



# Legal Migration Fitness Check

Evidence base for practical  
implementation

Member State summary

**Croatia**

*Annex 2 HR*

Written by ICF Consulting Services  
Limited

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## **LEGAL NOTICE**

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## Introduction

This document provides an overview of the legal and practical implementation of EU legal migration acquis in **Croatia**. The legal and practical implementation study is structured according to the eight steps – ‘phases’ of the migration process from the perspective of the migrant<sup>1</sup> for the following Directives and their respective national equivalent schemes, presented in the table below.

Directive	FRD (Family Reunification Directive 2003/86/EC)	LTR (Long Term Residency Directive 2003/109/EC)	SD (Students Directive 2004/114/EC)	RD (Research ers Directive 2005/71/EC)	BCD (Blue Card Directive 2009/50/EC)	SPD (Single Permit Directive 2011/98/EU)
National parallel scheme		There are certain other categories of third-country nationals that can acquire long-term residence status				
		Art. 94(1) of the Croatian Aliens Act stipulates the categories. Art. 98 of the Croatian Aliens Act stipulates the rights of these categories				

<sup>1</sup> . See ref document (EU summary) Under each phase, the following aspects are examined : : **Legal transposition of the EU legal migration acquis**: including whether the MS has overall complied with the transposition of the relevant EU acquis in the respective phase and whether these non-compliance issues affect the practical application of the Directive; **Practical application of the EU legal migration acquis**: overview of the main application issues/problems arising in the MS per each of the migration phases; **Differences between national statuses and the EU legal migration acquis**: substantial differences at the level of legislation and practical implementation between the EU legal migration Directives and their national equivalents (where these exist).

	in terms of granting them a long-term residence status in accordance with Art. 92 and 94 of the Aliens Act.
Options implemented?	Pupil Trainee Volunteer

### **Main differences between EU statuses and the respective national parallel schemes**

The only EU legal migration Directive for which there is an equivalent national status (apart from the status based on the EU directives) is the LTR. According to Art. 94(1) the Croatian Aliens Act, there are certain categories of third-country nationals that can acquire long-term residence status apart from the ones stipulated by the LTR. These are:

1. a third-country national who has, up to the day of the submission of the request, a continuous temporary residence for 3 years, and has had a refugee status for at least 10 years, which is proved by a certificate of the competent authority for refugees;
2. a third-country national who has had residence in Croatia on 8 October 1991, and is a beneficiary of the programme of return or reconstruction or housing, which is proved by a certificate of the competent state authority for refugees, and for which it has been determined that he/she has returned with an intention of a permanent life in the Republic of Croatia;
3. a child that lives in the Republic of Croatia:
  - - whose both parents in the moment of his/her birth have a long-term residence status,
  - - whose one parent in the moment of his/her birth has a long-term residence status (with the consent of the other parent),
  - - whose one parent, in the moment of his/her birth, has a long-term residence status in the Republic of Croatia, while the other parent is unknown, dead, pronounced dead, deprived of parental care, completely or partially deprived of legal capacity in relation to parental care;
4. a third-country national that was born and has ever since lived in Croatia, but has for justified reasons out of his/her control, not been able to lawfully regulate.

The Aliens Act offers to these categories more favourable conditions for the acquisition of the long-term residence status than the conditions for other third-country nationals who want to acquire long-term residence status based on the LTR, as the condition for their long-term residence status is not an uninterrupted legal residence of 5 years in the Republic of Croatia. Also, in order to obtain the status, the categories under points 1 and 2 do not need to satisfy the conditions of resources sufficient to maintain

themselves, health insurance and the knowledge of Croatian language and the Latin alphabet.

## **1 Pre-application phase**

### **1.1 Legal transposition of the EU legal migration acquis**

Croatia has transposed the legal migration Directives subject to this study<sup>2</sup>.

Research carried out for the purpose of this study indicates that there are no concerns related to the pre-application (information) phase.

### **1.2 Practical application of the EU legal migration acquis**

The actors involved in providing the information on entry and residence of third-country nationals in Croatia are the Ministry of Interior of the Republic of Croatia, police departments/police stations in the Republic of Croatia and the diplomatic missions of the Republic of Croatia.

As shown in the tables below, there are several information channels on legal migration of third-country nationals in Croatia. The most important online channels are the web site of the Ministry of Interior: <https://www.mup.hr/public/documents/Javnost/Isprave/Stranci.pdf> (in Croatian) and <http://stari.mup.hr/120027.aspx> (in English). Further, one can require information from the Ministry by email (pitanja@mup.hr) or by phone (+385/1/3788563 (Department for foreigners and asylum). Finally, one can ask for information by going in person to the relevant police department/police station in Croatia. The relevant information can also be acquired by contacting the diplomatic mission of the Republic of Croatia in the country of origin. Students can also receive information through the international office of one of the universities in Croatia or through the information office of their host faculty (provided the respective faculty has an international office).

<b>Directive</b>	<b>FRD (Family Reunification Directive 2003/86/EC)</b>	<b>LTR (Long Term Residency Directive 2003/109/EC)</b>	<b>SD (Students Directive 2004/114/EC)</b>	<b>RD (Researchers Directive 2005/71/EC)</b>	<b>BCD (Blue Card Directive 2009/50/EC)</b>	<b>SPD (Single Permit Directive 2011/98/EU)</b>
Languages	National language(s) English					
The information is easy to find*	2	2	2	2	2	2

\* 1: Strongly agree; 2: Agree; 3: Neither agree/nor disagree; 4: Disagree; 5: Strongly disagree

Information can be found on the following aspects of the application procedure:

<sup>2</sup> This research does not cover the recent Directives SWD, ICT, S&RD.

Applicati on procedu re	Conditio ns for admissi on	Entry requirem ents (e.g. visa etc.)	Cost of applica tion	Applica ble deadlin es	Rights upon admiss ion	Any differences between the Directives
Yes	Yes	Yes	No	Yes	Yes	

### **Information upon request**

The authorities which provide information regarding the work and residence status of third-country nationals in Croatia are: the Ministry of Interior of the Republic of Croatia, police departments/police stations in the Republic of Croatia and diplomatic missions of the Republic of Croatia.

### **1.3 Differences between national statuses and the EU legal migration acquis**

No differences identified.

## **2 Preparation phase**

### **2.1 Legal transposition of the EU legal migration acquis**

Research carried out for the purpose of this study indicates that overall Croatia has complied with the legal transposition related to the preparation phase, however a few issues of concern have been identified:

FRD: As regards Art. 7(1) of the FRD, Article 2 of the national Regulation 51/2012 determines the general minimum amount that an alien must dispose of in order to be considered for a temporary residence status. The general minimum amount is calculated as a percentage of the general social assistance calculation basis. Article 2(1) of the Regulation 51/2012 sets it at 400% of this basis. Currently this basis is 500 HRK (app. EUR 65.50). Article 2, paragraph 2 of the Regulation sets the amount for dependant family members, adding a 150% to the second family member, and an additional 100% for each subsequent family member. In that sense, the legislation sets out a minimum threshold, determining a minimum amount that the applicant must prove to have. On the other hand, the judgment of the CJEU in C-578/08 determined that only an amount of reference may be imposed, from which departure is allowed. For this reason, the implementing legislation may raise concerns as regards the CJEU's reasoning. Article 6(3) and (6)-(7) of the Ordinance 52/2012 determines different documents that may be accepted as a proof of regularly secured resources for maintenance at the level prescribed by Regulation 51/2012. As the Ordinance 52/2012 determines a minimum amount necessary for maintenance in order for temporary residence to be granted, which departs from the case law of the CJEU regarding the amounts of reference.

FRD: The obligation set out in Article 15(3), second sentence of the Family Reunification Directive is not transposed in the national legislation. There are in particular no provisions regulating particularly difficult circumstances for the alien. Moreover, only the circumstances described in Article 60(2) of the Law 130/2011 may give rise to granting an autonomous residence after 3 consecutive years of temporary residence for the purposes of family reunification.

LTR: As regards Art. 5(1) of LTR, Croatian legislation sets out a minimum amount, differently from the requirement set by the CJEU in C-578/08, where a



departure from the amount of reference is allowed. Also, the Ordinance 52/2012 determines a minimum amount necessary for maintenance in order for the long-term residence to be granted, which departs from the case law of the CJEU regarding the amounts of reference.

## 2.2 Practical application of the EU legal migration acquis

Croatia requires the applicant to submit one application. There is a standardised application form for the first issuance or extension of the: a) approval of temporary stay; b) approval of permanent stay; c) business permits. The forms are available online at: <http://www.policija.hr/UserDocsImages/obr1A.pdf>. There is a separate form for the application for the issuance of a work permit to a foreigner. The form is available at:

<https://www.mup.hr/UserDocsImages/Dokumenti/stranci/OBR%209a.pdf>. The form can either be printed out or obtained in person at the police administration/police station. The application forms are written bilingually, in Croatian and English and they can be filed in Croatian or English.

The tables below summarise the ease of the application procedure as well as the key information/ documents required.

Ease of the application procedure:

Step	FRD	LTR	SD	RD	BCD	SPD
The information that applicants need to complete is not extensive	3	3	3	3	3	3
The application form is user-friendly	3	3	3	3	3	3

Key information/ documents required:

Type of information	FRD	LTR	SD	RD	BCD
Family ties	Yes, T, C				
Continuous legal residence	Yes, T, C, R				
Sufficient resources	Yes, T, C, R	Yes, T, C, R	Yes, T, C, R		
Accommodation/Address in territory	No				Yes, T, C, R
Sickness insurance	Yes, T, C, R	Yes, T, C, R	Yes, T, C, R	Yes, T, C, R	Yes, T, C, R
Work contract (for RD host agreement)				Yes, T, C, R	Yes, T, C, R

Minimum salary threshold	Yes, T, C, R	Yes, T, C, R	Yes, T, C, R	Yes, T, C, R	Yes, T, C, R
Professional qualifications	No				
(Pre-) Integration measures	No	Yes, T, C, R			
Pre-departure conditions	No				
Proof no threat to public	Yes, T, C, R	Yes, T, C, R	Yes, T, C, R	Yes, T, C, R	Yes, T, C, R
Medical examination certificate	No		No	No	No
Valid travel document			Yes, C, R	Yes, T, C, R	Yes, T, C, R
Entry visa					Yes, T, C, R
Other	Yes, T, C, R	Yes, T, C, R	Yes, T, C, R	Yes, T, C, R	Yes, T, C, R

*Note: T = Translation; C = Certified, R = Requirement, i.e. without this proof the application cannot be lodged.*

## **2.3 Differences between national statuses and the EU legal migration acquis**

In the preparation phase, there is no difference between the LTR and the other categories of third-country nationals who can acquire long-term residence status based national legislation.

## **3 Application phase**

### **3.1 Legal transposition of the EU legal migration acquis**

Research carried out for the purpose of this study indicates that there are no concerns on the legal implementation related to the application phase.

### **3.2 Practical application of the EU legal migration acquis**

Third-country nationals have to lodge an application at a diplomatic mission or consular post of the Republic of Croatia or at a jurisdictional police administration or police station, according to the place of residence. In case of temporary residence permits (students, researchers, workers, family members), the application can be submitted either to the competent diplomatic mission/consular post of the Republic of Croatia. In case the application is submitted to the competent diplomatic mission/consular post, it shall be forwarded for decision-making to police administration/police station competent for the area of the third-country national's intended stay in the Republic of Croatia. Upon the completion of the procedure, the police administration/police station shall inform the respective diplomatic mission/consular post about the completion of the procedure. The diplomatic mission/consular post shall inform the applicant about the decision and issue the

decision. In case the applicant submitted his/her application to police administration/police station, it shall inform the applicant about the decision and issue the decision. In case of the long-term residence status, a third-country national submits the request to the police department and the decision is made by the Ministry of Internal Affairs.

The decision is always in a written form in accordance with Article 97 of the Administrative Procedure Act. Only in exceptional cases the decision may be given verbally (such as in the instances of taking urgent measures to ensure public order and security or in order to eliminate an immediate threat to life, health or property of greater value). Even in those situations, the decision must be delivered to the party in written form, no later than 8 days after the decision has been made in verbal form.

For notifying the applicant of a decision, the Member State issues one administrative act/decision.

In case of a rejection of the application, the reasons for the rejection provided in writing in Croatian.

The application process, including processing times is summarised in the tables below.

If the applicant is the employer the third-country national is involved in the application process.

Directive	General	FRD	LTR	SD	RD	BCD	SPD
Application from third country (Q3a)	Yes / No	Add if different					
Permit received in third country	Yes						
Number of authorities involved in the application	1	1	1	1	1	1	1
Number of authorities involved in the issuance of the residence permit	1						
Application modalities	In person						
Existence of a standard application form for all statuses	Yes						
Language of the application form	National language(s) English						
Fees charged		1. A fee for granting the	1. 630 HRK for the decision	1. A fee for granting the	1. A fee for granting the	1. 560 HRK for issuing the	1. 560 HRK for issuing the

	temporary residence – 350 HRK	on the approval of a long-term residence status	temporary residence – 350 HRK	temporary residence – 350 HRK	temporary residence – 350 HRK	permit to reside and work (single permit)	permit to reside and work (single permit)
	2. A fee for the biometric temporary residence permit – 240 HRK	2. 240 HRK for issuing a biometric residence permit.	2. A fee for the biometric temporary residence permit – 240 HRK	2. A fee for the biometric temporary residence permit – 240 HRK	2. A fee for the biometric temporary residence permit – 240 HRK	2. A fee for the biometric temporary residence permit – 240 HRK	2. A fee for the biometric temporary residence permit – 240 HRK
	3. Administrative fee – 70 HRK	3. Administrative fee – 70 HRK	3. Administrative fee – 70 HRK	3. Administrative fee – 70 HRK	3. Administrative fee – 70 HRK	3. Administrative fee – 70 HRK	3. Administrative fee – 70 HRK
Other fees charged?	No						
Fees charged for permit issuance	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Fees charged for renewal / replacement of the permit	1. A fee for granting the temporary residence – 350 HRK	1. 630 HRK for the decision on the approval of a long-term residence status	1. A fee for granting the temporary residence – 350 HRK	1. A fee for granting the temporary residence – 350 HRK	1. A fee for granting the temporary residence – 350 HRK	1. 560 HRK for issuing the permit to reside and work (single permit)	1. 560 HRK for issuing the permit to reside and work (single permit)
	2. A fee for the biometric temporary residence permit – 240 HRK	2. 240 HRK for issuing a biometric residence permit.	2. A fee for the biometric temporary residence permit – 240 HRK	2. A fee for the biometric temporary residence permit – 240 HRK	2. A fee for the biometric temporary residence permit – 240 HRK	2. A fee for the biometric temporary residence permit – 240 HRK	2. A fee for the biometric temporary residence permit – 240 HRK
	3. Administrative fee – 70 HRK	3. Administrative fee – 70 HRK	3. Administrative fee – 70 HRK	3. Administrative fee – 70 HRK	3. Administrative fee – 70 HRK	3. Administrative fee – 70 HRK	3. Administrative fee – 70 HRK

The processing times are as follows:

<b>Directive</b>	<b>FRD</b>	<b>LTR</b>	<b>SD</b>	<b>RD</b>	<b>BCD</b>	<b>SPD</b>
Processing time /deadlines (according to law)	90 days	90 days	90 days	90 days	90 days	90 days
Processing time (in practice)	90 days	90 days	90 days	90 days	90 days	90 days

### **3.3 Differences between national statuses and the EU legal migration acquis**

In the application phase, there is no difference between the LTR and the other categories of third-country nationals who can acquire long-term residence status based national legislation.

## **4 Entry and travel phase**

### **4.1 Legal transposition of the EU legal migration acquis**

The research did not indicate that there were compliance issues in this phase..

### **4.2 Practical application of the EU legal migration acquis**

The application is submitted by the third-country national. This also applies to the Blue Card Directive. In case a visa is necessary, the third-country national has to request a visa. In case of the Single Permit Directive, in Croatia the application can be submitted by either the third-country national or the employer. A third-country national who submitted his/her application for the permit to reside and work in Croatia in a Croatian diplomatic mission or a consular office, and the permit to reside and work was granted to him/her, does not need to obtain a visa to enter Croatia

Upon arrival to the national territory, the third-country national is expected to register with the local authority, with the social security and with the healthcare providers (students can be exempt from the obligation to register with the healthcare providers in case they have private health insurance).

The employer is the main applicant and needs to request the visa.

The Member State allows country nationals who hold a valid permit and valid travel document to enter and re-enter their national territory only on the basis of the permit.

The Member State does not impose specific entry requirements to third-country nationals of a visa free country.

Third-country nationals do not encounter any obstacles in practice to leave the third country, transit and/or enter the Member State.

Upon arrival, third-country nationals are required to register with the local authority, with social security institutions and with healthcare providers.

### **4.3 Differences between national statuses and the EU legal migration acquis**

In the entry and travel phase, there is no difference between the LTR and the other categories of third-country nationals who can acquire long-term residence status based national legislation.

## 5 Post-application phase

### 5.1 Legal transposition of the EU legal migration acquis

The research did not indicate that there were compliance issues in the post - application phase..

### 5.2 Practical application of the EU legal migration acquis

The table below gives an overview of the validity of different permits.

Directive	FRD	LTR	SD	RD	BCD	SPD
Minimum validity of the first permit	12 months	60 months	The duration of the programme of studies	The duration of the research project	The duration of the work contract + 3 months	The period required to execute the job or for the period for which the contract of employment or other appropriate contract has been concluded
Maximum validity of first permit	Up to the validity period of the temporary residence permit of the third-country national with whom the family reunification is requested	60 months	12 months	12 months	24 months	12 months
Minimum validity of permit renewal	12 months	60 months	Period of studies	Period of the research project	The duration of the work contract + 3 months (in case the work contract lasts for less than	The period required to execute the job or for the period for which the contract of

					2 years)	employment or other appropriate contract has been concluded
Maximum validity of permit renewal	Highly qualified professionals : 2 years  Maximum period: up to the validity period of the temporary residence permit of the third-country national with whom the family reunification is requested.	60 months	12 months	12 months	24 months	12 months

The Member State has a set timeframe to deliver the permit following the notification of the decision, of 30 days. In practice, it takes 30 days on average.

The employer is the main applicant and needs to be involved in the delivery of the permit.

There are no additional charges for issuing the permit, but there is an additional fee for issuing a biometric residence permit (240 HRK) plus an administrative fee (70 HRK). A biometric residence permit is issued to a foreigner who has an approved temporary or long-term residence status. Based on Art. 8 of the Croatian Act on Administrative Fees, certain categories are exempt from paying administrative fees.

With regard to obtaining the permit, Croatia makes a difference between non-EU family members of EU citizens and non-EU family members of third-country nationals, as the conditions for obtaining the permit are not the same.

In case of the Single Permit Directive, the application can either be submitted by a third-country national or by the employer in Croatia. In case it is submitted by the employer, the decision will be submitted to the employer.

### **5.3 Differences between national statuses and the EU legal migration acquis**

In the post-application phase, there is no difference between the LTR and the other categories of third-country nationals who can acquire long-term residence status based national legislation.

## **6 Residency phase**

### **6.1 Legal transposition of the EU legal migration acquis**

The research did not indicate that there were compliance issues in this phase.

The only provisions that raised concerns of conformity were Art. 14(2) of the FRD and Art. 11(1)(a), (b), (d), (e), (f) and (g) of the LTR.

According to Croatian law, long-term residents have the right to access employment and self-employment, the right to access vocational training, education and student scholarships, as well as the right to social assistance, social protection and social security, the right to tax benefits, the right to access the goods and services market and the freedom of association. Moreover, Article 98(2) of the Law 130/2011 prescribes the applicability of the legislation concerning the specific area of paragraph 1 to the aliens holding long-term residence status. It should be noted however that the wording of Article 98(2) of the Law 130/2011 does not automatically lead to equal treatment.

### **6.2 Practical application of the EU legal migration acquis**

#### **a. Use of the permit:**

The residence permit is issued using the format as set out in Regulation (EC) No 1030/2002 for residence permits. The permit has a constitutive value. It gives third-country nationals the right to move freely on the Member State's territory.

The permit is required as a legal document for the following other administrative procedures:

<b>Access to education</b>	<b>Access to healthcare</b>	<b>Registration with PES</b>	<b>Fixed telephone subscription</b>	<b>Utility subscription</b>	<b>Open a bank account</b>	<b>Social security registration</b>

#### **b. Renewals of the permit:**

National or EU law imposes a direct or indirect requirement to renew a valid residence document.

The renewal process follows a single procedure, involving one authority. The authority is involved as in the first application procedure.

#### **c. Change of status and naturalisation**

Status changes are possible for most statuses. The procedure for requesting a status change is the same as the first application procedure.

In order to obtain citizenship, the third-country nationals need to comply with the following conditions:

- 1) that he or she has reached the age of eighteen years and that his or her legal capacity has not been taken away.
- 2) that he or she has had his or her foreign citizenship revoked or that he or she submits proof that he or she will get a revocation if he or she would be admitted to Croatian citizenship.



- 3) that before the filing of the petition he or she had a registered place of residence for a period of not less than five years constantly on the territory of the Republic of Croatia.
- 4) that he or she is proficient in the Croatian language and Latin script.
- 5) that a conclusion can be derived from his or her conduct that he or she is attached to the legal system and customs persisting in the Republic of Croatia and that he or she accepts the Croatian culture. It shall be deemed that the prerequisites from point 2 paragraph 1 of this Article have been met, if the petition was filed by a stateless person or by a person who, according to the Law of the country whose citizen he or she is, will lose it by naturalization.
- If the foreign country does not envisage the revocation or is asking for prerequisites to be met, which can not be met, a statement by the person who has filed the petition stating that if he or she acquires Croatian citizenship, he or she renounces foreign citizenship, is sufficient.

#### **d. Employment rights on the basis of the permit**

In general, a work-related permit is linked to a certain employer. When changing employer, the third-country national needs to request a change to the permit.

#### **e. Equal treatment**

Generally, a third-country national with a permit to reside and work in Croatia has a right to equal treatment as Croatian nationals with regard to social protection, social and health insurance, right to child benefits, and maternal and parental support.

With regard to identifying labour exploitation, the Member State does not have a mechanism in place to monitor the exploitation of third-country nationals. Other specific measures in place to prevent labour exploitation of third-country nationals are set out in the Croatian Labour Law, which provides stipulates which activities and treatment are banned to the employer and provides for sanctions in case of labour exploitation.

#### **f. Integration:**

Specific integration procedures and conditions do apply to third-country nationals once established on the territory of the Member State. There are consequences if the third-country national does not participate in these or fails the integration measure. Based on the Croatian Aliens Act, a long-term residence will be accorded to a third-country national who knows the Croatian language and Latin alphabet as well as the Croatian culture and social system. An exemption is made for pre-school children, attendants or those persons who finished elementary, secondary or higher education in the Republic of Croatia and persons older than 65 years of age, unless they are employed. In case these conditions are not fulfilled, a third-country national will not be granted long-term residence.

### **6.3 Differences between national statuses and the EU legal migration acquis**

In the residency phase, there is no difference between the LTR and the other categories of third-country nationals who can acquire long-term residence status based national legislation.

## **7 Intra-EU mobility phase**

### **7.1 Legal transposition of the EU legal migration acquis**

The research did not indicate that there were compliance issues in this phase.

The only provisions that raised conformity concerns were Art 14(1), 14(2)(c), 15(2)(a), 15(4), first subparagraph, 15(4), third subparagraph, pt. (a)(i) and Art. 15(4), third subparagraph, pt. (a)(ii) of the LTR. Art. 14(5)(b), first subparagraph (“as providers of cross-border services”) has not been transposed.

As regards Art. 14(1) of the LTR, it is transposed into Croatian legislation by Article 184 of the Law 130/2011. Article 14(1) of the Directive establishes the right of long-term residents to reside in the territory of Member States other than the one which granted him the long-term residence status, for a period exceeding three months. Article 184 of the Law 130/2011 establishes the right of residence of up to three months of third-country nationals that hold a long-term resident status in another EEA country. Further, Article 184(1) of the Law 130/2011 links the duration of the allowed residence in the territory of the Republic of Croatia to 3 months, or shorter, if the long-term residence permit has a shorter validity period.

Article 47 (1), points 1, 3, 4 and 6 of the Law 130/2011 transpose Article 14(2)(c) of the Directive. The Law 130/2011 provides for four additional grounds for granting temporary residence to third-country nationals, including those who have long-term resident status in another EEA country: family reunification, scientific research, humanitarian reasons and work as a posted worker. Unlike the Directive, which does not limit the number of purposes for which temporary residence can be granted to third-country nationals holding a long-term residence status in another EEA country, Law 130/2011 provides for an exhaustive list of those purposes.

As regards Art. 14(5)(b), Law 130/2011 follows a different structure than Article 14(5)(b), first subparagraph of the LTR. According to the general provisions on the right of aliens to work contained in the Law 130/2011, providers of cross-border services are included both in the scheme of the professions regulated by the annual quota for work permits, and the rules on specific professions which are outside the annual work permit quota. However, as there are no specific provisions transposing Article 14(5)(b), 1st subparagraph of the Directive, no transposition can be concluded.

Article 15(2)(a) of the Directive sets out an option which Croatia has chosen to apply. Article 185, point 2, and Article 190 of the Law 130/2011, Article 2 of the Regulation 51/2012 and Article 6 of the Ordinance 52/2012 transpose Article 15(2)(a) of the Directive. Under Article 15(2)(a) of the Directive, evidence of having stable and regular resources may be required in order to benefit from the right of residence referred to in Article 14(1). Article 185, point 2 of the Law 130/2011 prescribes a general obligation for third-country nationals who hold a long-term residence status in another EEA country and are requesting temporary residence status to submit proof of maintenance resources. Although Article 2 of the Regulation 51/2012 refers to Article 54 of the Aliens Act, which regulates the general application for a temporary residence, as there is no provision regulating in more detail the amounts necessary for maintenance, as well as the necessary proofs, according to the clause in Article 190 of the Law 130/2011, the rules on temporary residence shall apply accordingly. This means that Article 54, and subsequently the provisions of Regulation 51/2012 and the Ordinance 52/2012 apply as regards the necessary evidence regarding maintenance funds for aliens and their family members. Article 2 of the Regulation 51/2012 determines the general minimum amount that an alien must dispose with in order to be considered for a temporary residence status. The general minimum amount is calculated as a percentage of the general social assistance calculation basis. Article 2 (1) of the Regulation 51/2012 sets it at 400% of this basis. Currently this basis is 500 HRK (app. 65.50 EUR). Paragraph 2 of Article 2 of the Regulation sets the amount for

dependant family members, adding a 150% to the second family member, and an additional 100% for each subsequent family member. In that sense, the legislation sets out a minimum threshold, differently from the requirement set by the CJEU in C-578/08, and by the Directive setting forth only amounts of reference from which departure might be allowed. In this regard issues on conformity arise. Article 6 of the Ordinance 52/2012 (amended by Ordinance 81/2013) determines different documents that may be accepted as proof of regularly secured resources for maintenance. In that sense, regularity and stability of resources is set out in Article 6, paragraph 3 of the Ordinance 52/2012 through the requirement regular income proofs, such as salary, pension, scholarship, or sponsorship. Furthermore, Article 6, paragraph 8 of the Ordinance 52/2012 excludes social assistance, unemployment benefits and child care benefits as regular and stable resources.

Article 185 of the Law 130/2011 transposes Article 15(4), first subparagraph of the Directive. Article 15(4), first subparagraph of the Directive concerns documentary evidence in the application procedure for the grant of a residence permit in the second member State. Article 185 of the Law 130/2011 provides for a list of documents required from a third-country national having a long-term residence status in another EEA country in order to obtain temporary residence in the Republic of Croatia: a valid travel document; proof of resources for his or her own maintenance, as well as maintenance of his or her family members, if any and; proof of health insurance; proof concerning the particular purpose of the temporary residence. The list of the required documents does not explicitly require the long-term residence permit granted in another EEA country, but only a valid travel document. Article 2 of the Law 130/2011 determines further what is considered under the term "valid travel document". Furthermore, Article 2, point 4 of the Law 130/2011 defines a foreign travel document to be a document issued by the competent body of another country for its citizens, or for aliens for the purposes of travelling abroad, and on a broad reading of this provision a long-term residence permit issued by another EEA country might be considered a foreign travel document. However, no provision concerning the third-country national holding a long-term resident status in another EEA country requires the competent authorities to require explicitly the long-term residence permit. On the other hand, the list of required documents does not require any additional documentation outside the limits of Article 15(4) of the Directive. It should therefore be concluded that Article 185 of the Law 130/2011 respects the limits set by the provision of the Directive concerning the prohibition of requiring additional documents in order to obtain temporary residence in Croatia. However, Article 185 of the Law 130/2011 does not explicitly require the third-country national to provide the long-term residence permit issued by another EEA country.

Article 15(4), third subparagraph, point (a)(i) of the Directive sets out an option which Croatia has chosen to apply. Article 73, paragraphs 1 and 2 of the Law 130/2011 and Articles 21 to 24 of the Ordinance 52/2012 transpose Article 15(4), third subparagraph, point (a)(i) of the Directive. Article 15(4), third subparagraph, point (a)(i) prescribes the employment contract, a statement by the employer that they are hired or a proposal for an employment contract as evidence for an employed status of the alien. On the other hand, Articles 21-24 of the Ordinance 52/2012 sets out a wider range of documents to be submitted in order to obtain the work permit. In view of the above, partial conformity can be concluded.

Article 15(4), third subparagraph, point (a)(ii) of the Directive sets out an option which Croatia has chosen to apply. Articles 25 to 29 of the Ordinance 52/2012 transpose Article 15(4), third subparagraph, point (a)(ii) of the Directive. Article 15(4), third subparagraph, point (a)(ii) of the Directive allows Member States to request documentary evidence as regards the ownership of appropriate funds, and necessary documents and permits. While Articles 25 to 29 of the Ordinance 130/2011 do require the evidence of necessary funds, as well as other documents and permits, they add an obligation for the foreign self-employed company owner and the foreign self-employed craft owner to employ at least 3 Croatian citizens and to submit

evidence as regards their employment. Such requirements go beyond the scope of Article 15(4), third subparagraph, point (a)(ii) of the Directive.

## **7.2 Practical application of the EU legal migration acquis**

Art. 186 of the Croatian Aliens Act grants the right to a family members of a third-country national, who has a long-term residence status in another EU Member State and who has acquired temporary or long-term residence in Croatia, to temporary residence for the purpose of family reunification if the family member has acquired a residence status in the other EU Member States and if the family member lived in the same household with the third-country national in the EU Member State where the third-country national has long-term residence.

For short-term mobility, the Member State:

- Does not require the third-country national to notify
- Does not require the third-country national to ask for authorisation.

## **7.3 Differences between national statuses and the EU legal migration acquis**

In the intra-EU mobility phase, there is no difference between the LTR and the other categories of third-country nationals who can acquire long-term residence status based national legislation.

# **8 End of legal stay / leaving the EU phase**

## **8.1 Legal transposition of the EU legal migration acquis**

The research did not indicate that there were compliance issues in this phase.

The only provisions that raised concerns of conformity were Art Art. 9(1)(c) and 9(7) of the LTR.

Article 99, paragraph 1, subparagraph 2 of the Law 130/2011 transposes Article 9(1)(c) of the LTR. It states: "Long-term residence stops if ... the alien moved out of the Republic of Croatia or has continuously been abroad for a period longer than one year." Article 99, paragraph 1, subparagraph 2 follows the requirements of the Directive solely regarding the time limit of absence. Moreover, Article 99(1) of the Law 130/2011 also refers to a situation when an alien has moved out of the Republic of Croatia. There is no further explanation, guidance or a time frame as to what the term "moved out" entails. It can be concluded that it sets a strict condition, which can be interpreted as not having residence anywhere outside the Republic of Croatia. In that sense, it does not comply with the requirement of 12 months of absence outside the territory of the EU. Moreover, the said article limits the residence solely to the Republic of Croatia, not referring to the entire EU territory. In view of the above, partial conformity can be concluded.

No provision has been found in the implementing legislation that specifically transposes Article 9 (7) of the Directive. Article 102 (1) of the Law 130/2011 however provides for solely one ground of removal of the third-country national, which is the threat to the public order, national security or public health. It states that an alien can be removed from the Republic of Croatia if he/she represents a threat to the public order, public security or public health. It should be noted that an alien that has lost his/her long-term residence status may be removed from the territory of the Republic

of Croatia where he/she represents a threat to public health. Such a ground is not listed in Article 9, paragraph 3 of the Directive. In consequence, an alien may be removed from the territory of the Republic of Croatia upon the loss or withdrawal of the long-term residence status outside the grounds prescribed by Article 9, paragraph 3 of the Directive.

## **8.2 Practical application of the EU legal migration acquis**

There are no specific procedures in place for third-country nationals who choose to leave the Member State.

The Member State allows third-country nationals to export certain social security benefits. Article 9 (1), subparagraph 6, Article 6 and Article 96 of the Pension Act transpose Article 12(4) of the Single Permit Directive. Article 9(1) subparagraph 6 of the Pension Act, provides for a mandatory pension insurance of third-country nationals that are employed in Croatia. Article 6 stipulates in more detail which type of pensions are embodied, and with this, the retirement (in relation to old age), inability to work due to invalidity and family pension (paid to widows or widower after the person that was initially receiving the pension has died) is envisaged. Based on these articles and Article 96 of the Pension Act, which prescribes the manner of portability of pension funds, the mandatory pension insurance entitles the insured persons to pension benefits equally to Croatian citizens, including the principle of portability of pensions in respect of old age, death, or invalidity. These articles stipulate that the payment of pensions and other post-retirement insurance from Croatia abroad is done in accordance with Regulation (EC) no 883/2004, international agreements with third countries or via reciprocity. Additionally, in the situations that are not covered with either of the above, the payment can be made in accordance with the decision of the Croatian Pension Fund sanctioning such payment scheme to third-country nationals.

Information on the portability of social security benefits is not easy to find and clear.

A third-country national residing in the Member State is allowed to be absent from the territory for a maximum of 30 days, before s/he loses the residence permit and/or right to stay. With regard to LTR, the third-country national loses his/her long-term residence status in case he/she has continuously been outside of Croatia for a **period longer than one year**. The absence of third-country nationals is not monitored by the Member State. Third-country nationals are advised to inform the authorities in advance, in case they plan to be absent from the Croatian territory for a longer period (up to 90 days). When they inform the authorities about their intention, a note authorizing their absence will be entered in the computer system. The documentation to prove the time of absence is not specified by law, but it is recommendable to bring it to the authorities when asking for the authorization. Any document can be used.

The Member State does not have measures or a scheme in place to allow circular migration.

The consequences of deliberate overstay of the duration of the residence permit are a financial sanction and deportation of the third-country national.

## **8.3 Differences between national statuses and the EU legal migration acquis**

In the end of legal stay/leaving the EU phase, there is no difference between the LTR and the other categories of third-country nationals who can acquire long-term residence status based national legislation.

## **9 Main findings and conclusions – state of practical implementation of EU legal migration legislation in the Member State**

9.1 Overall, the research did not indicate that there were compliance issues in the implementation of EU legal migration legislation in Croatia.

In the preparation phase, the only provisions raised conformity concerns were Art. 7(1)(c) and 15(3) of the FRD and Art. 5(1) of the LTR. In the residency phase, the only provisions where partial conformity was established were Art. 14(2) of the FRD and Art. 11(1)(a), (b), (d), (e), (f) and (g) of the LTR. In the intra-EU mobility phase, the only provisions that raised conformity concerns were Art. 14(1), 14(2)(c), 15(2)(a), 15(4), first subparagraph, 15(4), third subparagraph, pt. (a)(i) and Art. 15(4), third subparagraph, pt. (a)(ii) of the LTR, whereas Art. 14(5)(b), first subparagraph (“as providers of cross-border services”) has not been transposed. In the end of legal stay/leaving the EU phase, the only provisions that raised conformity concerns were Art. 9(1)(c) and 9(7) of the LTR.

As regards practical application, no major issues have been identified, but generally more detailed information available online would be welcome.

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