

# Monthly data collection on the current migration situation in the EU

# August 2016 monthly report 1–31 July 2016

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Note the full monthly August 2016 report is available on the FRA website at:

http://fra.europa.eu/en/theme/asylum-migration-borders/overviews/august-2016

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#### Highlights: 1-31 July 2016

#### New arrivals

Arrivals in Italy increase to some 23,550 in July; many corpses, mostly women, are found at sea. IOM reports that the death toll in the Central Mediterranean reached 2,700 in 2016.

In line with its new policy, Hungary apprehends and transfers some 1,700 people found within 8 km from the border with Serbia to the Serbian side of the border fence without giving them access to asylum procedures.

Multiple cases of violence from Hungary to Serbia are reported, allegedly involving the unleashing of police dogs, the use of pepper spray and beatings.

Hungary refuses entry to some 4,170 people, while apprehensions for unauthorised border crossing increase from 10 % in June to 18 % in July.

Arrivals in Austria, mainly via Hungary, remain substantial at around 150 people per day.

Some 1,810 people arrive in Greece by sea, including around 330 children, mainly from Syria.

#### Criminal proceedings

Three Syrians are charged with entering Bulgaria as foreign fighters. They had received refugee status in Germany and were travelling to Syria via Bulgaria.

In Hungary, the number of criminal proceedings for border fence related crimes decreases from 401 in June to 154 in July due to the new 8 km policy.

After spending nearly 10 months in prison in poor conditions, a district court in Hungary finds 10 of the 11 refugees – some of whom are seriously ill and with disabilities – who protested against the closure of the southern border in September 2015, guilty for participating in a riot. They are given prison sentences and entry bans, including a ban for 10 years. NGOs criticise the trials.

In Italy, the police identify a major smuggling network operating in North Africa that is selling migrants who fail to pay some EUR 15,000 for their journey to Egyptian criminals for their organs.

#### Initial registration and processing

The pre-registration exercise, held jointly by the Hellenic authorities and UNHCR on mainland Greece is almost finished with nearly 28,000 registered asylum seekers, including 1,100 unaccompanied and separated children.

Identification and registration practices change in Sicily (Italy) as the capacity of the hotspots is exhausted; arrivals are transferred by bus to other facilities throughout Italy. Their journey can take several hours and passengers are allegedly not allowed to get off to go to the toilet.

In Bulgaria, many asylum seekers disappear before their procedure is closed. Despite increasing requests for Dublin transfers, only few are returned to Bulgaria.

Dublin returns from Austria to Hungary are often impossible due to a lack of cooperation between the two countries.

Asylum applicants in Austria increasingly return voluntarily before receiving a decision, as they may have to wait for a year for their first asylum hearing.

Asylum applications in Germany, especially repeat applications, increase by more than a third in June compared to May and registration of new arrivals remains at a high level.

Family reunification for Syrians in Germany can take nearly two years, with a current waiting time of 15 months for the first interview at the embassy in Beirut.

To speed up the assessment of asylum claims, Italy proposes to replace the hearing of applicants in Italy by an analysis of documents presented by the applicant's lawyer. Exceptions are only possible in cases of necessity.

Asylum applications in Sweden have stabilised at some 2,000 to 3,000 per month.

#### Reception conditions

The Hellenic Centre for Disease Control and Prevention recommends the closure of accommodation centres in Greece due to public health concerns after visiting 16 centres on the mainland.

Pre-removal centres in Bulgaria are overcrowded for the first time in 2016.

At the Hungarian border, many women and children continue to wait for weeks to be admitted to the transit zones without appropriate shelter and sanitary facilities. Around 1,400 people, some 40 % are children, wait behind the fence.

The open camp in Körmed (Hungary) is criticised for its bad conditions as people are accommodated in tents and receive multiple meals at a time, which have to be stored inside the tents without a fridge. A third of the inhabitants suffer from scabies.

A minimum level of privacy is not ensured at a reception centre in Hamburg-Boberg (Germany), where 420 beds are not separated by partitions. Another reception centre for women does not have female security staff on duty.

A Parliamentary Commission of visits the reception centre in Mineo (Sicily, Italy) and recommends its closure due to inadequate conditions. The government had planned to turn the centre into a hotspot facility.

Reception conditions in Italy deteriorate. In Sardinia, the government does not reimburse the municipalities on time putting the whoe reception system at risk.

#### Child protection

More than 1,400 unaccompanied children in Greece are waiting for placement in specialied facilities; among them, 350 are held in hotspots or police detention.

In Palermo (Sicily, Italy), unaccompanied children live in emergency shelters for up to six months without being appointed a guardian or receiving any kind of specific assistance.

Some 400 children demonstrate against poor health and living conditions at the emergency reception centre in Reggio Calabria.

Children in Austria are increasingly accommodated in specialised facilities.

The number of unaccompanied children under the care of the Children and Youth Services in Germany has significantly decreased since the beginning of the year.

In Sweden, health staff increasingly report cases of severe mistreatment of unaccompanied children at accommodation centres, which may possibly occur due to a lack of professional staff.

#### Legal, social and policy responses

In Greece, the composition of the Asylum Appeals Committees changes. The new committees, which are composed of two administrative judges and a member appointed by UNHCR, will be operational in August.

The Italian authority designated for monitoring forced returns becomes operational and observes a Frontex flight from Rome to Nigeria. The return of two passengers was cancelled as their asylum applications were still pending.

Police in Bulgaria launch apprehension operations near the central mosque in Sofia and detain several foreigners.

The Hungarian government campaigns against EU mandatory relocation quota, emphasising that the terrorist attacks in Western Europe were committed by refugees and asylum seekers.

The German Parliament decides on the new Integration Act, introducing cuts in social benefits if asylum seekers reject mandatory measures, such as German language classes or non-profit jobs.

According to the new Data Exchange Act in Germany, data on profession, education, qualification, health condition and language proficiency are collected and saved in the Central Register of Foreigners, to which a total of 14,000 authorities may request access.

Many rejected asylum seekers in Sweden are expected to lose their daily allowances and accommodation in housing facilities.

#### Hate speech

After a demonstration against restriction orders on the island of Leros (Greece), some 200 refugees and migrants refuse to return to the hotspot area due to

safety concerns regarding conflicts in the hotspot and with the local civilian vigilante groups in the area.

The Bulgarian Helsinki Committee requests the initiation of proceedings against two militarised NGOs, formed with the aim of illegally detaining refugees. The cases against two refugee hunters in Bulgaria proceed, leading to the confirmation of incitement to discrimination, violence and hatred in one case, and to release under bail in the other.

Hate crime incidents continue to occur in Austria and Germany. Several hate crime incidents occur in Italy, including a case in Fermo, where a Nigerian asylum seeker, reacting to racist insults addressed to his wife, was attacked and killed with an iron pole.

In Hungarian social media, hate speech against refugees and asylum seekers increase.

The police in Karlstad (Sweden) wrongly accuses a group of unaccompanied asylum-seeking boys of sexual harassment during a music festival on their website after they receive 27 notifications of sexual harassment incidents, whereas in fact only two unaccompanied asylum-seeking children were concerned as suspects.

#### Thematic focus: Migrants with disabilities

Persons with disabilities make up around 15 % of the global population, <sup>1</sup> and comprise a significant minority of refugees and migrants. In addition to pre-existing physical, sensory, intellectual or psychosocial impairments, people may acquire or develop impairments during the migration process. When identified, these impairments place an obligation on Member States to provide specific support throughout the arrival, registration and asylum process.

There is little information available on the situation of migrants and refugees with disabilities recently arrived in the EU, resulting in anecdotal evidence and individual reports of particular challenges faced. This thematic focus explores practices in four areas crucial to persons with disabilities and victims of torture in the current migrant situation:

- 1) Identification of persons with disabilities in reception and detention centres
- 2) Reception conditions for persons with disabilities
- 3) Mental health determinants and support
- 4) Identification and rehabilitation of victims of torture

Article 21 of the Charter of Fundamental Rights of the European Union prohibits any discrimination on the grounds of disability, while Article 26 sets out the right of persons with disabilities "to benefit from measures designed to ensure their independence, social and occupational integration and participation in the life of the community".

The European Union and 27 of its Member States are also parties to the UN Convention on the Rights of Persons with Disabilities (CRPD), the preeminent international standard on the rights of persons with disabilities. The CRPD does not explicitly make reference to refugees and migrants with disabilities. Nevertheless, Article 11 on situations of risk and humanitarian emergencies requires State Parties to the convention to 'take, in accordance with their obligations under international law, including international humanitarian law and international human rights law, all necessary measures to ensure the protection and safety of persons with disabilities in situations of risk, including situations of armed conflict [and] humanitarian emergencies'. In a recent (June 2016) report on the implementation of the UN Convention on the Rights of Persons with Disabilities, the European Parliament requested the Commission and the Council to provide for special care for persons with disabilities when making proposals for resolving the refugee issue, in accordance with Article 11 of the CRPD.

United Nations (UN), Convention on the rights of persons with disabilities, 13 December 2006, Art. 11, available at: <a href="www.un.org/disabilities/convention/conventionfull.shtml">www.un.org/disabilities/convention/conventionfull.shtml</a>.

World Health Organization (2011), World Report on Disability, Geneva, available at: <a href="https://www.who.int/disabilities/world-report/2011/en/">www.who.int/disabilities/world-report/2011/en/</a>.

European Parliament (2016), Report on the implementation of the UN Convention on the Rights of Persons with Disabilities, with special regard to the Concluding Observations of the UN CRPD Committee (2015/2258(INI)), 16 June 2016, available at: <a href="https://www.europarl.europa.eu/sides/getDoc.do?type=REPORT&reference=A8-2016-0203&language=EN">www.europarl.europa.eu/sides/getDoc.do?type=REPORT&reference=A8-2016-0203&language=EN</a>.

Other CRPD articles complement these protections, including: Article 5, which prohibits discrimination on the grounds of disability; Article 9, which requires that both the physical environment and information and communications are accessible to persons with disabilities; Article 25 on health; Article 26 on habilitation and rehabilitation. The CRPD is binding on the EU.

#### Terminology: disability and reasonable accommodation

Under the CRPD, people with disabilities include those with long-term physical, mental, intellectual or sensory impairments. This includes wheelchair users and people with other mobility impairments, blind and deaf people, people with mental health issues – or 'psychosocial disabilities' – and people with intellectual disabilities.<sup>4</sup>

Both EU and national legislation in the area of asylum and migration frequently refer separately to people with disabilities and people with mental health problems (also sometimes termed 'mental illness' or 'mental disorders'), although both are included under the umbrella term 'vulnerable persons'. When referring to persons with disabilities, this overview includes people with mental health problems.

Under the CRPD, the equality and non-discrimination obligation includes the duty to provide reasonable accommodation, also called reasonable adjustments. Reasonable adjustments are measures taken to offset the impact of an impairment, for example giving more time in an asylum interview to a person with speech impairments.

In its recommendations on how the EU can better implement the CRPD, the CRPD Committee underlined its 'deep concern with the precarious situation of persons with disabilities in the current migration crisis in the EU'. In particular, it noted that:

- refugees, migrants and asylum seekers with disabilities are detained in the EU in conditions that do not provide appropriate support and reasonable adjustments;
- migration decision-making procedures are not accessible for all persons with disabilities, and information and communication are not provided in accessible formats.<sup>5</sup>

The CRPD Committee further recommended that the 'EU issues guidelines to its agencies and Member States that restrictive detention of persons with disabilities

For more information see FRA (2011), The legal protection of persons with mental health problems under non-discrimination law: understanding disability as defined by law and the duty to provide reasonable accommodation in European Union Member States, Luxembourg, Publications Office.

Committee on the rights of persons with disabilities, Concluding observations on the initial report of the European Union, CRPD/C/EU/CO/1, 2 October 2015, para. 34.

in the context of migration and asylum seeking is not in line with the Convention'. <sup>6</sup>

Moving on to secondary EU legislation, 'disabled persons', 'persons with mental disorders', 'persons with serious illnesses' and 'persons who have been subjected to torture, rape or other serious forms of psychological, physical or sexual violence' are included among 'vulnerable' persons afforded particular protections and whose specific situation must be taken into account in national legislation transposing the EU asylum and return acquis. As such, this thematic focus should be read in conjunction with those relating to children, healthcare, trafficking and gender-based violence.

The Asylum Procedures Directive notes that certain applicants, including those with disabilities and mental disorders, may be in need of special guarantees and that these applicants should be provided with adequate support. In addition, the Return Directive highlights a third-country national's 'physical state or mental capacity' as a potential reason for postponing removal, and that the special needs of vulnerable persons are taken into account during the period for voluntary departure or when removal has been postponed. <sup>10</sup>

#### Main findings

- Overall, there is a lack of formal procedures to identify migrants and refugees with disabilities, although some tools to support identification are available. This can have significant knock-on effects for the provision of targeted support and assistance.
- Identification is most likely to take place during **health screenings**. The high number of arrivals and limited resources have, however, reduced the opportunities for timely identification. Individuals can wait up to a year for a health screening in some areas.
- Identification of persons with disabilities often relies either on information provided by individuals themselves, or on the presence of a 'visible' disability. Impairments which are not immediately noticeable often remain undetected until later interviews or medical examinations, or beyond.
- Some individuals do not disclose disabilities to police, social services or migration authorities for fear of affecting their asylum application.

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<sup>6</sup> *Ibid*, para. 35.

Directive 2013/33/EU of the European Parliament and of the Council of 26 June 2013 laying down standards for the reception of applicants for international protection (recast), OJ L 180, article 21; Directive 2013/32/EU of the European Parliament and the Council of 26 June 2013 on common procedures for granting and withdrawing international protection (recast), OJ L 180, Recital 29; Directive 2008/115/EC of the European Parliament and of the Council of 16 December 2008 on common standards and procedures in Member States for returning illegally staying third-country nationals, Article 3 (9), OJ L 348, 24 December 2008, p. 98–107.

All available at: <a href="http://fra.europa.eu/en/theme/asylum-migration-borders/overviews">http://fra.europa.eu/en/theme/asylum-migration-borders/overviews</a>.

Directive 2013/32/EU of the European Parliament and the Council of 26 June 2013 on common procedures for granting and withdrawing international protection (recast), OJ L 180, Recital 29 and Art. 24(3).

Directive 2011/33/EU of the European Parliament and the Council of 16 December 2008 on common standards and procedures in Member States for returning illegally staying third-country nationals, OJ L 348, Art. 9(2)(a) and Art 14(1).

- Identification of and support for persons with disabilities relies heavily on the expertise and knowledge of individual staff, but there is a lack of relevant training. This can impede the identification of impairments – particularly those which are less immediately visible – and provision of appropriate support.
- There are no systematic data on the numbers of persons with disabilities among arrivals and the breakdown per type of disability. Anecdotal evidence suggests that mental health issues, and notably post-traumatic stress disorder (PTSD), are particularly prevalent, tied both to traumas experienced in the country of origin and on the journey. For women in particular, mental health issues are often linked to experiences of gender-based and sexual violence.
- Identification as a person with a disability is crucial for accessing specialised support. All of the seven Member States have specific arrangements in place for people with disabilities in reception and detention centres. These include specific accommodation arrangements, steps to make facilities more accessible, and the provision of assistive devices such as wheelchairs and hearing aids.
- Some form of psychosocial support and treatment is available in reception and detention centres in all of the seven Member States, often provided by NGOs. Limited capacity means, however, that there are often long waiting times for support and a lack of adequate interpretation services.
- In the absence of country-wide formal identification procedures, immigration authorities usually identify **victims of torture** during initial interviews and medical screening.
- Formalised support for victims of torture, such as access to rehabilitation programmes in reception and detention centres, is lacking in many locations.

### Identification of persons with disabilities in reception and detention centres

Identifying persons with disabilities is an essential precursor to ensuring that they benefit from the specific protections afforded to 'vulnerable' persons. The Reception Conditions Directive requires that Member States assess whether an applicant 'is an applicant with special reception needs', and that the assessment is 'initiated within a reasonable period of time after an application for international protection is made'. The support provided to such applicants should 'take into account their special reception needs throughout the duration of the asylum procedure'. <sup>11</sup>

Formal, legally defined procedures to identify people with disabilities in reception and detention centres are lacking in all of the seven Member States. This is in part due to the simplified or emergency procedures put in place in response to the high numbers of arrivals in 2015 and 2016. As such,

Directive 2013/33/EU of the European Parliament and of the Council of 26 June 2013 laying down standards for the reception of applicants for international protection (recast), OJ L 180, Art 22.

the identification process varies widely depending on the type of facility and the region within the seven Member States.

#### Identifying persons with disabilities

The Swedish Migration Agency has developed an internal handbook which acts as a reference tool for staff working on migration cases, including case officers registering asylum applications. The handbook includes information about indicators that could help to identify persons with 'special needs', including people with disabilities, people with mental and physical illnesses and people who have experienced torture during registration.<sup>12</sup>

The European Asylum Support Office (EASO) developed a tool for the identification of persons with special needs (IPSN tool) to support Member States. The tool lists indicators which officials involved in the asylum procedure and reception can use to spot possible vulnerabilities, even if they do not have expert knowledge in medicine, psychology or related fields. Based on the EASO tool, the Bulgarian State Agency for Refugees (SAR) will introduce a specific instrument to identify vulnerable asylum seekers, including asylum seekers with disabilities, later in 2016.<sup>13</sup>

In Bulgaria, initial identification of persons with clearly visible disabilities can take place during the registration procedure and first interviews with asylum authorities. Similarly, in Greece, identification takes place after the registration procedure upon arrival at a Reception and Identification Centre. <sup>14</sup> This initial identification may, however, be linked to an obvious need for medical treatment, rather than on the identification of an impairment.

In addition, initial medical checks upon arrival are an important stage in the identification process in all of the seven Member States. In Sweden, the legally required health screening must include a dialogue concerning the person's past and present physical and mental health, as well as questions to ascertain whether the person has been a victim of assault, rape or torture. <sup>15</sup> In Germany, however, this first screening focuses on detecting infectious diseases rather than disabilities, although the health authorities in each Federal State can extend the scope of the screening. <sup>16</sup> Furthermore, information about the identified

<sup>12</sup> Sweden, Swedish Migration Agency.

<sup>&</sup>lt;sup>13</sup> Bulgaria, State Agency for Refugees.

Greece, Ministry for Migration Policy, MDM Greece.

Sweden, Act concerning healthcare and medical services for asylum seekers and others, available at: <a href="https://www.riksdagen.se/sv/Dokument-Lagar/Lagar/Svenskforfattningssamling/Lag-2008344-om-halso--och-s\_sfs-2008-344/">www.riksdagen.se/sv/Dokument-Lagar/Lagar/Svenskforfattningssamling/Lag-2008344-om-halso--och-s\_sfs-2008-344/</a>; National Board of Health and Welfare, National Board of Health and Welfare's regulations and general advice concerning the health screenings of asylum seekers and others, available at: <a href="https://www.socialstyrelsen.se/sosfs/2011-11">www.socialstyrelsen.se/sosfs/2011-11</a>.

Germany, German Association of Towns and Municipalities.

impairments is not always communicated ahead of the transfer to the final reception centre. 17

People with disabilities can also be identified later in the process, such as during admission to a longer-term reception or detention facility. According to the Central Foreigners' Authority of the State of Brandenburg, Germany, for example, all newly arrived detainees in the pre-removal detention centre Eisenhüttenstadt have been screened for particular vulnerabilities since March 2014, and the detected special need for protection is transmitted to courts, immigration authorities and legal counselling. However, this comprehensive screening could only be applied due to a low number of cases in the pre-removal detention centre. According to the authority, it is not transferable to the situation in reception centres.

In Austria, persons with disabilities are often identified when they reach basic care facilities, where regional caretakers have 'symptom sheets' available in numerous languages and are in regular contact with residents. <sup>19</sup> Similarly, doctors from a Hungarian NGO often identify and report post-traumatic stress disorder (PTSD) during their visits to the camps and detention centres. <sup>20</sup>

The variety of identification practices means that in practice different actors are involved in identifying persons with disabilities. In Italy, these are typically healthcare professionals. In some detention centres, NGOs offering healthcare assistance or healthcare assistance professionals might identify disabilities. <sup>21</sup> In Bulgaria, identification of people with disabilities is shared among local NGOs, UNHCR and social workers from the Bulgarian State Agency for Refugees. <sup>22</sup> However, border and migration police authorities can perform initial identification, while the interviewer and doctors can do the initial identification for those who arrive directly at the reception and registration centres. <sup>23</sup>

Many people with disabilities are identified on an informal or *ad hoc* basis. Volunteers, staff of NGOs, healthcare and social workers, roommates and employees of residential centres have a significant role to play in identifying persons with disabilities, due to their close contact with refugees and migrants. In Austria, for example, NGOs report receiving most of their clients through recommendations from staff of other NGOs and volunteers.<sup>24</sup> This process, however, depends on the knowledge and awareness of individual staff and volunteers concerning disability.

<sup>20</sup> Hungary, Cordelia Foundation.

Germany, Office Eisenhüttenstadt of the Federal Office for Migrants and Refugees, July 2016.

<sup>&</sup>lt;sup>18</sup> Germany, Central Foreigners' Authority of the State of Brandenburg, July 2016.

<sup>&</sup>lt;sup>19</sup> Austria, Caritas Styria.

<sup>21</sup> Italy, Interview with INMP held on 22 July 2016.

Bulgaria, Refugee Support Group.

<sup>&</sup>lt;sup>23</sup> Bulgaria, State Agency for Refugees.

Austria, Intercultural Therapy and Counselling Centre (ZEBRA).

Irrespective of when disabilities are identified, self-identification as a person with a disability often plays an important role. Migrants may provide crucial information during their various interviews, during the medical examination or in personal contact with staff and volunteers. The lack of an available medical history can, however, make precise identification difficult. Nevertheless, anecdotal evidence based on the low numbers of persons with disabilities recorded suggests that many people with disabilities remain unidentified in practice. The lack of an available medical history can, however, make precise identification difficult. The lack of an available medical history can, however, make precise identification difficult. The lack of an available medical history can, however, make precise identification difficult. The lack of an available medical history can, however, make precise identification difficult. The lack of an available medical history can, however, make precise identification difficult. The lack of an available medical history can, however, make precise identification difficult. The lack of an available medical history can, however, make precise identification difficult. The lack of an available medical history can, however, make precise identification difficult. The lack of an available medical history can, however, make precise identification difficult. The lack of an available medical history can, however, make precise identification difficult. The lack of an available medical history can, however, make precise identification difficult. The lack of an available medical history can, however, make precise identification difficult. The lack of an available medical history can, however, make precise identification difficult. The lack of an available medical history can, however, make precise identification difficult. The lack of an available medical history can, however, howev

There are notable divergences in how different types of impairment are identified. 'Visible' disabilities, such as physical impairments or serious mental health problems are often the first to be identified, while less obvious disabilities remain undetected. In Hungary, for example, physical and sensory impairments are typically visually identified in the transit zones at the Serbian border, and are then formally noted in the medical exams which precede being moved to an open refugee camp or detention centre. <sup>28</sup> Psychosocial disabilities, however, are usually not identified in the transit zones. <sup>29</sup> In Greece, responsibility for identification falls within the competence of the psychosocial support group, usually constituted by members of the NGOs collaborating with the Reception and Identification Service. <sup>30</sup>

#### Supporting 'vulnerable' refugees

The pilot project 'Berlin Network for vulnerable refugees' aims to ensure that refugees identified as 'vulnerable' under EU law receive the necessary medical and material care. The network consists of four members responsible for different groups of vulnerable persons (AWO Berlin, XENION, Berliner Zentrum fuer selbstbestimmtes Leben behinderter Menschen and Refugium im Paul-Gerhardt-Stiftung) and is coordinated by the Centre for Refugee and Migration Services.

Network members work on developing a process to detect and identify the vulnerabilities of refugees early on to provide the specific accommodation needed. Leaflets in different languages are handed out

Hungary, Office of Immigration and Nationality.

<sup>&</sup>lt;sup>25</sup> Bulgaria, State Agency for Refugees.

Austria, Caritas Styria; Hungary, Office of Immigration and Nationality.

Hungary, Decree of the Minister of Internal Affairs no. 8/2015. on the public health requirements and sanitary regulations in the detention centers, open refugee camps and community accommodations operated by the Office of Immigration and Nationality, and in the detention centres operated by the police to execute alien police detention, and on the rules for cooperation with the public health bodies, Art. 2, available at: <a href="http://net.jogtar.hu/jr/gen/hjegy\_doc.cgi?docid=A1500008.BM">http://net.jogtar.hu/jr/gen/hjegy\_doc.cgi?docid=A1500008.BM</a>.

Hungary, Office of Immigration and Nationality.

Greece, Ministry for Migration Policy, MDM Greece.

on arrival to inform vulnerable persons which members of the pilot project to contact.<sup>31</sup>

There are no systematic data on the number of persons with disabilities among arrivals, nor on the prevalence of different types of impairment. Moreover, that data which are collected may be based on observations by staff without specific training on disability issues, and therefore reflect perceptions of disability and more visually identifiable impairments. Anecdotal evidence from all of the seven Member States consistently suggests, however, that **psychosocial disabilities**, **including post-traumatic stress disorder (PTSD)**, are most **common**. The comparative lack of physical disabilities could be attributed to the age profile of most migrants and refugees, with relatively few older people among the arrivals.<sup>32</sup>

The gender, age and nationality of individuals identified as having a disability varies considerably. In Greece, mental health issues are most prevalent among women and children, most of whom come from Afghanistan and Syria. <sup>33</sup> In Austria, staff working in federal basic care facilities report that psychosocial disabilities occur most often among young males and unaccompanied children. <sup>34</sup> In contrast, Bulgarian Red Cross activists have not identified any mental health issues among children. <sup>35</sup>

The National institute for the promotion of migrant populations' health and the fight against poverty-related diseases (INMP) in Italy reports that mental health issues including depression, PTSD, psychosis, bipolar disorder, anxiety, somatisation disorder, and maladjustment, are among the most common impairments among migrants. They are most prevalent among young men from conflict zones. <sup>36</sup> In Brandenburg, Germany, clients with PTSD are found in all kind of groups: single women and men, women with children (though no cases of men with children), children as well as men and women with family members. <sup>37</sup>

Being identified as a person with a disability is crucial for accessing specialised support. In Austria, if personnel in contact with asylum seekers notice a need for special care, they contact a doctor or psychiatrist and file an application to the Regional Refugee Office. The office then decides, based on documentation from the support personnel and the doctor's assessment, on the need for specific care. According to NGOs, the authorities are not restrictive in their decisions.<sup>38</sup>

Greece, Ministry for Migration Policy, MDM Greece.

Italy, Interview with INMP held on 22 July 2016.

For more information, see: <u>Berlin Network for vulnerable refugees (BNS).</u>

<sup>32</sup> Austria, Caritas Styria.

Austria, Federal Ministry of the Interior, Department III/9.

Bulgaria, Bulgarian Red Cross.

<sup>&</sup>lt;sup>37</sup> Germany, Central Foreigners' Authority of the State of Brandenburg, July 2016.

<sup>38</sup> Austria, Caritas Styria.

In Italy, identification as having a disability impacts where an individual will be accommodated. Once the National asylum seekers and refugees protection system (SPRAR) is informed, the facility manager can provide specific assistance in compliance with two procedures: either making use of services provided in the territory where the facility is located or requesting that the person be moved to another facility. The person with disabilities is supported throughout the procedure. <sup>39</sup> However, NGO reports suggest that proper assessments to ensure that the new centre meets the person's needs are not always conducted. They also note that the identification forms migrants complete upon arrival in Italy do not include questions concerning disability and specific impairments. <sup>40</sup>

Identification is also important for securing support and reasonable adjustments during the asylum procedure. Once a person is identified as having PTSD in Germany, a special commissioner for victims of torture and traumatised asylum seekers must be contacted immediately to take over management of the asylum procedure. All NGOs caution, however, that not all people get appropriate information and legal counselling regarding the asylum procedure. Furthermore, it is not always ensured that information about special requirements is passed to the Federal Office for Migrants and Refugees before the asylum interview.

#### Reception conditions for persons with disabilities

The Reception Conditions Directive requires that 'material reception conditions provide an adequate standard of living for all applicants', which 'protects their physical and mental health'. This includes ensuring that such 'standard of living is met in the specific situation of vulnerable persons'. 43

Italy transposed the Reception Conditions Directive through a 2015 legislative decree, which sets out specific modalities for so-called vulnerable groups, including people with disabilities.<sup>44</sup> These include that vulnerable persons are hosted together with their relatives in the same reception centre, wherever possible, and that professionals responsible for providing support receive specific training. In Austria, the Federal Law on Basic Care was amended to transpose

40 Italy

<sup>&</sup>lt;sup>39</sup> Italy, Interview with INMP held on 22 July 2016.

Italy, ENIL.

Since 1996, these special commissioners must be available in all branch offices of the Federal Office of Migrations and Refugees. There are also special commissioners for gender-specific persecution, unaccompanied children and victims of trafficking. The tasks of the special skilled staff includes advising colleagues and superiors in difficult cases, provide relevant information and, moreover, take over the most sensitive cases themselves.

<sup>42</sup> Germany, Welfare Organisation Diakonie Rheinland-Pfalz, July 2016.

Directive 2013/33/EU of the European Parliament and of the Council of 26 June 2013 laying down standards for the reception of applicants for international protection (recast), OJ L 180, Art 17(2).

Italy, Legislative Decree No. 142 of 18 August 2015, available at: www.qazzettaufficiale.it/eli/id/2015/09/15/15G00158/sg.

the Reception Conditions Directive.<sup>45</sup> It now stipulates that the special needs of persons in need of protection shall be taken into account to the extent possible in the course of basic care and in the allocation of accommodation.<sup>46</sup>

In Germany, Greece and Sweden the Reception Conditions Directive has not been transposed into national law. In Germany's case, this resulted in the European Commission introducing an infringement procedure in autumn 2015. <sup>47</sup> A bill that would implement elements of the specific legal status of vulnerable persons and applicants with special reception needs remains in interdepartmental consultation since October 2015. <sup>48</sup>

In federal states, there are also notable differences in the scope and content of laws at the federal and state level. Most of Germany's 16 federal states have no specific guidelines for persons with disabilities. <sup>49</sup> Some regulations refer to ill or disabled persons, stating that 'if possible' their particular needs should be taken into account in determining accommodation within the large refugee centres. <sup>50</sup> They also provide that in individual cases supported by medical certificates, asylum seekers with disabilities can move to individual accommodation. <sup>51</sup>

There is evidence in all seven Member States of arrangements in place for people with disabilities in reception and detention centres. These are sometimes based on arrangements for all people identified as 'vulnerable'. For example, in Italy, vulnerable people are, wherever possible, hosted together with their relatives in the same reception centre.

In other cases, specific arrangements are in place for people with disabilities. In the Austrian province of Styria, there are two houses targeting asylum seekers with specific needs, one for persons with mental health issues and one for persons with physical disabilities. Other people with disabilities have places in regular accommodation, which receive additional funding to provide specialised support. There is also some barrier-free accommodation for persons using a wheelchair. <sup>52</sup> In Italy, SPRAR provides reception centres that target people with mental health issues and specific therapeutic needs. However, people with specific needs – including torture victims – are often accommodated in general reception centres. <sup>53</sup> All reception units in Sweden must report relevant

Italy, Interview with SPRAR held on 19 July 2016.

See Report of the Austrian Committee for Internal Affairs, available at: <a href="https://www.parlament.gv.at/PAKT/VHG/XXV/I/I\_00610/fnameorig\_410709.html">www.parlament.gv.at/PAKT/VHG/XXV/I/I\_00610/fnameorig\_410709.html</a>.

Austria, Federal law on basic care, 2005, Section 2, available at: <a href="https://www.ris.bka.gv.at/GeltendeFassung.wxe?Abfrage=Bundesnormen&Gesetzesnummer=10005762">https://www.ris.bka.gv.at/GeltendeFassung.wxe?Abfrage=Bundesnormen&Gesetzesnummer=10005762</a>.

See infringement procedure (No. 2015/0387).

See: www.fluechtlingsinfo-berlin.de/fr/pdf/Entwurf\_Richtlininenumsetzung\_Asyl\_011015.pdf.

Germany, Evaluation of statutory and non-legislative regulations in the 16 Federal States.

Germany, Regulation on shared accommodation and social assistance of the state of Thuringia.

<sup>&</sup>lt;sup>51</sup> Germany, i.e. Baden-Württemberg, Bavaria and Saxony.

<sup>&</sup>lt;sup>52</sup> Austria, Caritas Styria.

Austria, Caritas Styria.

information – including on vacancies in accessible accommodation, staff experience working with persons with disabilities, and local specialised services – to the Migration Agency, facilitating the placement of persons with disabilities in suitable accommodation.<sup>54</sup>

Steps have been taken to make reception and detention facilities more accessible, for example through the installation of ramps for wheelchair users. In addition, persons with disabilities can be placed on the ground floor of accommodation centres<sup>55</sup> and close to medical services.<sup>56</sup> This is particularly the case in services specifically targeting persons with disabilities.

Both the Reception Conditions Directive and the Asylum Procedures Directive require that asylum applicants shall be informed 'in a language which they understand or are reasonable supposed to understand' of their rights. <sup>57</sup> In addition, the Asylum Procedures Directive includes a provision for interpretation. <sup>58</sup> Having information available in an accessible form is essential for ensuring that individuals are able to access the rights and support to which they are entitled. However, there was little evidence of accessible information, for example, in easy-read format for persons with intellectual disabilities, in any of the seven Member States.

The acute current situation sometimes impedes the provision of specific arrangements. In temporary reception centres lifts and ramps are still often lacking, making facilities inaccessible, particularly those with physical impairments. In Italy, detention centres are managed in compliance with emergency legislation, which exempts them from abiding by standard accessibility rules. <sup>59</sup> Furthermore, private actors often manage the facilities used for accommodation under the emergency measures and they may therefore not be subject to the levels of scrutiny applied to public services.

Some basic assistive devices such as wheelchairs, canes, ramps and crutches are available in reception centres and detention centres in all of the seven Member States. In Bulgaria, the Bulgarian State Agency for Refugees sometimes provides them directly, 60 while in Austria asylum seekers' health insurance covers basic technical assistive devices. In addition, it is possible to apply for special support to the regional authorities; in some cases

<sup>54</sup> Sweden, Swedish Migration Agency.

<sup>&</sup>lt;sup>55</sup> Bulgaria, State Agency for Refugees.

<sup>&</sup>lt;sup>56</sup> Austria, Intercultural Therapy and Counselling Centre.

Directive 2013/33/EU of the European Parliament and of the Council of 26 June 2013 laying down standards for the reception of applicants for international protection (recast), OJ 2013 L 180, Art 9(4); Directive 2013/32/EU of the European Parliament and the Council of 26 June 2013 on common procedures for granting and withdrawing international protection (recast), OJ L 180, Art 21(1).

Directive 2013/32/EU of the European Parliament and the Council of 26 June 2013 on common procedures for granting and withdrawing international protection (recast), OJ L 180, Art. 12(1) and Art 15(3).

<sup>&</sup>lt;sup>59</sup> Italy, Interviews with ENIL held on 8 and 12 July 2016.

<sup>&</sup>lt;sup>60</sup> Bulgaria, State Agency for Refugees.

NGOs, district administration authorities or donors cover the costs for special devices.<sup>61</sup> Where not provided by public authorities, NGOs are often involved in supplying these devices.<sup>62</sup>

In Greece, however, technical assistive devices are not available in the majority of the reception and detention centres, while in Germany, each technical assistive device must be applied for individually. <sup>63</sup> According to NGOs, the relevant legal provisions are restrictively interpreted, even where a medical prescription has been issued. Local authorities often reject such applications, sometimes taking up to 18 months to reach a decision. <sup>64</sup> A Swedish NGO similarly reports that assistive devices are only available to those with residence permits. <sup>65</sup>

With regard to healthcare, the Reception Conditions Directive states that Member States 'shall provide necessary medical or other assistance to applicants who have special reception needs, including appropriate mental health care where needed'. 66 Both the Reception conditions Directive and the Return Directive require the provision of 'emergency healthcare and essential treatment of illness'. 67

Overall, evidence suggests there is limited access to healthcare services beyond emergency. In Sweden, adults seeking asylum are entitled only to medical treatment that cannot be postponed. In the longer term, the Bulgarian State Agency for Refugees indicates that people with long-term disabilities can access benefits under legislation on integrating people with disabilities. The agency and the Bulgarian Red Cross have referred persons with disabilities to disability certification authorities, supplying them with accompanying persons, interpreters and transport. 9

Hungary, Hungarian Association for Migrants.

<sup>&</sup>lt;sup>61</sup> Austria, Caritas Styria.

Germany, Asylum Seekers' Benefit Act.

Germany, National working group of the psychosocial centres for refugees and victims of torture, 2016, available at: <a href="www.baff-zentren.org/wp-content/uploads/2008/05/BAff">www.baff-zentren.org/wp-content/uploads/2008/05/BAff</a> Abgewiesen-Weitergeschickt-Vertroestet.pdf.

Sweden, DHR, non-governmental organisation for persons with impaired mobility.

Directive 2013/33/EU of the European Parliament and of the Council of 26 June 2013 laying down standards for the reception of applicants for international protection (recast), OJ 2013 L 180, Art 19 (1).

Directive 2013/33/EU of the European Parliament and of the Council of 26 June 2013 laying down standards for the reception of applicants for international protection (recast), OJ 2013 L 180, Art 19(1), Directive 2008/115/EC of the European Parliament and of the Council of 16 December 2008 on common standards and procedures in Member States for returning illegally staying third-country nationals, OJ L 348, Art 16(3).

Sweden, Act concerning the healthcare and medical services for asylum seekers and others, available at: <a href="https://www.riksdagen.se/sv/Dokument-Lagar/Lagar/Svenskforfattningssamling/Lag-2008344-om-halso--och-s\_sfs-2008-344/">https://www.riksdagen.se/sv/Dokument-Lagar/Lagar/Svenskforfattningssamling/Lag-2008344-om-halso--och-s\_sfs-2008-344/</a>.

Bulgaria, State Agency for Refugees. See also: Kalcheva S., Vulnerabillity and Protection: Identifying vulnerable persons among asylum seekers in Bulgaria, p. 12, available at: <a href="https://www.airm-bg.org/dokumenti/Presentation\_SKalcheva.doc">www.airm-bg.org/dokumenti/Presentation\_SKalcheva.doc</a>.

Aside from general professional training for health practitioners, social workers and others, there is little in the way of targeted training on the needs of people with disabilities for staff of reception and detention facilities. Training on the needs of people with disabilities often falls under the wider umbrella of training on 'vulnerable' groups. To In Italy, existing training for officials in reception centres and those involved in international protection proceedings should be complemented by specific guidelines drafted by the Ministry of Public Health: these guidelines have not yet been adopted, however. NGOs in Bulgaria and Hungary have also developed trainings for staff of reception and detention facilities. Where specific training is in place for staff of facilities for persons with disabilities, such as those in Italy and Austria. Staff of the psychosocial support group in Greece attend regular trainings from international NGOs.

There is a notable difference in the levels of training required for staff working for public and private organisations. In Sweden, training for staff employed by the Migration Agency are governed by several public acts. <sup>75</sup> In centres run by private companies commissioned by the Migration Agency, in contrast, there are no such requirements, since they are not public servants. Similarly, in Austria, private owners of asylum accommodation do not receive training. <sup>76</sup>

#### Mental health determinants and support

The psychological strain associated with migration makes responses to mental health problems particularly important. EU legal provisions make specific reference to the importance of providing necessary mental health support. The Reception Conditions Directive highlights the "primary concern" to be given to mental health of vulnerable persons in detention, and requires that Member States 'provide necessary medical or other assistance to applicants with special reception needs, including appropriate mental health care where needed'.<sup>77</sup>

Bulgaria, Asylum and Refugees Act, 31 May 2002, Art. 6, para. 3; Italy, Legislative Decree No. 142/2015, Article 17, available at: <a href="http://lex.bg/laws/ldoc/2135453184">http://lex.bg/laws/ldoc/2135453184</a>.

<sup>71</sup> Italy, Interview with INMP held on 22 July 2016.

<sup>&</sup>lt;sup>72</sup> Bulgaria, Bulgarian Red Cross; Hungary, Hungarian Association for Migrants.

Austria, Federal Ministry of the Interior, Department III/9; Association ZEBRA – Intercultural Therapy and Counselling Centre.

<sup>&</sup>lt;sup>74</sup> Greece, MDM Greece.

Sweden, Act on Public Administration, 7 May 1986, available at: <a href="www.riksdagen.se/sv/dokument-lagar/dokument/svensk-forfattningssamling/forvaltningslag-1986223\_sfs-1986-223">www.riksdagen.se/sv/dokument-lagar/dokument/svensk-forfattningssamling/socialtjanstlag-2001453</a> sfs-2001-453.

<sup>76</sup> Austria, Caritas Styria.

Directive 2013/33/EU of the European Parliament and of the Council of 26 June 2013 laying down standards for the reception of applicants for international protection (recast), OJ 2013 L 180, Art. 11 and 19(1).

No reliable data are available on the determinants of mental health issues among arriving populations. Nevertheless, observational evidence suggests that mental health issues are linked to a wide range of factors, including trauma experienced in the country of origin and during the journey. Pre-existing mental health issues, which the migration experience might exacerbate, also play a significant role.

Other determinants specifically affect certain groups. For women in particular, experience of gender-based and/or sexual violence, either in the country of origin, along the migration route or in reception and detention centres plays a significant role. In Italy, attempts to escape from the formal reception system in an effort to travel to other Member States and the resulting stays in informal accommodation are a particular factor in the mental health situation of children. Persecution, and the prospect of violence and detention based on their sexual orientation, are further determinants for lesbian, gay, bisexual and transgender persons.<sup>78</sup>

Upon arrival, several other factors can contribute to the development or worsening of mental health issues. Lengthy asylum procedures and a lack of information on the progress of applications, coupled with uncertainty about their outcome and fear of being returned put further strain on mental health. Conditions within reception and detention centres, including lack of daily activities, overcrowding, isolation and the lack of integration into the local community can also negatively affect mental health, particularly when individuals remain in these facilities for an extended period. Bad news from relatives remaining in the country of origin, along with anxiety about their safety, also have a negative impact on mental health.<sup>79</sup>

Some form of psychosocial support and treatment is available in all of the seven Member States, often provided by NGOs. For example, clinical psychologists are available in all federal facilities for basic care in Austria, 80 while basic psychosocial support is provided in preliminary reception centres in Italy, and by staff of psychosocial support groups in Greece. 81 Some German federal states employ psychologists in the reception centres: in the Eisenhüttenstadt/Brandenburg centre, for example, a one hour consultation period is available most days. 82

Nevertheless, there is often limited capacity, resulting in long waiting times for support, and a focus on short-term rather than long-term support. For example, an Austrian NGO reports that it cannot meet demands for mental health support and has to resort to waiting lists for all non-acute cases.

<sup>78</sup> Italy, Interview with INMP held on 22 July 2016.

Austria, Intercultural Therapy and Counselling Centre.

Austria, Federal Ministry of the Interior, Department III/9.

<sup>&</sup>lt;sup>81</sup> Greece, Ministry for Migration Policy, MDM Greece.

<sup>&</sup>lt;sup>82</sup> Germany, Zentrale Ausländerbehörde des Landes Brandenburg, July 2016.

Waiting times for therapy range from a few months for children to more than one year for adults. 83 Similarly, in some German states, four out of five refugees and victims of torture can wait up to a year for specialist support. 84

Provision of psychosocial support services also varies considerably depending on the individual centre. <sup>85</sup> In Sweden, for example, county councils organise mental health care, many of which give primary healthcare centres responsibility for the mental healthcare of all asylum seekers in the area. Others have formed support teams situated at the primary healthcare centres located close to large accommodation centres or established mobile health teams. <sup>86</sup> Child and adolescent mental health support has been included in the mobile teams in several counties, while 13 regions have trauma centres focusing on treating PTSD. <sup>87</sup>

Moreover, in Hungary, there is a significant discrepancy depending on the type of facility. Individual and group therapies are held weekly in the open refugee camps. In the detention centres, however, civil society organisations report a lack of support for people with mental health problems, including victims of torture or other forms of violence. The variable service provision is often compounded by the lack of a common supervision and monitoring system, which makes it impossible to assess the quality of the services and support provided in each centre.

There is also some evidence that staff in primary healthcare facilities lack the necessary training to identify and provide support for people with mental health issues. Healthcare staff may be focused primarily on physical health, lacking awareness of how to identify mental health issues, particularly in cases where individuals do not discuss them openly. <sup>89</sup> NGOs in Sweden highlight a particular challenge regarding children – both unaccompanied children and children with families – as trauma centres rarely treat children and, even where psychosocial support is available, staff are not trained in the specific needs of young people. <sup>90</sup>

Access to appropriate interpretation is crucial for the provision of effective mental health support, but the availability of interpretation varies widely. The interpretation that is available is often primarily to facilitate basic communication with staff, rather than specialised mental health support. One challenge is that the legislation governing access to healthcare may not cover interpretation costs.

Hungary, Cordelia Foundation.

Austria, Intercultural Therapy and Counselling Centre.

Germany, National working group of the psychosocial centres for refugees and victims of torture, available at: <a href="https://www.baff-zentren.org/wp-content/uploads/2008/05/BAff">www.baff-zentren.org/wp-content/uploads/2008/05/BAff</a> Abgewiesen-Weitergeschickt-Vertroestet.pdf.

<sup>&</sup>lt;sup>85</sup> Italy, Interviews with ENIL held on 8 and 12 July 2016.

Sweden, National Board of Health and Welfare.

<sup>87</sup> Sweden, Red Cross.

<sup>89</sup> Sweden, Medical Doctor and Psychiatrist at a Primary Healthcare centre.

<sup>90</sup> Sweden, Save the Children, Red Cross.

In Germany, for example, neither the services of the statutory health insurances nor by the Asylum Seekers' Benefit Act provide for interpretation costs. 91

There is also a lack of supply of trained interpreters, which limits access to psychosocial support significantly. <sup>92</sup> Instead, 'cultural mediation' services, which professionals may not provide, are sometimes a key source of interpretation. <sup>93</sup> In some cases, NGOs offering psychosocial support provide their own interpretation services, <sup>94</sup> while local authorities may also make use of their own multilingual staff in the absence of trained professionals. <sup>95</sup> There are also reports of the quality of interpretation services deteriorating, with consequences for the quality of support provided and, potentially, safety. <sup>96</sup>

In acute or emergency mental health situations, which available medical staff cannot address, individuals are typically transferred to local medical services with competence for mental health, including doctors and hospitals. There are, however, some reports that emergency procedures are overused, due to a lack of appropriate support particularly in the longer term. <sup>97</sup> This can include involuntary placement and treatment. <sup>98</sup>

#### Identification and rehabilitation of victims of torture

The right to freedom from torture is enshrined in many international treaties and the return of an individual to a country where he or she could face torture, inhuman or degrading treatment or punishment is prohibited by Article 19 of the EU Charter, the European Convention on Human Rights and the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT). 99 It may also constitute persecution in the sense of the 1951 Convention on the Status of Refugees. 100

Article 14 of CAT sets out the right to rehabilitation for victims of torture who are asylum seekers and obliges States Parties to 'ensure in its legal system that the victim of an act of torture obtains redress.' Redress includes the means for full

<sup>93</sup> Italy, Interview with INMP held on 22 July 2016.

97 Italy, MSF.

Germany, National working group of the psychosocial centres for refugees and victims of torture, (Bundesweiten Arbeitsgemeinschaft der Psychosozialen Zentren für Flüchtlinge und Folteropfer (BAfF e.V.)), 2016: Abgewiesen. Weitergeschickt. Vertröstet. Verloren im deutschen Gesundheitssystem, p. 21, available at: <a href="www.baff-zentren.org/wp-content/uploads/2008/05/BAfF\_Abgewiesen-Weitergeschickt-Vertroestet.pdf">www.baff-zentren.org/wp-content/uploads/2008/05/BAfF\_Abgewiesen-Weitergeschickt-Vertroestet.pdf</a>.

<sup>92</sup> Ibid

<sup>&</sup>lt;sup>94</sup> Hungary, Cordelia Foundation; and Austria, ZEBRA.

<sup>95</sup> Sweden, Medical Doctor and Psychiatrist at a Primary Healthcare centre.

<sup>96</sup> Ibid.

Italy, Interview with INMP held on 22 July 2016. See also FRA (2012), involuntary placement and involuntary treatment of persons with mental health problems.

UN, Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, 10 December 1984, Article 3 (1).

 $<sup>^{100}\,\,</sup>$  UN, Convention relating to the Status of Refugees, 28 July 1951, Article 33.

rehabilitation, which is 'holistic and include medical and psychological care as well as legal and social services'. 101

Evidence has shown that victims of torture are more likely to suffer from posttraumatic stress disorder or other barriers to disclose their personal experience, as may be required in an asylum interview. Trauma can severely impact on the asylum applicant's memory and his/her ability to present the claim in a credible way. Early identification is therefore crucial to ensure support of medical and legal experts. 102

The Asylum Procedures Directive 103 introduces specific procedural guarantees for asylum applicants who are victims of torture. Article 4(3) requires Member States to ensure that people interviewing asylum applicants must also have acquired general knowledge of problems which could negatively impact the applicants' ability to be interviewed, such as indications of past torture.

The Reception Conditions Directive 104 introduced an obligation for EU Member States to identify vulnerable asylum applicants with special reception needs, including victims of torture (Article 21), to ensure that victims of torture receive the necessary treatment, in particular access to appropriate medical and psychological treatment or care (Article 25(1)) and to provide appropriate training to those working with victims of torture (Article 25(2)).

However, there is no formal legal or policy framework or specific procedure for the identification of victims of torture in any of the seven Member States. In practice, victims of torture may be identified during asylum interviews or health screenings, similar to the findings in relation to identification of persons with disabilities presented above.

In Greece, either the doctor or the psychosocial support group of the medical unit conducts the identification after the registration procedure. 105 Medical practitioners in Sweden noted that persons who did not mention experiencing post-traumatic stress disorder during registration and who are yet to have their health screening must either themselves make an appointment with a doctor at a primary healthcare centre, or become ill enough to be taken to a psychiatric ward for emergency treatment. 106 In Bulgaria, NGOs report that individuals who have been victims of violence and torture prior to their arrival nonetheless sign declarations that they do not want any medical help, for fear that this will result

UN Committee against Torture. General Comment No. 3: Implementation of Article 14 by State parties, 19 November 2012, para. 11.

International Rehabilitation Council for Torture Victims (2013), Recognising victims of torture in national asylum procedures, p. 12, available at www.irct.org/files/Filer/publications/MLRweb.pdf

Directive 2013/32/EU of the European Parliament and of the Council of 26 June 2013 on common procedures for granting and withdrawing international protection (recast), OJ 2013 L 180.

<sup>104</sup> Directive 2013/33/EU of the European Parliament and of the Council of 26 June 2013 laying down standards for the reception of applicants for international protection (recast), OJ 2013 L 180.

<sup>105</sup> Greece, MDM Greece.

Sweden, Medical doctor/psychiatrist at a Primary Healthcare centre and a psychiatrist at a psychiatric clinic at a hospital.

in them being transferred to a hospital, slowing down the asylum process and a possible exit from Bulgaria. 107

Since 2012, the Bulgarian State Agency for Refugees has applied a questionnaire developed by the Assistance Centre for Torture Survivors aiming at identification of victims of torture. A 2013-2014 project monitoring the application of the questionnaire with persons seeking protection in Bulgaria showed that this or similar instruments was used with just 7.1 % of the persons interviewed, and only 6 % were referred for health or psychological support. Based on this data, the project concluded that the application of the questionnaire is limited, and that proper referral is closely related to the existence of a formal identification procedure. <sup>108</sup>

## Promoting early identification and orientation for victims of torture. The PROTECT-ABLE project

The PROTECT-ABLE project aims at promoting a process of early screening and orientation for asylum seekers suffering from consequences of traumatic experiences (torture, rape, serious forms of physical, psychological or sexual violence), to encourage EU Member States to comply with the European directives on asylum. The project started in September 2012 and involves the creation of specific screening tools and the delivery of trainings and dissemination activities in nine Member States. The project partners include 11 NGOs from nine countries involved in the rehabilitation and care of torture victims as well as IRCT (International Council for Torture Victims) and PHAROS (Netherlands). More information is available on the project's website: <a href="http://protect-able.eu/">http://protect-able.eu/</a>.

In Germany, once victims of torture are identified during asylum interviews, a special commissioner (*Sonderbeauftragte Entscheider*) for victims of torture and traumatised asylum seekers must be contacted immediately. Special commissioners must be available in all branch offices of the Federal Office of Migrations and Refugees. They have to provide expert advice and take over the most sensitive cases. <sup>109</sup> However, identification mechanisms focusing on the consequences of torture are often not in place.

Bulgaria, Refugee Support Group.

Bulgaria, Center for Legal Aid Voice in Bulgaria, Assistance Centre for Torture Survivors (2015), Vulnerability and Protection: Identifying vulnerable persons among asylum seekers in Bulgaria, Sofia, Center for Legal Aid Voice in Bulgaria, Assistance Centre for Torture Survivors (ACET), available at: <a href="http://detainedinbg.com/wp-content/uploads/2015/10/%D0%A3%D1%8F%D0%B7%D0%B2%D0%B8%D0%BC%D0%BE%D1%81%D1%82-%D0%B8-%D0%B7%D0%B8-%D0%B8

 $<sup>{\</sup>small \mbox{See}} \ \underline{\mbox{www.bamf.de/DE/Fluechtlingsschutz/Entscheider/entscheidungen-node.html}.$ 

Findings also indicate the absence of formalised support for victims of torture in terms of access to rehabilitation programmes in reception and detention centres. In Germany, although the professional NGO-based treatment centres for refugees and victims of torture available in some German states offer specialised and interdisciplinary support and have long experience in interpreter-based, transcultural psychotherapy, they have very limited capacity. <sup>110</sup> Similarly, the Bulgarian State Agency for Refugees reported cases of both physical and psychological violence, <sup>111</sup> but according to NGOs has insufficient resources and personnel to deal with them thoroughly. <sup>112</sup> In Sweden, 13 municipalities have some kind of trauma centres focusing on PTSD treatment and rehabilitation of victims of torture. However, due to limited places in these centres, the majority of the patients with PTSD are treated as out-patients in the regular psychiatric healthcare of the different county councils and regions. <sup>113</sup> Trauma centres rarely treat children. <sup>114</sup>

In Italy, the Ministry of Public Health recently drafted guidelines (yet to be adopted) which set out that the staff operating in reception centres shall be properly trained to cope with the specific needs of victims of torture. The guidelines also set out the rehabilitation procedure for victims of torture according to three necessary steps: understanding the trauma that the subject has sufferedand its consequences on his/her mental and physical health; identification of a therapy aimed at dealing with traumatic memories; creation and strengthening of positive social relationships. The

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Germany, National working group of the psychosocial centres for refugees and victims of torture, available at: <a href="https://www.baff-zentren.org/wp-content/uploads/2008/05/BAfF\_Abgewiesen-Weitergeschickt-Vertroestet.pdf">www.baff-zentren.org/wp-content/uploads/2008/05/BAfF\_Abgewiesen-Weitergeschickt-Vertroestet.pdf</a>.

Bulgaria, State Agency for Refugees.

<sup>&</sup>lt;sup>112</sup> Bulgaria, Refugee Support Group.

Sweden, Medical doctor/psychiatrist at a Primary Healthcare centre and a psychiatrist at a psychiatric clinic at a hospital.

Sweden, Red Cross Sweden.

<sup>115</sup> Italy, Interview with INMP.

<sup>116</sup> Italy, Interview with INMP.