration of the criminal proceedings, but for not less than six months or more than one year. The temporary residence permit may be extended upon the victim’s request, each time for the period of up to one year, until the criminal proceedings are concluded and provided that the conditions defined in this Article are fulfilled.
4. MECHANISMS AND PROCEDURES FOR RECOGNITION OF PROTECTION AND RIGHTS ACQUIRED FROM THE STATUSES

Procedure for recognition of international protection

Procedure for recognition of refugee status and the status of subsidiary form of protection is stipulated in the AIP, where in its Article 7 one of fundamental principles is laid down that is the principle of a uniform procedure in which the responsible authority shall establish the conditions for recognition, cessation and withdrawal of international protection and in case of subsidiary protection also the possibility of extension for each individual case separately. Article 34 also stipulates that the responsible authority shall establish the grounds for recognition of international protection in a uniform procedure, where it first assesses the grounds for the recognition of refugee status and only if these do not exist, grounds for recognition of subsidiary form of protection shall be established. Uniformity of the procedure has been introduced with transposition of the Council Directive 2005/83/EC dated on 1 December 2005 on minimum standards on procedures for recognition or withdrawal of refugee status in the Member states (hereinafter: Directive 2005/83/EC).10

Procedure for recognition of international protection may vary according to the lawfully grounds:

- a regular procedure;
- an accelerated procedure in which the responsible authority may decide on the application when it is able to fully establish the actual situation on grounds of facts and circumstances set out in indents 1 to 8 of Article 23 of AIP11, providing that they have been submitted (Article 54 of the AIP);
- specific procedures: subsequent application procedure, procedures at the airports and harbors, Dublin procedure and safe third country and European safe third country procedure.

Procedure for recognition of international protection may be divided into three phases:

- 1st phase: from expressing ones intent to file an application for international protection till filing of a complete application for international protection;

11 “In establishing the grounds for international protection, the public official considers especially:

- The information and the statement presented in the application;
- Information obtained from the personal interview
- Evidence submitted by the applicant;
- All documentation submitted by the applicant regarding the applicant's age, background, including the relatives’ background, identity, nationality, places of previous residence and place of previous permanent residency, previous applications, travel routes, identity and travel documents and the reasons for submitting the application;
- Evidence obtained by the responsible authority
- Official information available to the responsible authority
- Documentation obtained prior to the submission of application;
- General information on the country of origin, particularly on the social and political situation and the adopted legislation;…” (from Article 23 of the AIP).
- 2nd phase: from filing a complete application for international protection till issuing a decision of the competent body at the first instance;
- 3rd phase: procedure when filing legal remedies.

**1st phase:** AIP defines the “applicant for the international protection”\textsuperscript{12} as a third country national or a stateless person, who has submitted a full application for international protection. When an alien legally or illegally enters the RS, he/she has to express his/her intent of submitting the application for international protection as soon as possible. If the person indeed expresses such intent as soon as possible, he/she is not persecuted for a potential violation of illegal trespassing of the state border. The alien that expresses the intent to submit an application for international protection for the first time shall not be considered an alien according to the AA-1, but is referred to the police which establishes the person’s identity and the route by which he/she came to RS and takes the person’s statement on his/her grounds for international protection. After the statement is taken a policeman fills out the registration form. All these procedures are stipulated by articles 35 and 36 of IPA. After the procedure with the Police an alien is accommodated in the reception area of the Asylum Home where he is provided with appropriate food, essential hygienic material and access to emergency health assistance. If an alien voluntarily leaves the reception premises of the Asylum Home he shall be processed according to the Law relating to aliens. The person shall be informed on this matter immediately after his accommodation in the reception premises of the Asylum Home in a language the persons understands, which he shall confirm with a signature (Article 37 of the AIP).

A right to be informed as a basic procedural guarantee (see below the 2nd phase of the procedure) is defined in the Article 9 of the AIP which stipulates that an alien, who expressed an intent to lodge an application for international protection for the first time, shall receive a leaflet with information on the procedures stipulated in the AIP, rights and obligations of applicants, potential consequences in case of not fulfilling the obligations and not cooperating with the relevant authority, time-frames for appeals, a list of refugee counselors and a list and information on non-governmental organizations working in the field of asylum. A leaflet shall be provided in a language he understands, so the applicant has the opportunity to familiarize himself with its content prior to submitting the application. If the alien is illiterate or does not comprehend the content of the leaflet, the latter shall be in addition read to the person and, with the assistance of an interpreter, additionally explained in a language which he understands.

Before the first lodging of the application for international protection the alien shall undergo a sanitary-disinfecting and preventive medical screening (Article 38 of the AIP) and photographing and fingerprinting with the aim of establishment and verification of identity and implementation of the Council’s Regulation (EC) on the establishing of criteria and mechanisms for determining the Member State responsible for examining an asylum application lodged in one of the Member States by a third-country national No. 343/2003, dated on 18 February 2003\textsuperscript{13} (hereinafter: Regulation 2003/343/EC) and Council’s Regulation (EC) on the establishment of Eurodac for comparison of fingerprints with the purpose of

\textsuperscript{12} With the adoption of AIP that came into force on 4 January 2008, the term 'asylum seeker' has been replaced with the term 'applicant for international protection' (author’s comment).

\textsuperscript{13} Council’s Regulation (EC) on the establishing of criteria and mechanisms for determining the Member State responsible for examining an asylum application lodged in one of the Member States by a third-country national No. 343/2003, dated on 18 February 2003 (Off. G. 50 dating on 25 February 2003, p. 109.)
actual implementation of the Dublin Convention\textsuperscript{14} No. 2725/2000 dating on 11 December 2000 (hereinafter: Regulation 2000/2725/EC) (Article 39 of the AIP)

2nd phase: As per the AIP “an applicant for international protection”\textsuperscript{15} is a third country national or a stateless person who has submitted a complete application for international protection in the Republic of Slovenia. The application is complete when data from the 2\textsuperscript{nd} and the 3\textsuperscript{rd} paragraph of the Article 119 of the AIP are obtained (they are personal data of the applicant and his statement on grounds for international protection).

Responsible authority for accepting a complete application:
The complete application for international protection must be submitted to the Ministry competent for managing internal affairs (hereinafter: the ministry), which decides in the procedure for recognition of international protection on the first instance (Articles 33 and 3 of the AIP).

The manner of lodging the application and taking the application:
AIP stipulates also the manner of lodging the application and taking the application for international protection in Articles 42 and 43.
The application is lodged by:
- each adult individually and on his own behalf;
- for a minor applicant his legal representative shall lodge application. The minor applicant is present at the lodging of the application. The participation of a minor applicant in the procedure depends on his age, mental development stage and capability of understanding the significance of the procedure;
- a minor applicant older than 15 years of age shall give the statement on grounds for international protection himself in the presence of a legal representative;
- the applicant’s legal representative lodges the application of the applicant who cannot participate in the procedure independently. The applicant’s participation in the procedure depends from his capability of understanding the significance of the procedure.

The application shall be taken by:
- the public official of the ministry who shall, together with the applicant, fill out the application form, while the applicant shall autonomously present his statement on the reasons for lodging the application. The public official shall complement the statement on grounds of additional questions (Article 43 of the AIP);
- at the diplomatic or consular missions of the Republic of Slovenia in third countries (Article 41 of the AIP).

When an alien expresses his intent to submit an application to other state body or body of local community in the Republic of Slovenia, the body notifies the responsible authority.

Time-frames for issuing a decision:
The ministry shall take a decision in the shortest time possible, without prejudice to an adequate and complete examination. If the ministry is not able to decide on the application


\textsuperscript{15} With the adoption of AIP that came into force on 4 January 2008, the term 'asylum seeker' has been replaced with the term 'applicant for international protection' (author’s comment).
within six months, it shall notify the applicant in writing on the delay and present another
time-frame when the decision can be expected (Article 31 of the AIP).

**Fundamental procedural guarantees:**
Every applicant is granted the following procedural guarantees (Article 8 of the AIP):
- In the language the applicant understands he shall be informed on the asylum
  procedure in the Republic of Slovenia, on the rights and obligations during the
  procedure and the possible consequences of not fulfilling his obligations and not
  cooperating with the authorities (see 1st phase of the procedure);
- He shall receive the services of an interpreter according to the AIP;
- He shall not be denied the possibility of communication with UNHCR or with any
  other organization working on behalf of the UNHCR in the Republic of Slovenia;
- He shall receive the relevant authority’s decision in writing in the time-frame
  stipulated by the AIP and in a language he understands.

**A right to an interpreter** is defined in article 10 of the AIP, providing the right of the
applicant to follow the procedure in a language the person understands if he does not
understand the official language. The applicant is guaranteed with the assistance of an
interpreter:
- at the submission of the application,
- at the personal interview and
- in other substantiated cases in which such assistance would be necessary for the
  applicant’s understanding of the procedure, if the responsible authority decides so.
The applicant shall be informed on the content of the written decision in a language he
understands. Only the operative part of the decision, short summary of the grounds, from
which the decisive reasons for the decision are evident, and the legal caution shall be
translated to this language.

**Specific provisions regarding unaccompanied minors:**
Specific provisions (Article 16 of the AIP) have been adopted regarding unaccompanied
minors as in procedures where the applicant is unaccompanied minor it is necessary to:
- Take into consideration the principle of the minor’s best interest;
- Establish the minor’s identity as soon as possible and start with the process of tracking
down the minor’s parents or other relatives;
- Ensure priority treatment of the minor’s application;
- Appoint the minor a legal representative prior to the commencement of the procedure.
  A decision on the appointment of a legal representative shall be issued by the local
  Centre for Social Work. The legal representative may be the child’s relative or
  companion or a representative of the organization specializing in working with
  children and youth.
These provisions shall not apply for an unaccompanied minor who obtained a contractual
capacity by entering into wedlock.

Also other specific provisions regarding the procedure where the applicant is unaccompanied
minor apply due to his vulnerability and are stipulated in Article 16 of the AIP:
- the unaccompanied minor shall participate in the procedure in a manner suitable and
  adjusted to his age and mental development stage;
- the unaccompanied minor accompanied by his legal representative shall participate in
  all stages of the procedure;
- prior to submitting the application, the unaccompanied minor shall be, if he so wishes, orally informed on the content of the leaflet on the applicants’ rights and obligations. The manner in which this provision of information is performed shall be adapted to the minor’s age and the level of his mental development;
- the unaccompanied minor shall be provided with suitable accommodation and care. The legal representative shall be informed on the manner in which the accommodation and care are provided.

Specific provisions for procedures where the applicant is a female or a person who cannot participate in the procedure independently:
Some provisions apply only for females (Article 18 of the AIP) or persons who cannot participate in the procedure independently (Article 19 of the AIP) due to their vulnerability:
- Upon her request, female applicant may be entitled to a female person conducting the procedure;
- If possible, the female applicant shall be provided with assistance of a female interpreter;
- An applicant who cannot understand the significance of the procedure due to a temporary or permanent mental disability or illness or any other reason, shall be immediately appointed a legal representative for this procedure by the locally competent Center for Social Work which shall issue its decision on the basis upon a proposal of the ministry and on grounds of a medical certificate on the condition of health of the applicant;
- An applicant who cannot participate in the procedure independently shall be entitled to all necessary protection and basic care

Personal interview:
A very important institution of the procedure for granting international protection is a personal interview which is performed individually with the applicant by the public official (Article 45 of the AIP). The aim of performing the personal interview is to establish factual situation (especially grounds of the claim and other relevant facts and circumstances). Therefore, the public official may conduct several personal interviews for a single case.

A personal interview is never open for the public and all participants shall be informed on the confidentiality of the procedure prior to the commencement of the personal interview. But the exclusion of the public shall not apply to the applicant’s legal representative and counsellor and upon the applicant’s consent, also a representative of UNHCR, another public official or an employee of the responsible authority as well as scientists, students and public workers, if that bears significance for the scientific work and for the institution. Upon the applicant’s explicit wish the personal interview may also be attended by a person, selected by the applicant for assistance or support. (Article 47 of the AIP)

Article 46 stipulates that a personal interview may be omitted where:
- The responsible authority is able to take a decision in the accelerated procedure already on grounds of facts and circumstances referred to in sub-paragraphs 1, 3, 4, 5, 6, 7, and/or 8 of Article 23 of the AIP, if the latter occur;
- In cases of persons referred to in Article 19 of the AIP;
- In cases of processing the application in the context of the Dublin procedure and procedures according to the concepts of the national and the European safe third country and the first country of asylum.
**Applicant’s limitation of movement** as stipulated in Article 51 of the AIP:

If necessary, the applicant’s movement may be temporarily limited on grounds of:
- Establishing the identity of the applicant;
- Suspicion on misleading and abuse of the procedure, especially for reasons stated in sub-paragraphs four, five, six, seven, eight, nine, ten, twelve, fifteen and sixteen of the Article 55 of the AIP (see below), or
- Prevention the threat to other persons' life or property, or
- Prevention of the spread of contagious diseases;

Movement may be limited:
- To an area of the Asylum Home or its branch or
- To a designated facility of the Asylum Home or other appropriate facility of the Ministry.

Limitation of movement shall be ordered by a decision issued by the ministry. The written detention order shall be issued by the responsible authority within 48 hours from the oral sentence of the order. The limitation of movement may stay in effect until the grounds for it subsist, but not longer than three months. If after that time the grounds for the limitation of movement still exist, the limitation may be extended for a further period of one month.

An applicant has the right to appeal against the written detention order at the Administrative Court within three days after a decision has been served on him. The Administrative Court shall call for a hearing and decide on the appeal within three working days.

**Withdrawal of the application:**
Applicant may withdraw his application in oral or written way, regardless of the stage of the procedure (Article 50 of the AIP). Presumption of law when shall the application be considered withdrawn is stipulated by the act in the following cases:
- In spite of a received summon, the applicant fails to attend the interview or oral hearing without prior justification;
- The applicant fails to notify the responsible authority on the change of his address and thus the summons or other mail cannot be delivered to even in a repeated attempt;
- It appears clearly from the official records kept by the responsible authority that the applicant has left the Asylum Home or its branch without due notice and has not returned within 3 days from his arbitrary departure;
- Within three days from the notice made by the landlord or the Head of the institution to the responsible authority, the applicant has not returned to his declared residence when residing at such residence has been permitted.

After withdrawal of the application the ministry shall stop the procedure by the order and the applicant has to leave the Republic of Slovenia immediately after the order becomes final.

**Decision taken by the responsible authority at the first instance:**
The ministry determining the claim for international protection at the first instance may:
- Approve an asylum application in a regular or accelerated procedure, where it determines that the applicant meets the criteria for acquiring refugee status in the Republic of Slovenia pursuant to the AIP or a subsidiary protection status as set out in the AIP;
- Reject an application as being unfounded in the regular procedure;
- Reject an application as being unfounded in the accelerated procedure.
As stipulated in the Article 53 of the AIP the ministry shall reject an application as being unfounded in a regular procedure if:
- It establishes that the applicant, in considering the facts and circumstances of Article 23 of the AIP, does not meet the conditions for granting international protection;
- Any exclusion reasons under Article 5 of the AIP exist (see above).

In accordance with the Article 55 the ministry shall reject an application as being manifestly unfounded in an accelerated procedure if:
- The applicant came to the Republic of Slovenia due to economic reasons exclusively;
- The applicant, in submitting his application has only raised issues that are insufficient, not relevant or of minimal relevance to the examination of whether he qualifies for international protection according to the AIP;
- The applicant clearly does not meet the conditions from international protection according to Articles 26 and 28 of the AIP;
- The applicant has mislead the authorities by presenting false reasons, in particular when his statements are inconsistent, contradictory, improbable and inconsistent with the information on the country of origin referred to in indent 8 of Article 23 of the AIP;
- The applicant has failed without reasonable cause to make his application earlier, having had opportunity to do so;
- The applicant has submitted the application merely in order to delay or frustrate the enforcement of his removal from the country;
- The applicant refuses to have his fingerprints and photograph taken;
- The applicant has grounded his application on false information with respect to his identity or forged documents or has withheld relevant information or documents with respect to his identity and/or nationality;
- The applicant has intentionally destroyed or alienated a travel document, an identity document with a photograph, revealing his identity or nationality or other document containing a photograph that would have helped establish his identity or nationality;
- The applicant has intentionally destroyed or alienated other documentation (documents, tickets, certificates etc.) that could bear significance in establishing his identity, nationality or eligibility for obtaining international protection;
- The applicant, in spite of his assurance, failed to submit documentation and facts from indent 4 of Article 23 of the AIP in the set time-frame;
- The applicant has filed another application for asylum stating other personal data;
- The applicant is coming from a safe country of origin;
- The applicant presents a danger to the national security or public order of the state, and due to these reasons, a title of execution of leaving the country has been served on him as a secondary sentence, or the title of execution for leaving the country has already been exercised, while the deadline for prohibiting him entry to the European Union has not yet expired;
- The applicant has withheld the fact that he already filed an application in another state, particularly in case of him/her stating other personal data;
- The applicant has made an attempt to illegally enter another state before the decision of the responsible authority was taken and was apprehended by the Police, or has already performed an illegal entry to another state and has been returned to the Republic of Slovenia.

3rd phase: Judicial protection
The procedure of judicial protection is defined in the Chapter IX. of the AIP in Articles 74 to 77. The judicial protection is a two-stage: at the first stage decides the Administrative Court of the Republic of Slovenia while appeals against decisions of the Administrative Court are decided by the Supreme Court of the Republic of Slovenia.

**Time limits for lodging lawsuits against a decision of the ministry** differ as to procedure namely:
- when the decision has been taken in a regular procedure, a lawsuit may be submitted within 15 days following the service of the decision;
- when the decision was taken in the accelerated procedure, a lawsuit may be submitted within 3 days following the service of the decision.

In both cases a lawsuit against a decision on the rejection of the application holds the execution.

Support and legal assistance to the applicants in procedures for international protection before the Administrative Court of the Republic of Slovenia and the Supreme Court of the Republic of Slovenia, is provided by refugee counsellors. Refugee counsellors are lawyers who have passed state legal exam and are able to represent an applicant in court procedures (Article 13 of the AIP).

Judicial protection is also provided for when orders are issued as a lawsuit against any order issued in line with the AIP, except when the police issued and order accommodating a person who lodged a subsequent application, may be submitted within 3 days following the service of the order.

**Time-frames for issuing a decision:**
The Administrative Court shall decide on the lawsuit:
- against a decision taken in a regular procedure within 30 days, or
- against a decision taken in the accelerated procedure within 7 days after the submission of the lawsuit and
- against an order issued in accordance with the AIP within 7 days, unless stipulated differently with the AIP.

The Supreme Court shall decide on the appeal within 15 days upon its submission.

**Obligation to leave the Republic of Slovenia:**
Articles 52 and 76 of the AIP stipulate obligation to leave the Republic of Slovenia immediately or within the set time-frame after the decision’s executability in case of personal circumstances.

If a person does not leave the Republic of Slovenia voluntarily, that is immediately or within the set time-frame after the decision’s executability, he shall be removed from the country in line with the Act relating to aliens. A person residing in the Asylum Home or its branches is handed over to the Police in order to remove the person as soon as the execution of the responsible authority’s decision is possible or the decision becomes final. If the person is accommodated at a private address as per the Article 83 of the AIP, the ministry notifies the Police on the executability of the decision. The Police shall inform the responsible authority in a timely manner on the removal of persons included in the procedures according to the AIP from the Republic of Slovenia.
Constitutional Complaint:
A constitutional complaint does not hold the execution of a decision. The AIP in Article 77 stipulates the possibility to submit a constitutional complaint within 15 days from the service of an individual act against which constitutional complaint is allowed according to the law, regulating procedure with the Constitutional Complaint of the Republic of Slovenia.

Removal from the country and procedure for granting permission to stay
When an alien applies for any protection status in the Republic of Slovenia and in a lawful procedure well-foundeness of his claim is not determined, the alien shall be in accordance with Article 50 of the AA removed from the country. The AA stipulates the procedure for removal of the alien and the removal may be on a voluntary basis or forced. Voluntary removal shall mean removal whereby the alien cooperates with the police. The police may also cooperate with other national or international bodies or non-governmental organisations in the voluntary removal of an alien (paragraph 2 of Article 50 of the AA). An alien who does not leave the country voluntarily or due to some other reasons (for example, on whom the additional sentence or the ancillary sanction of expulsion from the country has been imposed, etc.) shall be deported from the country (paragraph 3 of Article 50 of the AA). An alien may be deported from the country only if the decision on the basis of which the alien is obliged to leave the country is executable (paragraph 4 of Article 50 of the AA).

But in case of deportation the principle of non-refoulement as per Article 51 of the AA would be violated, an alien is in accordance with the paragraph 1 of Article 52 of the AA granted permission to stay.

Expiration of the permission to stay:
Permission to stay shall be issued by the competent body at the request of the alien, or ex officio, for a period of six months. Permission may be extended for as long as the conditions specified in the preceding paragraph exist. Permission to stay shall not cancel or in any way change the alien’s obligation to leave the country (paragraphs 3 and 5 of Article 52 of the AA).

Place of residence:
In the decision with which it permits an alien to stay in the Republic of Slovenia, the competent body shall determine the alien’s place of residence which could be:
- at a specific address (paragraph 4 of Article 52 of the AA) or
- at the centre for foreigners (hereinafter: Centre) when his movement has been limited (paragraph 1 of Article 56 of the AA), but in case an alien is not possible to be accommodated at the Centre due to special reasons or needs may, in agreement with the social security office and with the costs borne by the Centre, be accommodated at a social security facility or provided with other appropriate institutional care (paragraph 3 of Article 56 of the AA).

Accommodation in the Centre shall be ordered by the police by the time of his

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16 The deportation or return of an alien to a country in which his/her life or freedom would be endangered on the basis of race, religion, nationality, membership of a special social group or political conviction, or to a country in which the alien would be exposed to torture or to inhumane and humiliating treatment or punishment, shall not be permitted.
removal from the country in cases when an alien has failed to leave the country by the specified deadline and who for whatever reason could not be removed immediately, or in cases where the identity of the alien was not known. Such limitation of movement can be ordered for no longer than six months.

A stay under **strict police supervision** in the Centre which shall be deemed to be the confinement of free movement to the premises of the Centre in accordance with the Centre's house rules may be imposed on the alien by the police if:

- there is a suspicion that the alien will attempt to avoid deportation or if he has already avoided this measure,
- this is required by reasons relating to public order, national security or international relations.

A stay under strict police supervision may only be ordered as long as it is necessary to remove an alien but no longer that six months (Article 57 of the AA).

An alien’s accommodation at the Centre or outside the Centre and accommodation under stricter police supervision shall be ordered by the police with a decision, against which the alien may file an appeal with the Minister responsible for the interior within eight days of the receipt of a written copy of the decision. An appeal shall not withhold the execution of the decision. An appeal shall be decided upon by the Minister within eight days. An administrative dispute may be initiated against the decision to appeal. The administrative court must decide on an appeal against decision on the accommodation of an alien in the Centre and arrangement of residence under stricter police supervision within eight days (Article 58 of the AA).

If for objective reasons it is not possible to deport an alien even after six months have passed, the police may extend accommodation and stay under stricter police supervision at the Centre for a further six months if it is realistic to expect that it will be possible to deport the alien within this time and, in particular, if:

- the procedure for determining identity is still in progress, or
- the procedure for acquisition of documents for the deportation of the alien is still in progress, or
- if the extension is necessary for security reasons.

But the police may determine another place of accommodation for the alien outside the Centre until his deportation, where he must observe the rules on accommodation outside the Centre; the alien may otherwise be accommodated at the Centre again. The police may adopt such measures even before six months have passed if, for objective reasons, it is not realistic to expect that the alien will be deported from the country within that time (paragraphs 4 and 5 of Article 58 of the AA).

In accordance with Article 59 the police may apply also more lenient measures from accommodation of an alien at the Centre if they believe that they will thereby accomplish their purpose. In such cases the police may allow an alien to stay outside the Centre, where it may determine the place of stay. Furthermore, the police may restrict the movement of an alien to his place of residence, and impose on him the obligation to report regularly to the nearest police station.

**Cessation of accommodation at the Centre:**
The accommodation of an alien at the Centre shall according to Article 61 of the AA cease when:
- all reasons for it cease to exist or when its purpose has been achieved, or
- at the request of an alien if the police determine that the conditions are in place for more lenient measures in accordance with the AA.

**Procedure for granting an alien minor unaccompanied by their parents or other legal representatives permission to stay**

Article 60 of the AA stipulates the procedure with aliens minors. An alien minor who has entered the Republic of Slovenia illegally unaccompanied by their parents or other legal representatives or who illegally resides in the Republic of Slovenia must be immediately returned to the country of origin or handed over to representatives of the country of which he/she is a national.

If this is not possible, the police shall notify the Centre for Social Work which must immediately assign a special custodian to the minor upon act regulating matrimony and family relations (hereinafter: ZZZDR). The police shall temporarily accommodate the alien minor in the Centre, in a special division for minors. Upon the proposal of the special custodian or with his/her prior consent, the police may also find another, more suitable form of accommodation for the minor if it establishes during the procedure that accommodation under the supervision of a social security body is more beneficial for the minor.

In the case of minors under 16 years of age, stricter police supervision may be ordered only exceptionally, whereby they must be accompanied by both or at least one of their parents. Residence under stricter police supervision for an unaccompanied alien minor cannot be ordered.

**Procedure for granting permission to stay and temporary residence to victims of trafficking in human beings**

The police shall allow a victim of trafficking in human beings who resides illegally in the Republic of Slovenia to, upon his own request or ex officio, if he decides to participate as a witness in criminal proceedings regarding the trafficking in human beings and his testimony is important, which is confirmed by the body competent for the criminal prosecution further regularize his status, namely to be granted temporary residence permit (paragraph 4 of Article 38.a of the AA). The victim of trafficking in human beings shall be issued a subsequent temporary residence permit on other grounds for residing temporarily in Slovenia if he fulfils the conditions for issuing of such permission. The application for such permission should be lodged prior to the expiration of the period of the allowed residence (paragraph 10 of Article 38.a of the AA).

Temporary residence permits shall not be issued to victims of trafficking in human beings if:
- they have not fulfilled the conditions for the issue of a permit as defined in the previous paragraph;
- their residence in the Republic of Slovenia would pose a threat to public order, security or international relations of the Republic of Slovenia or if it suspected that their residence in the country will be associated with the commission of terrorist or other violent actions, illegal intelligence activities, drug trafficking or the commission of other criminal acts;
during the procedure of the issue of a permit it is established that the victim comes from regions where infectious diseases are spread with a possible epidemic listed in the international health rules of the World Health Organisation or from regions where infectious diseases are spread which could threaten the health of people and which require the prescribed measures to be adopted pursuant to the act governing infectious diseases;

- during the procedure for the issue of a permit it is established that the victim has had voluntary contact with the suspect, defendant or the persons charged with the criminal offence of trafficking in human beings. (paragraph 5 of Article 38.a of the AA).

Rights deriving from statuses

Rights of applicants for international protection

As per Article 78 of the AIP applicants for international protection by lodging a complete application obtain the following rights:

- Reside in the Republic of Slovenia;
- Follow the procedure in a language he understands;
- Obtain information;
- Basic care in the case of accommodation in the Asylum Home;
- Financial assistance in the case of private accommodation;
- Free legal aid in procedures before the Administrative and the Supreme Court until a decision becomes final;
- Health care;
- Education;
- Work and employment;
- Humanitarian assistance.

An applicant shall remain eligible until the execution of the decision of the responsible authority or at most until the decision becomes final.

The right to basic care shall entail in accordance with Article 79 of the AIP the following:

- Accommodation
- Food
- Clothing and footwear
- Hygiene necessities.

Accommodation:

Applicants shall be accommodated in the Asylum Home or its branches where basic care shall be provided. Those applicants who can rely on their own financial resources or whose living expenses are provided for in some different way shall bear their expenses or contribute a proportionate share of funds for covering their cost for accommodation in the Asylum Home or its branches.

In exceptional cases an applicant may be accommodated in other appropriate institutions if accommodation cannot be provided at the Asylum Home or its branches. An applicant may also be allowed to accommodate at a private address if his identity has been established, appropriate conditions are guaranteed at a private address and a personal interview with the applicant has already been performed. Regardless of these conditions accommodation at a private address may be allowed also due to substantiated medical or other reasons established by the ministry. The applicant shall obtain financial assistance if in other appropriate
institution or at a private address does not have secured free accommodation or care and does not have his own financial resources. (Article 83 of the AIP)

**A right to health care** includes as per Article 83 the following:

1. Emergency medical care, emergency ambulance transportation upon a doctor’s decision, and emergency dental care;

2. Essential treatment according to the decision by the physician responsible for 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 in accordance with a list of exchangeable medications’ substitutes issued on the basis of a prescription for treatment of the states specified above;

3. Medical care for women: contraceptives, abortion and medical care during pregnancy and at giving birth.

A vulnerable person with special needs and exceptionally some other applicant shall have the right to additional medical services, approved and defined by the commission appointed by the minister.

**A right to employment and work:**

Article 85 of the AIP stipulates conditions for exercising the right to work and employment. An applicant may work if the following conditions exist cumulatively:

- his identity is indisputably established;
- one year after lodging the application has passed, if in this period of time the relevant authority did not yet take a decision and this delay cannot be attributed to the applicant;
- the applicant acquired a work permit in line with the established regulations in the field of the employment and work of aliens. The applicant may obtain a work permit for the period of three months with a possibility of its extension until finality of the procedure or annulment in case of cessation of his status of applicant.

After expiration of one year after lodging the application, the applicant may be given access to vocational training.

At the Asylum Home, an applicant may assist with activities relating to maintenance. For adequately performed work he shall receive remuneration (Article 82 of the AIP). This possibility is not a right to work and the applicant may assist with activities relating to maintenance before one year has passed from lodging the application.
A right to education (Article 86 of the AIP):
In accordance with the regulations setting out the obligatory primary education, the applicants are granted the right to primary education. Applicants are enabled access to education at the vocational and secondary schools under the same criteria that apply to citizens of the Republic of Slovenia.

A right to humanitarian assistance (Article 87 of the AIP):
Humanitarian assistance provided mostly by the non-governmental, intergovernmental and governmental organizations active in the humanitarian field of work, entails mostly the provision of material, cultural and psychosocial assistance, organized babysitting services, education of children, youth and adults and other forms of assistance to the applicants.

Rights of persons with refugee status
In accordance with Article 89 of the AIP a refugee shall have the right to:
- Information on the status, rights and obligations of persons with international protection in the Republic of Slovenia;
- Permanent residence in the Republic of Slovenia;
- Accommodation in the accommodation capacities of the Ministry;
- Financial assistance for private accommodation;
- Health care;
- Social care;
- Education;
- Employment and work;
- Assistance with integration;

A right to provision of information as per Article 90 of the AIP guarantees that the Ministry shall provide a refugee with information necessary for facilitation of his integration, particularly in the field of accommodation, financial assistance, social and health care, education, employment and free legal assistance, in the Slovene language and in a language the refugee can understand,

By acquiring refugee status a decision according to which the applicant is recognized refugee status shall be considered as a permanent residence permit in the Republic of Slovenia from the day the decision has been served (Article 91 of the AIP).

Accommodation (Articles 92 and 93 of the AIP):
- From the day of service of the decision on the recognition of refugee status for a maximum period of one year:
  - in an integration house or in other accommodation facilities of the Ministry: from the day of service of the decision on the recognition of refugee status for a maximum period of one year;
  - period of accommodation in the Integration House or other capacities of the ministry may extend for maximum period of six months, in case of well-founded medical reasons or other reasons assessed by the ministry;
  - in case of family reunification on the basis of this Act, the procedure of accommodating of family members shall start upon the day of arrival of family members. Due to family unity, a refugee who exercised his right to family reunification shall be accommodated together with the family;
- in private accommodation from the day of service of the decision on the recognition of refugee status. In such case, he covers the costs and he is not entitled to financial assistance for private accommodation after one year has passed after the day of service of the decision on the recognition of refugee status.

- after one year has passed:
  - a refugee shall be eligible for financial assistance for private accommodation for a maximum period of two year, but only when he does not have any means for living or his living expenditures are not guaranteed to him in any other manner;
  - a refugee who was as an unaccompanied minor accommodated in a special centre for accommodation of minors or in other facility, suitable for minors, and has become an adult during his accommodation, is eligible for financial assistance for private accommodation in the following two years after completion of his accommodation in these centres.

In case that the Ministry cannot provide accommodation in the integration house or other accommodation facilities of the Ministry, a refugee is eligible for financial assistance for private accommodation for a maximum period of three years after granting him refugee status, and family members from the time of their arrival.

**A right to health care** as per Article 94 of the AIP:
- Refugees are entitled to health care under the same conditions as the nationals of the Republic of Slovenia.
- Refugees with special needs e.g.: pregnant women, disabled people, persons who have undergone torture, rape or other serious forms of psychological, physical or sexual violence or minors who have been victims of any form of abuse, neglect, exploitation, torture, cruel, inhuman and degrading treatment or who have suffered from armed conflict shall be granted adequate health care under the same criteria as the nationals of the Republic of Slovenia.

If a refugee has no financial means of his own or his living is not provided for in any other way, the costs of the additional health security shall be covered by the ministry.

**A right to social care** as per Article 95 of the AIP:
In exercising the social care rights, refugees shall be treated equally as nationals of the Republic of Slovenia. Ministry competent for social care provides means for social care of refugees.

**A right to schooling and education** as per Article 97 of the AIP:
- Refugee minors have equal rights in the field of elementary and secondary school education as nationals of the Republic of Slovenia.
- Adult refugees are granted equal access to the general education system and under the same conditions as aliens legally residing in the Republic of Slovenia.

**A right to employment and work** as per Article 98 of the AIP:
- Refugees exercise the rights in the field of employment and work according to the regulations relating to employment and work of aliens.
- Refugees exercise the rights deriving from an unemployment status in accordance with the regulations related to employment and insurance for the case of unemployment.

**A right to assistance with integration** (Article 99 of the AIP):
A refugee is provided assistance with integration for a maximum period of three years from the day of recognition of refugee status in the Republic of Slovenia. The assistance consists mostly of the following activities:

- Preparation and implementation of a personal integration plan;
- Organization of Slovene language classes;
- Organization of classes of familiarizing with the Slovene history, culture and constitutional system of the Republic of Slovenia.

Specific provision regarding unaccompanied minors with refugee status (Article 96 of the AIP):

**General rules:**
In working with unaccompanied minors refugee status, competent person shall:
- consider the principle of the best interest for the child;
- begin with the procedure of tracking down the minor’s parents or other relatives as soon as possible;
- appoint a legal representative immediately after the recognition of international protection.

**Legal representative:**
For the period from granting with refugee status a decision on the appointment of a legal representative is issued by a local Centre for Social Work. As a legal representative a relative or a unaccompanied minor’s companion or a representative of the organization specialized in working with children may be appointed.

**Accommodation:**
A unaccompanied minor with refugee status shall be accommodated together with adult relatives, foster family or in special centres for accommodation of children or in another form of accommodation suitable for children. As far as possible, siblings shall be provided with a joint care and accommodation, taking into account in particular their age and degree of maturity.

**Rights of persons with subsidiary protection**
In accordance with Article 101 of the AIP a person with subsidiary protection shall have equal rights and obligations as a refugee, except for a right to permanent residence in the Republic of Slovenia.

**Rights of aliens who have been permitted to stay temporarily**
An alien who has been permitted to stay temporarily in the Republic of Slovenia has a right to:
- emergency health care in accordance with law on health protection and health insurance;
- basic care;
- elementary schooling if aliens are still obliged to educate at elementary level (Article 55 of the AA).
If an alien is accommodated in the centre, he shall have in accordance with a regulation\textsuperscript{17} (hereinafter: regulation) secured accommodation and food as a basic care (Article 5 of the regulation).

An alien in need of medical assistance it shall be provided for within the premises of the centre, unless hospitalization is required (Article 7 of the regulation).

**Rights of victims of trafficking in human beings:**
In accordance with Article 38.a of the AA a victim of trafficking in human beings who has been permitted to stay temporarily the following rights of which the victim has to be notified by the police and nongovernmental organisations:

- rights which are as per the AA granted to aliens with permission to stay, namely:
  - a right to emergency health care pursuant to the act regulating health care and health insurance,
  - a right to basic care,
  - a right to elementary schooling if aliens are still obliged to educate at elementary level
- a right to free interpretation and translation.

If a victim of trafficking in human beings has been issued a temporary residence permit and has no means of subsistence, has the following rights:

- a right to emergency health care pursuant to the act regulating health care and health insurance,
- a right to basic care same as aliens which are allowed temporary stay in the Republic of Slovenia,
- a right to employment or work in the Republic of Slovenia under conditions defined by the act regulating the employment and work of aliens.

5. STATISTICS ON PROTECTION

For the purpose of providing statistical overview the data has been obtained from the following state authorities:

1. International Protection Status Section, International Protection Division, Migration and Integration Directorate, Ministry of the Interior
2. Centre for foreigners, Uniformed Police Directorate, General Police Directorate, Police, Ministry of the Interior

All state authorities have been kindly asked to provide in accordance with the Specifications for EMN study: The different national practices concerning granting of non-EU harmonised protection statuses\(^{18}\) the following data:

- the state authority from indent 1 on persons in procedures on granting international protection:

  1. number of applicants for international protection (before the year 2006 applicants for asylum) for the period from 2004 to 2008, disaggregated by gender, age, nationality or statelessness;
  2. number of refugees, persons granted asylum for humanitarian reasons (before 2006, when international protection was introduced while asylum for humanitarian reasons was abrogated) and persons with subsidiary protection for the period from 2004 to 2008, disaggregated by gender, age, nationality or statelessness;

- the state authorities from indents 2 and 3 on persons in procedures for granting permission to stay:

  1. number of persons with permission to stay for the period from 2004 to 2008, disaggregated by gender, age, country of origin;
  2. number of persons with permission to stay for the period from 2004 to 2008, disaggregated by gender, age, country of origin, who were before applicants for international protection but were issued unfounded decisions;
  3. number of persons with permission to stay for the period from 2004 to 2008, who were stateless, disaggregated by gender, age, country of origin;
  4. number of persons with permission to stay for the period from 2004 to 2008, who were victims of trafficking in human beings, disaggregated by gender, age, country of origin.

Obtained have been the following statistical data:

- Data regarding applicants for protection and persons granted protection:

\(^{18}\) European Migration Network, Specifications for EMN study »The different national practices concerning granting of non-EU harmonised protection statuses«, Final version: 11th May 2009.
### Table 1:
NUMBER OF APPLICANTS FOR INTERNATIONAL PROTECTION AND FOR ASYLUM FOR HUMANITARIAN REASONS

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Key: M – male; F - female

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NUMBER OF PERSONS GRANTED REFUGEE STATUTE, ASYLUM FOR HUMANITARIAN REASONS AND SUBSIDIARY PROTECTION

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</table>

Key: R – refugee; HA – humanitarian asylum; S – subsidiary protection; T – total

As per data provided by the state authority the data disaggregated by age were not compiled until the year 2008. In 2008 40 applicants were under 18 years of age and 220 adults.
- Data on persons with permission to stay:

Data obtained from the Border Police Division:

Table 5:

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Key: M – male; F – female; Mi – minor; A - adult

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Key: M – male; F – female; Mi – minor; A - adult
* Country of origin = Croatia
** Country of origin = Kosovo

Table 10:

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</table>

Key: M – male; F – female; Mi – minor; A - adult
* Country of origin = Kosovo
Data obtained from the Centre for foreigners:

As per information provided by the Centre for foreigners they do not register procedures as per Article 51 of the AA.

Also they do not register data on aliens who as per Article 51 of the AA were not deported, but who were issued unfounded decision in procedures for granting protection. Nevertheless the Centre for foreigners issued a few decisions as per indent 2, paragraph 2 of the Article 52 of the AA to aliens whose procedure for granting protection has been final, but could not be deported from other reasons and not for reason of prohibition of deportation (indent 1, paragraph 2 of the Article 52 of the AA). The data is the following:

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In the Centre for foreigners have registered few cases when stateless persons were issued with permission to stay, but accurate data is not available.

In the Centre for foreigners cases when victims of trafficking would be issued with permission to stay were not registered.
5. NATIONAL OPINIONS ON THE GRANTING OF PROTECTION

Through submitted questionnaires representatives of the state authorities competent for protection and representatives of the nongovernmental organisations working in the field of protection have been requested to provide their opinion on forms of protection, on positive and negative impacts that different forms of protection bring, on the necessity to harmonize national forms of protection, on rights of persons and procedures conducted as well as on the public opinion on protection.

Opinions expressed are the following:

1. To a question whether they believe that the existing forms of protection are satisfactory or additional forms of protection should be introduced for reasons that the present legislations does not foresee (for example for reasons of environmental changes, medical reasons, etc.) and whether they are familiar with any good practices, the opinion of the state authorities are that the present legislation is satisfactory.

The opinion of nongovernmental organisations strongly differ as all interviewed representatives expressed the need to introduce forms of protection which would enable also granting protection for other reasons for which persons seek protection, especially for different humanitarian reasons such as medical condition, environmental changes, etc. Nongovernmental organisations have pointed out also that most of the EU Member States have also other forms of protection, especially for humanitarian reasons.

2. To a questions if they believe the national forms of protection have positive or negative impacts and which are these impacts the International Protection Status Section responded that they have negative impacts as they disable harmonization of international protection at the EU level and consequently also other EU legislation in the field of migration by extending it also so that is applicable to persons with international protection. The Centre for foreigners is of an opinion that permission to stay has a negative impact in cases when removal is not possible for »other reasons« and not for reasons of contravening Article 51 of the AA since most of these aliens do not cooperate in procedures not even after permission to stay has been issued which only brings to extension of the period of this non-regularised status in the Republic of Slovenia which also leads to black labour, loosing of contacts with relatives in a country of origin, reduction of possibilities to obtain relevant documents, etc.

The opinion of nongovernmental organisations has been opposite from the one of the state authorities as they believe that national forms of protection bring positive impacts as merely their existence show the necessity for existence of other forms of protection apart from international protection. But as a negative impact they assess the uncertainty of those statuses like permission to stay in the Republic of Slovenia which can be issued for a longer period of time, but later cannot be regularized that is grounds for acquiring other statuses cannot be fulfilled.

3. To a question whether in their opinion it would be necessary to harmonize non-harmonized forms of protection at the EU level, the state authorities have replied
negative (International Protection Status Section) or that it would be practically impossible to harmonize them as the national aliens legislation of the EU Member States is so different which was also seen when the Returns Directive (EC/2008/115) was in the process of adoption.

Nongovernmental organisations are more reserved regarding the harmonization of the national forms of protection as they believe that even the international protection has not been implemented properly in some of the EU Member States and therefore believe it should be left to the states to regulate national forms of protection. But if the EU believes that such forms of protection should be harmonized and the level of protection brought to a higher level, such harmonization should be done by adoption of directives.

4. The public opinion on the matter of protection statuses is not known as the competent institutions have not researched it. But the Centre for foreigners responded to a question what is the public opinion on forms of protection and persons with protection that it is difficult to realistically assess the public’s position since no researches on this matter have been conducted but in their opinion the public is not aware of these procedures as the measure of permission to stay is imposed only to a relatively low number of aliens. But in their opinion any raising awareness in advance on persons with permission to stay and their needs is inappropriate, although are willing to answer any question from the public with regard to the institute of permission to stay. The nongovernmental organisations also responded that the public opinion on permission to stay is nonexistent as it is a not very recognised institution, while the civil society working in this field is familiar with it. If any public opinion on this institution exists then it is most likely confused with refugee status. But from the nongovernmental organisations’ experience the attitude of the public is negative especially as the added value of such forms of protection and persons with protection like multicultureness is not recognised.

Regarding international protection and the public opinion on it the International Protection Status Section responded that it is very heterogeneous which does not allow for assessment of the general public’s opinion. But, based on their experience they assess that mostly the youth show interest in lives of persons with international protection. The Sector is also aware of the importance of raising awareness of the public which they try to follow when preparing programs funded by the EU when some of the funds are allocated also for these activities. Regarding international protection the opinion of the nongovernmental organisations is that the public opinion is mostly negative and that the state authorities should financially support for analysis of the public opinion or to include such analysis into the existing Slovenian Public Opinion Survey prepared by the Public Opinion and Mass Communication Research Centre at the Faculty of Social Sciences. At the same time the state authorities do not raise awareness of the public enough as mostly activities for raising awareness are too narrow (preparation of brochures, posters, etc.) to have overall impact.

5. A strong decline of number of applications for international protection and of persons with recognised forms of protection is, in the opinion of the International Protection

19 http://www.cjm.si/cjm_english.
20 As per statistical data obtained from the International Protection Status Section, International Protection Division, Migration and Integration Directorate, Ministry of the Interior for the purpose of preparation of this
Status Section a result of a number of filed applications and of actual situation of each individual case.

The opinion of the nongovernmental organisations on the decline of number of applications for protection is based on change of migrations flows as the route across the Balkan has become too expensive due to strengthened border control (for example, in Macedonia, Serbia and mostly Croatia which is the candidate country for accession to the EU) and due to implementation of national migration policies. A decline of number of recognised statuses is in the nongovernmental organisations’ opinion a result of lower number of filed applications for protection, the fact that most applicants come from ex-Yugoslav republics which prevents them from being granted protection unless asylum for humanitarian reasons would be reintroduced and as a result of a fact that some applicants come from other areas on which decision makers don’t have appropriate knowledge to recognise the need for protection.

6. The scope of rights within permission to stay status is in the Centre for foreigners’ opinion, taking into account the fact that temporary stay on the territory of the Republic of Slovenia is permitted to an alien who does not have any legal title (residence) to remain on the territory, high and allows for a high standard of protection. The same applies to vulnerable groups - aliens. In both cases protection is granted to those persons who cannot or are not willing to benefit from international protection, but should not be removed from the country. On the other hand the nongovernmental organisations believe the scope of rights to be too narrow as differences exist even between those person accommodated at the centre and those accommodated in private facilities. The later should receive some kind of financial aid that would allow for accommodation and care as it is not proper to condition the care by having to remain at the centre. Also the possibilities to regularize status are poorly regulated since after a year of being accommodated in the centre there is a lack of possibilities to apply for any other status in accordance with the current legislation. Therefore, the centre often becomes a »service« body, trying to arrange a status to be able to accommodate person outside the centre. At the same time these persons are prohibited from being able to work, educate themselves, the level of health care is too low as it only allows for the emergency health care.

An overall opinion of the nongovernmental organisations is that a more systematic approach to resolve this problem is needed, with more rights and a better overview of the needs of these persons.

Concerning victims of trafficking the opinion of the nongovernmental organisations is that the current health care is not satisfactory as victims rarely arrive with an acute health situation but often need long-term medical treatment with medicine, hospitalization, etc. Therefore Association Ključ as a specialized organization for working with victims of trafficking seeks help at a health care centre for persons without legal status but this should not depend on ad hoc solution and sporadic funding provided through different projects. Besides, Association Ključ has to provide within basic care to a victim of trafficking due to his or her special status basic care at even higher level, providing also personal and technical security, psychosocial and

study, in 2004 1208 persons applied for protection (39 persons were recognised protection), in 2005 1674 persons applied (recognised: 26), in 2006 579 (recognised: 9), in 2007 434 (recognised: 9) and in 2008 260 (recognised: 4).
legal aid, aid of an interpreter, etc. which is also funded through different projects which depend on availability of funding and willingness of donors to fund such activities. Also, Association Ključ provides (re)integration into a social environment which is something that should be available to all persons with permission to stay.

7. The scope of rights of applicants for international protection is in the International Protection Status Section’s opinion sufficient, taking into account the fact that apart from rights deriving from the law applicants are also guaranteed psychosocial help and everyday workshops which improve the quality of their lives (such as Slovenian language courses, help with learning, assessing vulnerability and providing help to vulnerable persons which is provided by implementers of programs funded from the EU). On the other hand the nongovernmental organisations have the opinion that also the scope of rights of applicant for international protection is too narrow to some extent especially regarding the access to the labour market and lack of any monetary aid (even in a form of pocket money which was provided by the law in the past) that would enable an individual some self-dependence and independence.

8. Regarding procedures for granting international protection the International Protection Status Section assess the procedure as allowing procedural guarantees to a satisfactory level (for example, oral and written informing before start of the procedure, a right to interpreter, access to nongovernmental organisations and UNHCR, legal aid, etc.), allowing both access to the procedures as well as efficient presentation of reasons for protection. The nongovernmental organisations on the other hand believe the level of procedural guarantees is too low, especially lack of possibility to omit personal interview which has been used too many times, a right to free legal aid is not provided at the first instance where it should be the most needed, adversary nature should be introduced at more larger scale and also putting more effort into raising awareness of decision makers in the procedures.
6. CONCLUSIONS

In Slovenia three protection statuses exist, namely the EU harmonised refugee status and subsidiary protection and the national level permission to stay foreseen in cases when deportation from the country would contravene prohibition of deportation which is in accordance with the internationally accepted principle *non-refoulement*.

For establishing the grounds for fulfilling the criteria for harmonised protection statuses a unified procedure conducted by the same authority (International Protection Division within the Ministry of Interior) exists, while the procedure for granting permission to stay is conducted by the Police.

The scope of rights deriving from the harmonised protection statuses greatly differ from the scope of rights deriving from the permission to stay as the latter only allows for the most basic care and emergency health care.

The statistical data show a strong decline of number of applicants for protection the Republic of Slovenia, but also show that in some cases persons were granted permission to stay although they did not fulfil the criteria for harmonised protection statuses and in their countries of origin or countries of the last habitual residence their were not supposed to be endangered.

The opinions of the state authorities are in diametrical opposition to the ones of the nongovernmental organisations regarding the need to introduce new protection statuses at the national level and also regarding the satisfactory scope of rights deriving from the permission to stay and international protection. Nongovernmental organisations believe that current protection system in the Republic of Slovenia is insufficient, especially in the light of grounds for which somebody might be entitled to protection and also in the light of the scope of rights deriving from that legal title. On the other side, in the state authorities’ opinion the scope of rights is sufficient and the standard of protection is high and therefore unnecessary to further broaden it.

Researches and studies dealing with this issue are nonexistent and this should be in the opinion of the nongovernmental organisations changed precisely due to better knowledge of the needs for new protection statuses and the scope of rights. In the opinion of the nongovernmental organisations the public is also not aware of this issue to a satisfactory extent or the public has a rather negative attitude towards this issue which could be improved by greater activities undertaken by the state authorities, especially in the field of raising awareness. The state authorities are divided in their opinion regarding raising awareness since some believe it is important and also implement such activities, especially within projects funded from the EU while the others believe that any raising awareness in advance on persons with permission to stay and their needs is inappropiate, although are willing to answer any question from the public with regard to the institute of permission to stay.
7. ANNEXES

Legislation:

- Council Directive 2004/83/EC from 29 April 2004 on minimum standards for the qualification of third country nationals or stateless persons as refugees or as persons who otherwise need international protection and the content of the protection granted (Off. Gazette No. 304/12 dating from 30 September 2004).

Statistical Data:

- Statistical data obtained from the CF for the period from 2004 to 2008 on number of granted permission to stay as per indent 2 of the paragraph 2 of Article 52 of the AA.
- Statistical data obtained from the BPD for the period from 2004 to 2008 on number of granted permission to stay due to prohibition of deportation as per Article 51 of the AA, disaggregated by gender, age, country of origin, number of persons with permission to stay for the period from 2004 to 2008, disaggregated by gender, age, country of origin, who were before applicants for international protection but were issued unfounded decisions; number of persons with permission to stay for the period from 2004 to 2008, who were stateless and who were victims of trafficking in human beings, disaggregated by gender, age, country of origin.
Statistical data obtained from the IPSS for the period from 2004 to 2008 on number of applicants for international protection and for asylum on humanitarian grounds, disaggregated by gender and country of origin, and disaggregated by age only for the year 2008, and on number of persons granted international protection and asylum for humanitarian reasons, disaggregated by gender and country of origin.

Interviews and explanations:
- Explanations provided by the Head of the CF Postojna performed on 17.8.2009.
- Interview with the representative of the JRS performed on 28.8.2009.
- Interview with the representative of the MI performed on 6.8.2009.
- Interview with the representatives of the SF performed on 20.8.2009.
- Interview with the representative of the Association Ključ performed on 20.8.2009.
- Interview with the representative of the PIC performed on 18.8.2009.

Questionnaires:
- Responses of the Head of the CF submitted via e-mail on 18.8.2009 and 11.9.2009.

Other Sources:
- European Migration Network, Specifications for EMN study »The different national practices concerning granting of non-EU harmonised protection statuses«, Final version: 11th May 2009.
- Slovenian Public Opinion Survey prepared by the Public Opinion and Mass Communication Research Centre at the Faculty for Social Sciences, http://www.cjm.si/node.
- Study “Policies on reception, return, integration arrangements for, and numbers of, unaccompanied minors in the Republic of Slovenia”, prepared by SF and PIC for the MOI, Ljubljana 2009.