

# Information on procedural elements and rights of applicants subject to a Dublin transfer to Latvia

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## **About this document**

*The ‘Roadmap for improving the implementation of transfers under the Dublin III Regulation’ was endorsed in the meeting of the Strategic Committee on Immigration, Frontiers and Asylum (SCIFA) of the Council of the European Union on 29 November 2022. The roadmap identified a clear need for objective and neutral information on reception and detention conditions and the asylum procedure in all the Member States, which can serve as reference in transfer decisions and that can be used in national courts when the person concerned has exercised his or her right to an effective remedy.*

*This data collection is based on Article 5 of the regulation on the European Union Agency for Asylum <sup>(1)</sup> (EUAA). Member States were requested to provide information that reflects both the relevant legal provisions and the practical implementation of these provisions. The scope of the fact sheet is limited to rules and conditions applicable to applicants for international protection as well as other persons that are subject to a transfer under the Dublin III regulation <sup>(2)</sup>.*

*The European Commission and the EUAA jointly developed the template which served as the basis for this fact sheet. The EUAA gathers and stores the fact sheets and requests Member States to update the information at least one time per year. The relevant national authorities of the Member States provide all the information contained within the fact sheet and are responsible for ensuring that it is accurate and up-to-date.*

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*(1) [Regulation \(EU\) 2021/2303](#) of the European Parliament and of the Council of 15 December 2021 on the European Union Agency for Asylum and repealing Regulation (EU) No 439/2010 (OJ L 468, 30.12.2021).*

*(2) [Regulation \(EU\) No 604/2013](#) of the European Parliament and of the Council of 26 June 2013 establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person (recast) (OJ L 180, 29.6.2013).*

## 1. Access to material reception conditions

### 1.1 What steps should an applicant complete following a Dublin transfer in order to gain access to accommodation and other material reception conditions in your Member State?

If an asylum seeker does not have sufficient resources to ensure living arrangements conforming to his or her health condition and his or her residence during the asylum procedure, he or she shall be accommodated at the accommodation centre for asylum seekers. The accommodation centre for asylum seekers is a unit of the Office of Citizenship and Migration Affairs (hereinafter – the Office) (lead by the Asylum Seekers Reception Unit of the Office).

The accommodation centre for asylum seekers is a joint dwelling for non-detained asylum seekers, in which the conditions necessary for everyday life are ensured, by taking also into account the special reception needs of the asylum seeker, and his or her physical and mental health is protected.

The Cabinet shall determine the internal rules of procedure of the accommodation centre for asylum seekers (available in English: <https://likumi.lv/ta/en/en/id/283809-internal-rules-of-procedure-of-the-accommodation-centre-for-asylum-seekers>)

Before the applicant is transferred to the Republic of Latvia, the requesting Member State informs the Republic of Latvia of the date and time of the transfer (if the transfer is cancelled – informs about it in due time). State Border Guard officers shall meet the transferred person at the airport and, if the person wishes to continue the asylum procedure in the Republic of Latvia, take him/her to the accommodation centre for asylum seekers of The Office of Citizenships and Migration Affairs. In case one of the conditions of detention referred to in Article 16 of the Asylum Law exists, the person shall be detained by drawing up a detention report and shall be taken to the unit of the State Border Guard in premises specially equipped for this purpose (the State Border Guard premises for asylum seekers accommodation (see Article 21 of the Asylum Law). (available in English: <https://likumi.lv/ta/en/en/id/278986>).

In case after the transfer person refuses the asylum procedure (for example, the person was transferred to the Republic of Latvia on the basis of Article 12 of the Dublin Regulation), the State Border Guard evaluate whether the person has a legal basis for staying in the territory of the Republic of Latvia and if the person does not have such a right, a return decision will be issued and a return procedure will be initiated.

However, if a person wishes to submit an application for asylum (in case such an application was not submitted in the Republic of Latvia before the transfer), the State Border Guard officials shall immediately accept the application; register it in the Asylum Seekers Register, ensure that the fingerprints of the person (from the age of 14) are added to Eurodac; identify the person, ensure a thorough examination of the documents in the possession of the person as well as the data in the data basis in order to obtain any possible information on the person and his/her travel documents; evaluate applying restrictive measures; issue the asylum seeker document (if the asylum seeker is not

detained) and take the asylum seeker to the accommodation centre (for detained or not detained asylum seekers).

How long do these steps normally take?

Immediately upon arrival.

When and how is the applicant provided with information on how to gain access to accommodation and other material reception conditions?

Upon arrival by the State Border Guard and Asylum Seekers Reception Unit of the Office.

**1.2** What material reception conditions (as per Article 2(g) Directive 2013/33/EU laying down standards for the reception of applicants for international protection (recast) (RCD) are available to applicants for international protection entitled to these in your Member State?

All foreseen material reception conditions are available to the asylum seekers accommodated in the accommodation centre.

As mentioned above, if an asylum seeker does not have sufficient resources to ensure living arrangements conforming to his or her health condition and his or her residence during the asylum procedure, he or she shall be accommodated at the accommodation centre for asylum seekers, which is a joint dwelling for non-detained asylum seekers, in which the conditions necessary for everyday life are ensured, by taking also into account the special reception needs of the asylum seeker, and his or her physical and mental health is protected. The Cabinet shall determine the internal rules of procedure of the accommodation centre for asylum seekers (available in English: <https://likumi.lv/ta/en/en/id/283809-internal-rules-of-procedure-of-the-accommodation-centre-for-asylum-seekers> ).

Arriving for the first time at the accommodation centre, an asylum seeker shall receive the following items for individual use from an employee of the accommodation centre:

- a key for the appointed room and a magnetic access card if such is necessary;
- a bedding set (sheet, blanket cover, blanket, pillowcase and pillow, hand towel and bath towel);
- a set of tableware (cup, plate, glass, teaspoon, tablespoon, fork and knife);
- objects necessary for ensuring special needs.

The Cabinet determines the amount of and procedures for covering the subsistence and daily allowance of an asylum seeker accommodated at the accommodation centre for asylum seekers. The daily allowance is 3 euro per day and is paid in cash once a week (for 7 days).

Other material reception conditions, such as food packages, hygiene products, clothing, tickets for public transportation, are provided in the accommodation centre using EU projects funding.

**1.3.** How does your Member State ensure that applicants for international protection in your Member State are provided with full access to the material reception conditions as defined in Article 2(g) of RCD in line with Article 17 and 18 of RCD, and, where relevant, more favourable provisions set out in your national legislation?

The accommodation centre for asylum seekers is a joint dwelling for non-detained asylum seekers, in which the conditions necessary for everyday life are ensured, by taking also into account the special reception needs of the asylum seeker, and his or her physical and mental health is protected. Please, see answer to the question 1.1. as well.

For the moment there is only one accommodation centre in Latvia. All material reception conditions are provided centralised on the same level for all residents of the accommodation centre.

**1.4.** Does your Member State apply a policy in line with Article 20.1(c) of reducing or in duly justified exceptional cases withdrawing the access to reception conditions for applicants in cases the applicant lodged a subsequent application?

No.

If yes, what material support is provided to persons whose material reception conditions have been reduced or withdrawn in accordance with Article 20(1)(c) in your Member State to ensure a dignified standard of living and access to health care?

N/A

**1.5** What health care is an applicant for international protection entitled to in your Member State in line with Article 19 RCD?

In accordance with the procedures laid down in the laws and regulations to receive emergency medical assistance, primary health care, outpatient and inpatient psychiatric assistance in case of serious mental health disorders, and also any medical assistance to minors, non-provision of which may pose a threat to the development and health of the child, from the State funds, taking into account the special reception needs of the asylum seeker.

You may find additional information on the links below:

<https://likumi.lv/ta/en/en/id/296188-health-care-financing-law>

<https://likumi.lv/ta/en/en/id/278986-asylum-law>

<https://likumi.lv/ta/en/en/id/295255-procedures-for-performing-health-examination-and-sanitary-treatment-of-an-asylum-seeker-and-also-for-registering-the-results-thereof>

<https://likumi.lv/ta/en/en/id/296188-health-care-financing-law>

<https://likumi.lv/ta/en/en/id/203008-law-on-the-rights-of-patients>

<https://likumi.lv/ta/en/en/id/44108-medical-treatment-law>

<https://likumi.lv/ta/id/110743-kartiba-kada-veicama-personu-obligata-mediciniska-un-laboratoriska-parbaude-obligata-un-piespiedu-izolesana-un-arstesana-infekc>

**1.6** What steps are taken to ensure that applicants for international protection in your Member State have full/effective access to health care, in line with Article 19 of RCD, and, where relevant, more favourable provisions set out in your national legislation?

In accordance with the procedures laid down in the laws and regulations to receive emergency medical assistance, primary health care, outpatient and inpatient psychiatric assistance in case of serious mental health disorders, and also any medical assistance to minors, non-provision of which may pose a threat to the development and health of the child, from the State funds, taking into account the special reception needs of the asylum seeker.

There is medical personnel available in the accommodation centre during working hours.

In accordance with the Asylum Law an asylum seeker has an obligation to perform health examination in the interests of public health.

The procedures for health examination and sanitary treatment of the asylum seeker, and also the procedures for registering the results thereof shall be determined by the Cabinet (available in English: <https://likumi.lv/ta/id/295255-kartiba-kada-veic-patveruma-mekletaja-veselibas-stavokla-parbaudi-un-sanitaro-apstradi-ka-ari-registre-to-rezultatus>).

In accordance with the Cabinet Regulation mentioned above health examination of an asylum seeker shall include the following:

- the survey (anamnesis, complaints) and examination of medical documentation, where possible;
- the general examination;
- the anthropometrics (body weight, height);
- the inspection for the determination of tuberculosis in accordance with the laws and regulations regarding the procedures for performing mandatory medical and laboratory examination, mandatory and forced isolation and treatment of persons in cases of infectious diseases;
- the referral to perform other necessary investigations by taking into account health condition and symptoms of diseases of an asylum seeker, and also special epidemiological situation in the country of origin of the asylum seeker or the country where the asylum seeker resided prior to arrival in Latvia. If necessary, a medical practitioner shall consult the Centre for Disease Prevention and Control and the Limited Liability Company Riga East University Hospital;
- the investigations for the determination of the presence of polioviruses if 30 days have not passed since an asylum seeker has left or transited through the countries affected by poliomyelitis. Investigations shall be conducted by the Limited Liability Company Riga East University Hospital;

- informing an asylum seeker of actions in the case of disease, a possibility to receive health care services, and recommended preventive measures.

In accommodating an asylum seeker in the accommodation centre or on the accommodation premises, a medical practitioner shall:

- perform sanitary treatment and health examination of the asylum seeker, unless such examination has already been performed within the framework of the specific asylum procedure, and results thereof are documented in the form of sanitary treatment and health examination of the asylum seeker (Annex 1). The form shall be placed in an outpatient card of patient;
- make an entry in an outpatient card of patient of the asylum seeker on a permit to accommodate the asylum seeker on living premises or on accommodation of the asylum seeker in a room especially equipped for this purpose for medical observation for the time period until receipt of the results of the necessary health examinations or expert opinions.

If an asylum seeker is not accommodated in the accommodation centre or on the accommodation premises, an institution where the abovementioned asylum seeker submits an application for granting refugee or alternative status shall refer him or her to the health examination (Annex 2), except for the case when the asylum seeker has a valid residence permit in the Republic of Latvia. The abovementioned asylum seeker shall undergo the health examination within the time period laid down in the referral and submit a certification of the performed health examination to the Office of Citizenship and Migration Affairs.

**1.7** Please describe what are the support measures available/provided to persons with special reception needs in your Member State in line with Article 21 RCD (e.g. minors, unaccompanied minors)?

Health care is provided at the level that is mentioned before.

According to the Asylum Law asylum seeker with special procedural or reception needs - a minor, a disabled person, a person in the age, upon attainment of which an old-age pension is granted in the Republic of Latvia, a pregnant woman, a parent with a minor child, a victim of human trafficking, a person who needs special care due to the health condition, a person with mental disorders, a person who has suffered from torture, rape or other serious psychological, physical or sexual violence, or other person to be especially protected whose ability to benefit from the rights and to comply with the obligations during the asylum procedure is limited.

If the State Border Guard or the Office has established that the asylum seeker has special procedural or reception needs, he or she has the right to receive corresponding and adequate support for exercising his or her rights and fulfilment of obligations throughout the asylum procedure.

First of all it is necessary to stress, that (as mentioned above), if an asylum seeker does not have sufficient resources to ensure living arrangements conforming to his or her

health condition and his or her residence during the asylum procedure, he or she shall be accommodated at the accommodation centre for asylum seekers.

In practice, if person needs, Latvia provides reception only in the reception centre (there are no other possibilities) or in specific situation such as disabilities, mental disorders etc. person can be accommodated in the special care institution accordingly.

Specific requirement for persons with special needs, that are not provided by the state, is provided upon request of the person, medical personnel or reception centre staff, by using EU funding means.

It is assumed, that those living outside the reception centre, are able to provide everything necessary by themselves.

**1.8** How does your Member State ensure that applicants for international protection with special reception needs in your Member State are provided with full access to the reception conditions, which cater for their special reception needs, in line with Article 21(1) of RCD, and, where relevant, more favourable provisions set out in your national legislation?

Please, see answer above.

EUAA Practical tool for identification of persons with special needs are used by both institution dealing with asylum seekers during procedure: the State Border Guard and the Office.

The procedure for cooperation and information exchange between institutions is determined by an internal act.

EUAA training modules are used accordingly for staff to be trained.

**1.9** How can an applicant for international protection avail themselves of a legal remedy in line with Article 26 RCD, in case they consider that their rights to material reception conditions are not being met in your Member State?

In accordance with the Asylum Law an asylum seeker has rights to receive State ensured legal aid in the amount specified in laws and regulations, appealing to the District Administrative Court the decision of an official authorised by the Office to leave the application without examination, to refuse to grant refugee or alternative status, to transfer the asylum seeker to the responsible Member State, which will examine the application in accordance with Regulation No 604/2013, to discontinue examination of the application, to refuse to resume examination of the application, and to refuse to disburse the subsistence and daily allowance, if the asylum seeker does not have sufficient resources in order to invite a person for receipt of legal aid.

## 2. Access to the asylum procedure

**2.1** What are the procedural steps that an applicant for international protection transferred to your Member State needs to undertake in order to gain access to the asylum procedure following a Dublin transfer to your Member State?

In accordance with the Asylum Law person is entitled to express a wish to acquire refugee or alternative status in oral form or in writing.

A person shall submit an application regarding granting of refugee or alternative status in person to the State Border Guard:

- 1) at the border crossing point or in the border crossing transit zone before entering the Republic of Latvia;
- 2) in the unit of the State Border Guard, if the person is in the Republic of Latvia.

The State Border Guard shall draw up an orally expressed wish to acquire refugee or alternative status in the presence of the asylum seeker in writing.

If a person has expressed the wish to acquire refugee or alternative status to the Office, the State Police or the Latvian Prison Administration, they shall, without delay but not later than within three working days, contact the State Border Guard so that the asylum seeker could submit an application.

If there are indications that a third-country national or stateless person who is at the border crossing point or border crossing transit zone at the external border of the Republic of Latvia or is at a detention place, could express a wish to acquire refugee or alternative status (is afraid to return to the country of origin or there are other circumstances pointing to the necessity of international protection), the Office, the State Police or the Latvian Prison Administration shall provide him or her with information regarding the possibility of doing it.

An unaccompanied minor shall express a wish to acquire refugee or alternative status in accordance with the procedures laid down in this Section. During the asylum procedure the personal and property relations of the unaccompanied minor shall be represented by the Orphan's and Custody Court or a guardian appointed thereby, or the head of a child care institution.

If the head of a child care institution, on the basis of an assessment of the personal situation provided by the unaccompanied minor, deems that the minor needs international protection, he or she has the right to submit an application on behalf of the minor.

Taking into account above mentioned, after transfer has to express a wish to acquire refugee or alternative status in oral form or in writing.



How long do these steps normally take?

No time limits are defined by the legal acts. Application can be submitted right after transfer.

In case a person has expressed his/her wish to apply for asylum in the Republic of Latvia, the State Border Guard shall immediately initiate procedural actions with the asylum seeker, i.e. register the application, enter data into Eurodac, issue the personal document of an asylum seeker, etc. If the person, after transfer, has no legal grounds for staying in the territory of the Republic of Latvia and does not apply for asylum, but there are indications that the person may wish to obtain refugee or alternative status (fear of returning to the country of origin or other circumstances indicating the need for international protection), the State Border Guard shall provide him/her with information about possibility to apply for asylum. Otherwise, the person will be subject to return procedure (if he/she has no other lawful ground for staying in the territory of the Republic of Latvia).

Are there any different steps to take for persons whose applications would be considered as subsequent applications? (Location to register, fees, admissibility procedure etc.)

No.

How long do these steps normally take?

N/A

Where can the applicant find this information, or be provided with this information?

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**2.2** What are the procedural consequences in your Member State of an application for international protection being considered a subsequent application?

Latvia do apply the concept of subsequent applications.

According to the Section 35 of the Asylum Law a person in relation to whom the final decision to refuse to grant refugee or alternative status has been taken is entitled to submit a repeat application to the State Border Guard. The person has an obligation to indicate proof in the repeat application, confirming that circumstances, on which the relevant decision was based, have changed significantly.

If the person submits a repeat application after a decision has been taken to transfer him or her to the responsible Member State, which will examine the application in accordance with Regulation No 604/2013, the application shall be assessed by the Member State responsible for examination of the application.

After assessment of the circumstances referred to in the repeat application an official authorised by the head of the Office shall take a decision to accept the application for examination or to leave it without examination.

If a decision to accept the repeat application for examination has been taken, an official authorised by the head of the Office shall assess the conformity of such application with the conditions for accelerated procedure, granting refugee or subsidiary protection status.

A decision of an official authorised by the head of the Office to leave the repeat application without examination may be appealed by the relevant person or his or her representative.

If the person has submitted a repeat application more than once mainly in order to hinder or prevent carrying out of such decision, by which his or her removal from the Republic of Latvia would be implemented without delay, such person shall not be deemed an asylum seeker during examination of the application.

If a repeat applicant is submitted by a person who has acquired alternative status, after the final decision to refuse to grant refugee status has been taken, such person shall not be deemed an asylum seeker during examination of the application. **2.3** Does your Member State avail itself of the possibility under Article 33(2) Directive 2013/32/EU on common procedures for granting and withdrawing international protection (recast) (APD) to consider an application for international protection lodged by an applicant transferred to your country through the Dublin procedure as inadmissible? If so, under which of the grounds listed in this Article?

In accordance with the Asylum Law a decision to leave the application without examination shall be taken, if at least one of the following conditions exists:

- 1) another Member State has granted international protection to the asylum seeker;
- 2) a country, which is not a Member State, is regarded as the first country of asylum of the asylum seeker;
- 3) a country, which is not a Member State, is regarded as the safe third country for the asylum seeker;
- 4) the asylum seeker has submitted a repeat application in the Republic of Latvia after a decision to refuse to grant refugee or alternative status has entered into effect, and such circumstances are not referred to therein, which would have significantly changed for the benefit of the asylum seeker and might serve as justification for granting refugee or alternative status.

### 3. Detention and limitations to the freedom of movement of applicants

**3.1** Are there any circumstances under which your Member State an applicant for international protection could be detained on public health grounds (e.g. quarantine), under applicable provisions of national law unrelated to Article 9 RCD?

No.

If yes, please describe these different types of circumstances, the legal basis for the detention, duration, conditions (incl. type of facilities), and the legal remedies available to challenge such a decision.

N/A

**3.2** How can an applicant challenge a decision to place them in detention according to Articles 8 and 9 RCD?

According to the Asylum Law an asylum seeker has the right to contest detention to the district (city) court within 48 hours after he or she has been made acquainted with the detention minutes. The contesting shall not suspend detention.

**3.3** What are the limits set out in national law to the duration that an applicant may be placed in detention according to Article 9 RCD?

If any of the conditions for detention exists, an official authorised by the Chief of the State Border Guard may detain an asylum seeker for up to six days.

An asylum seeker may be detained for more than six days only on the basis of a decision of the district (city) court.

As mentioned before, the district (city) court, when examining a proposal of the State Border Guard may detain an asylum seeker for up to six hours. The period of detention may not exceed two months and may not exceed the duration of the asylum procedure. The duration of the asylum procedure is laid down in Article 29 of the Asylum Law. (available in English: <https://likumi.lv/ta/en/en/id/278986>).

The application shall be examined by the Office of Citizenship and Migration affairs and a decision to grant refugee or alternative status or to refuse to grant it shall be taken within three months from the day when the personal interview with the asylum seeker was conducted, but not later than within six months after registering the application.

The State Secretary of the Ministry of the Interior or his or her authorised person may extend the time period of six months referred to in Paragraph two of this Section for another nine months, if:

1) assessment of the application is related to complex factual or legal issues;

2) applications have been simultaneously submitted by a large number of third country nationals or stateless persons and it is not possible to conform to the deadline referred to in Paragraph two of this Section.

In the light of the above, the maximum time limit for processing an application is 15 months (6+9).

It should be mentioned that an asylum seeker may be detained (including by a court decision) only if one of the conditions set out in Article 16 of the Asylum Law exists. If the grounds to the detention no longer exist or the asylum procedure has been completed, the detention must be revoked.

At what intervals does the judicial authority needs to review a detention decision according to Article 9(5) RCD?

An asylum seeker or his or her representative may, at any time, submit a claim to the district (city) court (according to the actual location of the detained asylum seeker) regarding assessment of the necessity to continue application of detention.

**3.4** What types of less coercive (alternative) measure to detention are used in your Member State?

In accordance with the Asylum Law an asylum seeker may be imposed an obligation to regularly, but not less than once a month to register at the unit of the State Border Guard, if there are grounds for assuming that one of the following conditions exists:

- 1) the application has been submitted in order to obtain the right of residence without justification;
- 2) the application has been submitted in order to evade execution of a voluntary return decision or a removal order without justification;
- 3) the asylum seeker will evade the asylum procedure;
- 4) such circumstances have been established, which are the grounds for detaining the asylum seeker, but, taking into account his or her individual situation and circumstances, detention would be an incommensurate restrictive measure.

Please elaborate under which conditions these are generally used and how does your Member State ensure that these less coercive alternative measure to detention are used when they can be applied effectively as per Article 8.2 RCD?

Please, see answer above.

**3.5** What conditions, set out in Article 10 RCD, are provided to applicants whilst in detention (specialised detention facilities, access to open-air space, possibility to communicate with UNHCR or an organisation working on behalf of UNHCR, possibility to communicate and receive visits from family members, legal advisers or counsellors and persons representing NGOs, information on the rules of the facility)?

According to the Asylum Law:

Upon placing the detained asylum seeker in the State Border Guard accommodation premises for asylum seekers, his or her health condition shall be checked and sanitary treatment shall be performed.

The detained asylum seeker shall be accommodated in conformity with the fundamental rights and safety of the person, individual traits and psychological compatibility, and also in conformity with the following conditions:

- 1) the detained asylum seekers - men and women - shall be accommodated separately;
- 2) the detained asylum seeker shall be accommodated separately from persons who are suspected of committing a criminal offence or who have been detained in accordance with the procedures laid down in the Immigration Law;
- 3) the detained asylum seeker who has a health disorder shall be accommodated according to the instructions of a medical practitioner in premises specially equipped for such purpose;
- 4) the detained family members of asylum seekers shall be accommodated together, if any of them does not object, however, separately from other detained persons, ensuring privacy;
- 5) the detained minor shall be ensured a possibility of studying, involving in measures related to spending leisure time, including in games and recreational measures conforming to the age;
- 6) an unaccompanied minor shall be ensured accommodation at the State Border Guard accommodation premises for asylum seekers, in which there is equipment, and also personnel corresponding to his or her age;
- 7) the detained asylum seeker who has been declared in international search shall be placed in premises specially equipped for such purpose until the moment when the issue on further action in extradition proceedings is decided, but not more than 72 hours;
- 8) the detained asylum seeker who has violated the internal rules of procedures of the State Border Guard accommodation premises for asylum seekers or endangers the safety of the persons present in the State Border Guard accommodation premises for asylum seekers may be placed, by a decision of an official authorised by the Chief of the State Border Guard, separately in premises specially equipped for this purpose for a time period up to 10 days.

After placement in the State Border Guard accommodation premises for asylum seekers the detained asylum seeker shall be made acquainted with his or her rights and obligations in these premises, and also with the internal rules of procedure in a language

which he or she understands or is reasonably supposed to understand, if necessary, using services of an interpreter.

Additionally in accordance with the Cabinet regulation regarding internal rules available in English: <https://likumi.lv/ta/en/en/id/290847-internal-rules-of-procedure-of-accommodation-premises-for-detained-foreigners-and-asylum-seekers>

In accordance with the Asylum Law an asylum seeker has the right to in accordance with the procedures laid down in laws and regulations to contact relatives, the United Nations High Commissioner for Refugees or other organisation, which provides legal or other consultations to asylum seekers.

The Cabinet determines meeting arrangements (available online in English: <https://likumi.lv/ta/en/en/id/290847>):

- Visitors can be present at the accommodation premises during the time determined in the daily schedule each day from 10.00 till 19.00.
- The meeting time shall be coordinated with the head of the accommodation premises. In determining the time of the meeting, the head of the accommodation premises shall take into account the daily schedule and technical possibilities of a meeting.
- The detained person may meet not more than two visitors at the same time. The abovementioned condition shall not be applied if the visitor is the detained person's spouse with several children.
- Before a meeting a visitor shall be acquainted against the signature with the internal rules of procedure of the accommodation premises which apply to visitors.

In addition to the above, it should be noted that according to Section 21 of the Asylum Law also Officials of State administration institutions, authorised representatives of associations, foundations, and also international organisations are entitled to visit the State Border Guard accommodation premises for asylum seekers in conformity with the internal rules of procedure in order to verify how they are used for ensuring detention of asylum seekers, evaluate the circumstances of accommodation and residence of detained asylum seekers, and also provide legal or other consultations corresponding to the competence of the relevant institution to detained asylum seekers. The visit shall be co-ordinated with the Chief of the State Border Guard accommodation premises for asylum seekers, unless it has been otherwise laid down in the law.

## 4. Available legal remedies and access to legal aid

**4.1** At which stages of the asylum procedure does an applicant have the right to legal aid after having been transferred to your Member State?

In accordance with the Asylum Law an asylum seeker has right to invite a person for the receipt of legal aid using his or her own funds and to receive State ensured legal aid in the amount laid down in the laws and regulations, when appealing the decision of the State Border Guard on registration of the asylum seeker with the unit of the State Border Guard or to detain the asylum seeker to the city (district) court.

In accordance with the Asylum Law an asylum seeker has rights to receive State ensured legal aid in the amount specified in laws and regulations, appealing to the District Administrative Court the decision of an official authorised by the Office to leave the application without examination, to refuse to grant refugee or alternative status, to transfer the asylum seeker to the responsible Member State, which will examine the application in accordance with Regulation No 604/2013, to discontinue examination of the application, to refuse to resume examination of the application, and to refuse to disburse the subsistence and daily allowance, if the asylum seeker does not have sufficient resources in order to invite a person for receipt of legal aid.

**4.2** Is the legal aid provided free of charge to applicants for international protection or does your Member State apply any form of means testing? If so how is this applied in practice?

Please see answer above.

In practice the asylum seeker has to submit an application for state ensured legal aid. In the application person has to prove information regarding means available.

**4.3** What are the deadlines within which your Member State requires that an applicant lodge an appeal with regards to decisions not to grant international protection or not to further examine the application on grounds of inadmissibility?

In accordance with the Asylum Law the asylum seeker or his or her representative may appeal the decisions of an official authorised by the head of the Office to the Administrative District Court according to the address of accommodation (detention) of the asylum seeker or place of residence.

The time limits for appeal are set in the Asylum Law: the asylum seeker or his or her representative shall submit to the Office an application addressed to the District Administrative Court regarding:

- 1) a decision of an official authorised by the head of the Office to transfer the asylum seeker to the responsible Member State, which will examine the application in accordance with Regulation No 604/2013, to leave the application without examination, to refuse to grant refugee or alternative status, if the application was examined according to accelerated procedures, to discontinue examination of the

- application or to refuse to discontinue examination of application - within 15 working days from the day when the decision has entered into effect;
- 2) a decision of an official authorised by the head of the Office to transfer the asylum seeker to the responsible Member State, which will examine the application, or to leave the application without examination, if the asylum seeker has been detained - within five working days from the day when the decision has entered into effect;
  - 3) a decision of an official authorised by the head of the Office to grant or refuse to grant refugee or alternative status - within one month from the day when the decision has entered into effect.

**4.4** What are the formal requirements when lodging an appeal as referred to in question 4.3?

There are no special requirements regarding appeal as such, no specific form etc. Appeal has to be in written form in a language which he or she knows.

**4.5** Does your Member State avail itself of the possibility under Article 9(2) APD to make an exception from the right to remain in the Member State pending the examination of the application in case of a request for extradition of the applicant to a third country? If yes, how do the competent authorities of your Member State ensure that a decision to extradite an applicant to a third country pursuant to Article 9(2) APD is taken in accordance with Article 9(3) APD, i.e. it does not result in direct or indirect refoulement, in violation of international and Union requirements?

In accordance with the Asylum Law an asylum seeker, refugee or person who has been granted alternative status may be returned, if it is not in contradiction with the international liabilities of the Republic of Latvia and at least one of the following conditions exists:

- 1) there are grounds to consider that the asylum seeker, refugee or person who has been granted alternative status poses a threat to the national security;
- 2) the asylum seeker, refugee or person who has been granted alternative status has been recognised, by a court judgement which is legally in effect, as guilty of committing such criminal offence, which, in accordance with the laws and regulations of the Republic of Latvia, is recognised as an especially serious crime and poses a threat to the society of Latvia;
- 3) the asylum seeker has submitted a repeat application after administrative proceedings regarding the repeat application submitted for the first time have ended.



**4.6** Does your Member State avail itself of the possibility under Article 9(2) APD to make an exception from the right to remain in the Member State where a person makes subsequent applications as referred to in Article 41 APD?

Please, see answer above (last point).

If yes, how do the competent authorities of your Member State ensure that a decision to return the applicant to a third country does not result in direct or indirect refoulement, in violation of international and Union requirements as per Article 41(1) APD?

In addition to the answer above there is procedure for cooperation and information exchange between institutions is determined by an internal act.

In accordance with the Asylum Law Section 10, a person whose application has been examined in accordance with the procedures laid down in this Law and in relation to whom a decision has been taken to refuse to grant refugee or alternative status, a decision to discontinue examination of the application or a decision to refuse to resume examination of the application, shall be issued a voluntary return decision or a removal order shall be taken in relation to such person in accordance with the procedures of the Immigration Law, except the case when he or she has another legal basis to reside in the Republic of Latvia.

If the above decisions have been taken, voluntary return decision or removal order will be issued by the Office of Citizenship and Migration Affairs.

A person has the right, within seven days after entering into effect of the voluntary return decision or removal order, and the decisions included therein on the inclusion in the list and prohibition to enter the Schengen Area, to contest these to a higher authority in accordance with the procedures regarding subordination. The foreigner shall be acquainted with the decision taken on the contested voluntary return decision or the removal order in a language which he or she understands or which he or she should justifiably understand, if necessary, using the services of an interpreter, explaining the nature and the procedures for the contesting of the taken decision, as well as inform him or her of the right of the foreigner to legal aid.

The decision of a higher authority on the issue of the voluntary return decision or the removal order, and the decisions included therein on the inclusion in the list and prohibition to enter the Schengen Area may be appealed to the District Administrative Court within seven days from the day when it has entered into effect. Submission of an application to the court shall not suspend the operation of the aforementioned decisions.

However, according to Section 195 of Administrative Procedure Law (available online in English: <https://likumi.lv/ta/en/en/id/55567>) if there are grounds to believe that the appealed administrative act or consequences of non-issue of the administrative act might cause significant damage or losses the prevention or compensation of which would be significantly hindered or would require unreasonable resources, and if, upon evaluating information at the disposal of the court, it may be established that the appealed administrative act is prima facie unlawful, the court may, upon a reasoned request of the

applicant, take a decision on an interim measure. Means of an interim measure may be as follows:

- 1) a court decision which substitutes for the requested administrative act or actual action of an institution until a court judgment;
- 2) a court decision which imposes an obligation on the relevant institution to perform a specific action within a specific term or prohibits a specific action;

[...]

A judgment of a District Administrative Court is subject to appeal by submitting a cassation complaint in the Department of Administrative Cases of the Supreme Court.

In addition to the above, it should be noted that the State Border Guard shall enforce the removal order. If the State Border Guard official establishes or the person provides information (including orally) that the circumstances of the non-refoulement principle exist

- 1) Does not perform or stop removal procedure;
- 2) Invites the person who informed of the existence of the non-refoulement principle circumstances to provide the authority (the Office of Citizenship and Migration affairs) which took the decision on forced removal with a statement of the circumstances justifying the existence of the non-refoulement principle circumstances in the particular case.

A person shall not be returned from the Republic of Latvia if it is contrary to the international obligations of the Republic of Latvia.