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# TIME FOR NEEDS

## Listening, Healing, Protecting

FINAL REPORT





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## Listening, Healing, Protecting

This report has been drawn up in the frame of the project “Time for Needs: Listening, Healing, Protecting. A Joint Action for an Appropriate Assessment of Special Needs of Victims of Torture and Violence”

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The views expressed are purely those of CIR and its partners in the frame of the project and in no way reflect the views of the EU, governments or other parties.

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## **PARTICIPATING ORGANISATIONS**

### **Lead Organisation**

#### **CIR Onlus (Consiglio Italiano per i Rifugiati), Italy**

**[www.cir-onlus.org](http://www.cir-onlus.org)**

The Italian Council for Refugees is an independent, humanitarian, non-profit organization, founded in 1990 under the patronage of UNHCR to coordinate actions in defense of refugees and asylum seekers' rights in Italy. CIR has more than 20 years' experience in providing legal and social support to asylum seekers and refugees.

Since 1996 the Organization implements specific projects (called Vi.To projects) for the care and the rehabilitation of victims of torture and violence. Among the activities carried out in the frame of Vi.To project: legal support and orientation, social support and orientation, medical and psychological care, medical certification, psychosocial rehabilitation workshops.

CIR works in its headquarters in Rome and operates in other 8 Italian Regions. It has been working in Northern Africa since 2009.

### **Partner organizations**

#### **aditus foundation, Malta**

**[www.aditus.org.mt](http://www.aditus.org.mt)**

aditus foundation is a non-governmental organization established in 2011 by a group of young lawyers dedicated to ensuring human rights access in Malta. Named for the Latin word meaning 'access', aditus foundation's mission is the attentive analysis of access in Malta to human rights recognition and enjoyment. In practical terms, aditus was established to *monitor, report* and *act* on issues of fundamental human rights access for individuals and groups. aditus main activities include the identification of priority areas, formulating advocacy strategies and working towards improvement in legal and administrative standards. This includes offering pro bono legal information and advice.

#### **European Council on Refugees and Exiles (ECRE), Belgium**

**[www.ecre.org](http://www.ecre.org)**

The European Council on Refugees and Exiles (ECRE) is a pan-European alliance of 98 NGOs in 40 countries protecting and advancing the rights of refugees, asylum seekers and displaced persons. ECRE's mission is to promote the establishment of fair and humane European asylum

policies and practices in accordance with international human rights law. Working together with members and partners to inform and persuade European authorities and the public, monitor and denounce human rights violations while proposing and promoting fair and effective durable solutions. Missions are accomplished through research, advocacy and the sharing of knowledge and expertise. ECRE strives for a Europe that protects refugees, asylum seekers and displaced persons with dignity and respect.

### **France Terre d'Asile, France**

**[www.france-terre-asile.org](http://www.france-terre-asile.org)**

France Terre d'asile is a non-profit organization founded in 1971 that works for the promotion of human rights and offers accommodation and assistance to asylum seekers, refugees and unaccompanied minors in France. France Terre d'asile assists over 10 000 people daily, across the French territory.

The organization engages in legal and policy work, conducts information campaigns, and addresses and collaborates with institutions and national and European decision-makers in the area of asylum and migration. France Terre d'asile is a member of the European Council on Refugees and Exiles (ECRE) and has consultative status with ECOSOC at the UN. France Terre d'asile has four principal units with different activity sectors: child protection, integration of refugees and detention of migrants. Asylum Unit (Daha) manages 33 reception center for asylum seekers everywhere in France and a Transit center for resettled asylum seekers and refugees in Paris.

### **Greek Council for Refugees (GCR), Greece**

**[www.gcr.gr](http://www.gcr.gr)**

The Greek Council for Refugees (GCR) was founded in 1989 and it is the oldest and largest NGO in Greece exclusively dedicated to international protection issues. With a mission to promote the rights of asylum seekers and refugees, through the provision of legal and social services, and through advocacy, GCR has supported more than 80.000 asylum seekers and refugees.

GCR prioritizes the identification and treatment of the most vulnerable cases amongst asylum seekers, such as victims of racist violence/trafficking/torture, UAM. GCR is based in Athens and Branch offices in Thessaloniki, Ioannina and Lesvos. Moreover, GCR has permanent presence in Samo, Ko, Lero and Rhodes and undertakes field missions in camps all around the country and specifically close to border areas. GCR works on a daily basis to provide free legal and social services, as well as educational and cultural activities to asylum seekers and refugees.

### **Portuguese Council for Refugees, Portugal**

**[www.cpr.pt](http://www.cpr.pt)**

The Portuguese Council for Refugees (CPR) is a non-governmental organisation created in 1991 with the aim of promoting an inclusive and human rights driven asylum policy to seekers of international protection in Portugal. CPR represents UNHCR in Portugal since the closure of its representation in 1998 and provides free legal and social support to all asylum seekers. Asylum Act recognises to CPR the right to supervise the application of 1951 Refugee Convention, to be informed of all asylum claims presented in Portugal, to access to all asylum seekers and to provide a reasoned legal opinion on respective requests.

### **Zentrum Überleben gGmbH, Germany**

**[www.ueberleben.org](http://www.ueberleben.org)**

The Center UEBERLEBEN is an umbrella brand of human rights organizations based in Berlin. In close cooperation it aims to give refugees, migrants and victims of violence the chance to have a dignified future. It is a national and internationally active institution which paves the way for victims of violence, refugees and migrants to a future which reaffirms the dignity and worth of the human person. The team of the Center UEBERLEBEN, having developed these goals together, share a commitment to realizing their mission.



## LIST OF ABBREVIATIONS

- AIDA** Asylum Information Database
- ACM** High Commission for Migrations | Alto Comissariado para as Migrações
- ASL** Local Health Agency | Azienda Sanitaria Locale
- AWAS** Agency for the Welfare of Asylum Seekers
- BAMF** Federal Office for Migration and Refugees | Bundesamt für Migration und Flüchtlinge
- CACR** Reception Centre for Refugee Children | Casa de Acolhimento para Crianças Refugiadas
- CAR** Reception centre for asylum seekers | Centro de Acolhimento para os Refugiados
- CARA** Reception centre for asylum seekers | Centro di accoglienza per richiedenti asilo
- CAS** Temporary reception centre | Centro di accoglienza straordinaria
- CAT** United Nations Committee Against Torture
- CAVITOP** Centre for the Support of Torture Victims in Portugal | Centro de Apoio às Vítimas de Tortura em Portugal
- CBS** Common Basic Standards
- CEAS** Common European Asylum System
- CADA** Reception centres for asylum seekers | Centres d'accueil pour les demandeurs d'asile
- CESEDA** Code on the entry and residence of foreigners and the right to asylum | Code de l'entrée et du séjour des étrangers et du droit d'asile
- CHPL** Lisbon's Psychiatric Hospital Centre | Centro Hospitalar Psiquiátrico de Lisboa
- CIR** Italian Council for Refugees | Consiglio Italiano per i Rifugiati
- CIT** Centre for Temporary Installation | Centro de Instalação Temporária
- CPR** Portuguese Council for Refugees | Conselho Português para os Refugiados
- CPR** Residency Centre for Rempatriations | Centro di Permanenza per i Rimpatri
- CN** National Commission for the Right to Asylum | Commissione Nazionale per il diritto di asilo
- CT** Territorial Commissions for the Recognition of International Protection | Commissioni Territoriali per il riconoscimento della protezione internazionale
- DGS** Directorate General for Health | Direcção-Geral de Saúde
- EASO** European Asylum Support Office
- ECtHR** European Court of Human Rights
- ECRE** European Council on Refugees and Exiles
- EU** European Union
- GCR** Greek Council for Refugees
- GT** Working Group for the European Agenda on Migrations | Grupo de Trabalho para a Agenda Europeia para as Migrações



**GUDA** Service of Reception for Asylum Seekers | Guichet unique d'accueil des demandeurs d'asile  
**IOM** International Organisation for Migration  
**IPSN** EASO quality tool on Identification of persons with Special Needs  
**IRC** Initial Reception Centre  
**IRCT** International Rehabilitation Council for Torture Victims  
**ISS** Institute of Social Security | Instituto da Segurannça Social  
**JRS** Jesuit Refugee Service  
**LGBTI** Lesbians Gay Bisexual Transgender Intersex  
**ME.DU** Doctors for Human Rights | Medici per i Diritti Umani  
**NAB** National Advisory Board  
**NHS** National Health Service  
**OFII** French Office of Migration and Integration | l'Office français de l'immigration et de l'intégration  
**OIM** International Organisation for Migration  
**OFPRO** French Office for the Protection of Refugees and Stateless Persons | Office français de protection des réfugiés et apatrides  
**PADA** Reception platforms for asylum seekers | Plateformes d'accueil pour demandeurs d'asile  
**PAR** Refugee Support Platform | Plataforma de Apoio aos Refugiados (Portugal)  
**PTSD** Post-traumatic stress disorder  
**RAO** Regional Asylum Office  
**RefCom** Office of the Refugee Commissioner  
**RIC** Reception and Identification Centres  
**RIS** Reception and Identification Service  
**RSD** Refugee Status Determination  
**SEF** Immigration and Borders Service | Serviço de Estrangeiros e Fronteiras  
**SPRAR** Protection System for Asylum Seekers and Refugees | Sistema di protezione per richiedenti asilo e rifugiati  
**SNS** National Health System | Sistema Nacional de Saúde  
**SSN** National Health System | Sistema Sanitario Nazionale  
**SOP** Standard Operating Procedures  
**TARS Special Needs/Survivors** Tool for the Assessment of Response to the Special Needs of Survivors of Torture and Violence  
**QASN** Questionnaire for the Assessment of the Special Needs of Survivors of Torture and Serious Violence Among Asylum-seekers and Beneficiaries of International Protection  
**UNHCR** United Nations High Commissioner for Refugees  
**VAAT/ARAT** Vulnerable Adult Assessment Procedure

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## INTRODUCTION

*Time for Needs: Listening, Healing, Protecting. A joint Action for an Appropriate Assessment of Special Needs of Victims of Torture and Violence* is a project funded by the European Union that addresses the issue of the special needs of asylum seekers and refugees who were subjected to torture and/or serious violence.

It is estimated that between 5 to 35% of the asylum seekers and refugees suffered from torture and/or serious violence<sup>1</sup>.

The EU legislation recognizes that such vulnerable persons have special needs, due to the physical and psychological traumatic experiences they went through, and provides for special protection and safeguards.

*Time for Needs* aims at providing practical tools, based on in-depth research carried out by the project partners, which should be a reference in the application of the provisions contained in the EU and national legislation, in particular with regard to procedural guarantees and adequate reception of survivors of torture and/or serious violence. This report contains some tools elaborated during the project that aim at supporting operators in their daily work, emphasise a multi-disciplinary approach, and raise awareness on the special needs of the victims of torture and/or serious violence. During the project a number of best national practices were also selected by partners, which are included in this report and can be inspirational for policy makers and future legislative interventions.

In particular, these instruments are intended to inform and guide any professional and operator involved in the assistance and care of survivors of torture and serious violence, regardless the context where they work in.

The research involves six countries, namely Italy, France, Germany, Greece, Malta and Portugal, and was carried out by NGOs<sup>2</sup> in these countries under the lead of the Italian Council for Refugees (CIR) and in cooperation with ECRE.

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<sup>1</sup> Jaranson J. et al. Somali and Oromo refugees: Correlates of torture and trauma history. *American Journal of Public Health* 2004; 94(4): 591-598; Kinzie J D. et al. Prospective one-year treatment outcomes of tortured refugees: a psychiatric approach. *Torture*. 2012; 22 (1): 1-10A

<sup>2</sup> Aditus (Malta), France Terre d'Asile (France), Greek Council for Refugees (Greece), Italian Council for Refugees (Italy) Portuguese Council for Refugees (Portugal) and Center ÜBERLEBEN gGmbH (Germany).

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The selection of Member States was based on two factors: first, it was considered important to include Member States representing different geographic areas within the EU. Secondly, the partners were chosen on the basis of availability of an inter-disciplinary, legal and psychological, team which constituted an added value in reaching the project aims and elaborating competence-based tools.

Roberto Zaccaria  
*President of the Italian Council for Refugees*

## Chapter 1

**THE LEGAL FRAME OF THE PROJECT ACTIVITIES**

Particular care for persons belonging to vulnerable groups among refugees, beneficiaries of subsidiary protection and asylum seekers has been made obligatory for Member States of the European Union since the beginning of the harmonization of asylum policies and of the development of a Common European Asylum System (CEAS).

Care for victims is enshrined in the international system for the promotion and the safeguard of human rights in general and for the fight against torture in particular, in terms of rehabilitation and of compensation for the damages suffered. The UN Convention against Torture regulates, in Article 14, the obligation of State parties to provide means for the full rehabilitation of the torture victim. The combination of measures foreseen in CEAS aimed at ensuring that the special needs of survivors of torture and/or serious violence are effectively addressed follows the international obligation of all EU Member States to facilitate rehabilitation.

These measures include the protection of the victims; provisions regarding special procedural guarantees and adequate support in all stages of the asylum procedure; measures to address the special needs of survivors of torture and severe violence regarding reception including material reception conditions.

With respect to legal protection and prevention, the UN Convention against Torture prohibits, in Article 3, the expulsion, the return (“*refoulement*”) and the extradition of a person to another State where there are substantial grounds for believing that he or she would be in danger of being subject to torture. This prohibition, irrespective of a protection request of the person, is also established by the consolidated jurisprudence of the Strasbourg Human Rights Court<sup>3</sup>, and is, *a fortiori*, applicable to those who had already suffered torture.

The concept of subsidiary protection<sup>4</sup> allows to provide the torture survivor with a legal status independent of the reasons for which torture was applied. However, subsidiary protection as well as refugee status can be recognized only with regard to torture or inhumane or degrading treatment or punishment suffered or feared in the country of origin. Torture experienced in a third, for example in a transit country of which the person does not possess citizenship, or which, in

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<sup>3</sup> See among many other judgements ECtHR Soering v.UK, Appl.no.14038/88 of 7 July 1989; ECtHR Hirsi Jamaa and Others v.Italy (GC), Applic.no.27765/09 of 23 February 2012

<sup>4</sup> See Qualification Directive 2011/95/EU of 13 December 2011, Art. 15

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case of stateless persons, does not represent the country of habitual residence, cannot lead to the recognition of international protection but only, eventually, to humanitarian protection if foreseen in national law.

It should be stressed, that within the CEAS or in national law in Member States a torture victim is not protected categorically against administrative detention. The concrete risk of re-traumatization during the period of deprivation of personal freedom is not addressed. The Proposal of the European Commission for recasting the Directive on Reception of Asylum Seekers<sup>5</sup> not only enlarges the reasons for detention of asylum applicants<sup>6</sup> but foresees explicitly detention of applicants with special reception needs, including torture survivors. Notwithstanding, their physical and mental health shall be of primary concern of Member States.<sup>7</sup>

Asylum seekers identified to be torture survivors are entitled to particular procedural safeguards and to adequate support throughout the asylum procedures. The Proposal of the European Commission for an EU Regulation on Asylum Procedures<sup>8</sup>, intended to replace the current Procedures Directive, makes it obligatory for Member States to indicate already at the moment of registering of the asylum application if, at first sight, the persons presents signs of vulnerability. In such case, referral to medical and/or psychological assessment is required. The result of the examination should then determine the type of particular support to the applicant<sup>9</sup>.

Accelerated asylum procedures, which will become obligatory e.g. with regard to applicants coming from a “safe country of origin”, as well as border procedures shall not apply to torture survivors whenever the special procedural guarantees cannot be provided<sup>10</sup>.

Details on the assessment of the need for special procedural guarantees and on the nature of these guarantees may be specified by the European Commission through acts implementing the Procedures Regulation.

With regard to the reception of asylum seekers, the special needs of torture survivors have to be assessed and measures are to be taken to meet such needs and to provide support, in particular with respect to material reception conditions. The Proposal of the Commission for recasting the Directive on Reception of Asylum Seekers<sup>11</sup> introduces some significant modifications of the relevant

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<sup>5</sup> COM(2016) 465 final of 13 July 2016

<sup>6</sup> See: *ibid.* Art 8 3, letters c) and d)

<sup>7</sup> *Ibid.* Art. 11

<sup>8</sup> COM(2016) 467 final of 13 July 2016

<sup>9</sup> *Ibid.* Art. 20

<sup>10</sup> *Ibid.* Art. 19 (3)

<sup>11</sup> COM(2016) 465 final of 13 July 2016

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provisions contained in the current Reception Directive. The notion of “vulnerable groups” is replaced by the notion of “persons with special reception needs”. These needs have to be assessed “systematically”, but not necessarily in form of an administrative procedure. According to the rules presently in force the assessment, should be carried out “within a reasonable period”<sup>12</sup>. This very vague term will now be replaced by the term “as early as possible”<sup>13</sup>. It is left to national legislations to define the concrete modalities of assessment mechanism.

The future EU legislation will put particular attention to the continuous training of personnel at the national decision making body and in general of all operators working with torture survivors<sup>14</sup>, with regard to the assessment of special reception needs as well as the providing of special reception support. The European Asylum Support Office (EASO), in future the European Agency for Asylum, should play a fundamental role in supporting national training curricula. In fact, EASO has already published a Tool for the Assessment of Special Needs and has issued, in 2016, “Guidelines on Reception Conditions: operational standards and indicators”<sup>15</sup>.

The project “Time for Needs” aims at providing practical instruments, based on in-depth research in 6 EU countries, which should allow to implement adequately the provisions on rehabilitation of torture survivors contained in the EU legislation and national legislations in EU countries, in particular with regard to procedural guarantees and special reception support. The project activities have contributed also to raise awareness among operators and at the public in general on the need to pay great attention to the specific needs of victims of torture and/or serious violence and on the risk of re-traumatization in case these needs are not taken in consideration. The future EU legislation, as proposed by the European Commission will develop the care for torture survivors further and will provide more defined rules in this respect.

However, a number of restrictions of the overall asylum law proposed in the frame of the future version of the Common European Asylum System will affect adversely torture survivors and other vulnerable groups like all other asylum seekers and persons entitled to international protection. Restrictions in the “Dublin system”; severe sanctions for asylum seekers moving to a country different from that of first arrival; the extension of reasons for administrative detention; the obligatory introduction of admissibility and of accelerated procedures,

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<sup>12</sup> EU Directive on Reception of Asylum Seekers 2013/33/EU of 26 June 2013, Art. 22

<sup>13</sup> Proposal Reception Directive, op.cit., Art. 21

<sup>14</sup> Ibid. Art. 21 and Art. 24 (2)

<sup>15</sup> See <http://www.easo.europa.eu>

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of concepts of safe country of origin, safe third country, first asylum country; the lowering down of rights of persons entitled to international protection, in particular of beneficiaries of subsidiary protection – all these measures, with the limited exception of the application of accelerated and border procedures – may be applied also to torture survivors and victims of serious violence. The timely identification of their special needs, in particular in terms of particular support during the asylum procedure and the granting of effective protection, will therefore assume an even greater importance.



## Chapter 2

# DESCRIPTION, AIMS AND BENEFICIARIES OF THE PROJECT

In line with the principles and regulations of the Common European Asylum System (CEAS), *Time for Needs* project intended to contribute to the identification of the special needs of survivors of torture and/or serious violence related to the asylum procedures, as well as the reception conditions, and to the development of harmonized protection standards and practices across the European Union for this vulnerable target group.

Because of the increase of the migration flows in the last years, today we see a growing number of asylum-seekers and refugees who are victims of torture who have trouble in accessing the appropriate medical, psychological or legal and social assistance that would constitute fair and humane treatment during the asylum procedure. Studies have shown that the presence of traumatic experiences and consequent posttraumatic syndromes directly influence refugee-status decision-making. Such conditions can severely impact on the asylum applicant's memory and therefore their ability to present the elements of their story in a way that is credible for determining authorities<sup>16</sup>. The consistency of an asylum-seeker's account is often a central question to determining asylum status, and so an applicant who gives discrepant accounts of their experience at different points in the asylum procedure may be assumed to not be credible<sup>17</sup>. Victims of torture are more likely to suffer from posttraumatic stress disorder (PTSD), or other posttraumatic disorders and this represents a barrier to disclosure since dissociation, shame, mistrust, avoidance symptoms and other correlated aspects deeply impact the ability of communicating one's story in a consistent and well-organized manner. Therefore, it is paramount that victims of torture are able to access the relevant services to enable them to seek assistance from both medical and legal experts.

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<sup>16</sup> Mueller J., Schmidt M., Staeheli A., Maier T. Mental health of failed asylum seekers as compared with pending and temporarily accepted asylum seekers. *European Journal of Public Health*. 2010; 21 (2): 184-189. 17.

<sup>17</sup> Herlihy J., Turner S. Should discrepant accounts given by asylum seekers be taken as proof of deceit? *Torture* 2006; 16(2): 81-92

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The general aim of the project was to facilitate the improvement of the effectiveness and the fairness of both the asylum system and the standard of protection of victims of torture and/or serious violence, making the procedural guarantees and tailored services for this target group more likely and efficiently used. In addition, although in the EU Directive 2013/33 victims of torture are included in the list of people with special needs, only the need of treatment (together with the need of training of those working with victims) is expressly mentioned in the directive. It seemed necessary to specify a more articulated practice-based set of special needs investigating throughout the route of procedure, reception and assistance phases that a victim of torture and/or serious violence can or ideally should go through.

To reach this goal, we carried out a **desk and field research work**, at national and international level through national reports, focus groups, qualitative interviews and expert meetings. These research activities fed a **pilot initiative** aimed at developing and disseminating a tested **practical tool for the assessment of the special needs of victims of torture and/or serious violence (QASN - Survivors)**. As a matter of fact, another main objective of the project was to promote **common criteria and methods** for the assessment of special needs, in terms of procedural and reception needs, of victims of torture and/or serious violence, thus improving specific competences of all professionals and stakeholders involved. Thanks to the active involvement of the final beneficiaries in the whole project, the adoption of a victim-centered and gender-based approach to elaborate these tools was possible.

A starting point was to share knowledge on legislative provisions and practices in the six participating countries regarding identification, procedural guarantees and reception facilities with respect to the target groups, and identification of possible gaps between the EU Directives and the domestic laws. We also identified **best practices** on legislative provisions and practices in the participating countries regarding identification, procedural guarantees, reception facilities and services for the target group. The identified best practices were intended as a basis and an inspiration for the adoption of higher standards of protection and more tailored services.

Desk and research activities and project partner's expertise in the assistance of victims of torture and/or serious violence, all contributed to detect a set of special needs of survivors in procedure, reception, health and social services, on this base an **assessment tool** was elaborated. This tool was designed as an operational instrument to be used by any professional and worker assisting survivors of torture and/or serious violence to evaluate their special needs in different stages

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of procedure and reception, and to further guide them in providing an appropriate standard of assistance. This was meant to harmonize the different criteria and instrument applied in partner MS.

To maximize the impact there have been on-going raising awareness and advocacy activities along the duration of the project, on the specificity of needs of torture survivors and the related obligations of EU member States through the organization of seminars, roundtables and events involving key players at national and, in some cases, European level. The tool was developed and promoted as result of cooperation with asylum authorities and other key actors at a national level.

The results of the early phase of research activities and the administration of the QASN - Survivors in different areas of procedure, reception and services, regularly shared among project partners, provided the necessary information and knowledge on the state of the art of practices and application of procedural guarantees and reception provisions for the elaboration of **Common Basic Standards**. These latter were intended as a practical list of standards that any professional and worker dealing with assistance to survivors of torture and/or serious violence can refer to in order to provide an appropriate standard of service to this target group, enhancing the level of tailored services in a variety of fields of assistance and making the enforcement of procedural guarantees more likely.

## Chapter 3

**RESEARCH METHODOLOGY****3.1 Desk and field research**

Each partner organization carried out a research activity for the identification of procedural and reception needs of the survivors of torture and/or serious violence.

In each context the research work was carried out through stocktaking activity and fieldwork. A national research report was produced by each partner organization.

The stocktaking activity, propedeutical to the preparation of the field research, focused on the analysis of the legal framework. Each partner country conducted a desk research on the domestic legislation, administrative circulars, literature, policies, practices and shortcomings specifically related to the asylum procedural guarantees and reception needs of survivors of torture and/or serious violence.

On the basis of a common outline, partners analyzed the legislation and practices related to the access to the territory and to the asylum procedure, the legal safeguards during the asylum procedure, including Dublin, and the appeal phase. Moreover, the desk research focused also on the identification and assessment of reception special needs and the referral by professionals. The national reports include also the shortcomings identified in meeting the specific needs of victims of torture and/or violence<sup>18</sup>.

In the initial phase, the project aimed at investigating and better articulating the construct of *special needs* of survivors of torture and/or serious violence through the knowledge and practice of professionals working with this type of beneficiaries, and through the beneficiaries' life experience. The objective was to collect relevant information on the special needs of survivors of torture and/or serious violence and how it is possible to satisfactorily meet those needs. In order to have a comprehensive and broad overview all the areas of assistance were investigated: asylum procedure, different types and levels of reception, medical

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<sup>18</sup> Synthesis of the six country reports, in national languages, are included in this publication. See chapter 4.

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and psychological care, rehabilitation services and socio-legal services working with these beneficiaries in the six countries involved in the project partnership (France, Germany, Greece, Italy, Malta and Portugal).

A **field work** was carried out by the legal and psychological staff of the partner organisations in order to understand and provide a picture of the state of art in terms of awareness and practice of the subject. The sources of information for our field research were institutional and non-institutional stakeholders involved in assistance in all phases of procedure and after the end of asylum procedure (police, determining authorities, Dublin units, NGOs, UNHCR, organisation manager of reception centers and detention facilities, health professionals - physicians and psychologists - of dedicated health services and social workers working both in NHS and NGOs, etc.) and direct beneficiaries. Relevant stakeholders were interviewed by researchers using a semi-structured interview that was elaborated by the leading agency and shared with partners. Information on the special needs from direct beneficiaries was collected through dedicated and thematic **focus groups**.

#### *The interviews to stakeholders*

In order to produce an accurate analysis of all the possible aspects related to the *special needs* of survivors of torture and/or serious violence, the leading agency built a **semi-structured questionnaire** that was designed to cover all the mentioned areas of assistance to survivors.

The aim of the questionnaire for stakeholder interviews was to gain a deeper knowledge on possible existing practices used to identify the special needs of survivors of torture and/or serious violence, to map a comprehensive list of such needs derived from the interviewees' expertise, and to detect existing good practices and gaps in responding to such special needs during the different stages of the asylum procedure, in reception and in different kind of services and contexts. However, the list of questions was meant to be used rather freely by researchers, who could adjust them to the circumstances of the interviews, for example, deciding which questions were relevant to which stakeholder. In this sense, the list of the issues covered in the questionnaire was not intended to be exhaustive. The interviewer could pursue possible relevant themes that emerged during the interview and which were not initially included in the questionnaire. Such a semi-structured interview used in each partner country during the field research activities was submitted to decision-makers and relevant stakeholders identified by each partner country such as police authorities, asylum determining authorities, NGOs, personnel working in reception and/or in detention centres, refugee

community organisations, specialised health units composed of medical doctors and psychologists, lawyers, and cultural-linguistic mediators. In line with the aim of the project, the interviews with the identified key stakeholders were carried out “face-to-face”, except in cases when this was not practicable. In these rare and justified cases they were conducted by phone or through Skype call.

In total 68 interviews were carried out with asylum authorities, stakeholders, personnel working in the context of specialized services offered to survivors of torture and/or other serious violence and in reception centres<sup>19</sup>.

In particular, in each country interviews were conducted with actors involved in the different stages of the asylum procedure, before procedure (the access to the territory and to the asylum procedure), during the asylum procedure (during preparation for the substantive interview before the determining authorities, during the interview and in appeal) and in the “Dublin” procedure. Additional interviews were conducted with the staff working in the different typologies of reception centres: interviews for each type of reception centres (first level, second level reception, etc.) and in detention centres, if relevant to the national context. Anonymity was ensured when requested by the interviewee.

The **results** of the interviews, that can be found in the national research reports, fed: 1) the expert meeting organized by each partner during the research activity; 2) the national research report; 3) the construction of the Pilot tool; 4) the identification of the Best Practices; 5) the elaboration of the Common Basic Standards (CBS) applicable throughout the EU; 6) the awareness- raising and the advocacy activities.

#### *Focus groups with survivors of torture and/or other serious violence.*

It is commonly accepted that the **focus group** is a form of qualitative research in which a group of people are asked their opinions, attitudes, ideas and experiences on a specific topic. Questions are asked within an interactive group setting where participants are free to engage in conversation with other group members. It is a data collection method through a semi-structured group interview process. Groups are moderated by a group facilitator who uses the group and its interaction as a way to derive information on a specific or focused issue, in our case the survivors’ special needs in the asylum procedure, reception, and in different type of services.

In order to collect direct information about survivors’ actual needs as subjectively perceived and drawn from their life experience, focus groups were carried out with final beneficiaries. These interactions were, meant to include the final beneficiaries’ standpoints into the research work as much as possible, in order to

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<sup>19</sup> Italy realised 16 interviews, France 12, Germany 9, Greece 9, Malta 4, Portugal 16.

identify their real needs and making up appropriate responses based on their demands and necessities. These focus groups were opportunities for dialogue, trust-building between stakeholders and asylum seekers and collection of information on the asylum system for the research. Under specific circumstances, individual interviews were conducted.

In order to cover a wide range of topics relevant to the special needs of survivors of torture and/or serious violence, the focus groups foreseen<sup>20</sup> by the project were organised each with a main topic: 1) asylum procedure, 2) Dublin system, 3) first level reception, 4) second level reception, 5) reception for vulnerable asylum seekers, 6) detention. For each topic, the leading agency provided 5 open-ended stimulus questions to orientate the free discussion on relevant topics and to create some methodological homogeneity among focus groups conducted in different countries and in order to make results comparable. The results of focus groups fed the construction of the **Pilot tool**<sup>21</sup> and the national research reports.

#### *Expert meeting*

During the last phase of the fieldwork, one expert meeting per country was organized<sup>22</sup> with a panel of relevant social actors including stakeholders, institutions and final beneficiaries of the project, in order to exchange the project ongoing results and to collect new inputs for the research work. The experts' meeting represented a first opportunity to advocate and to address the gaps of the asylum system in terms of mechanisms in place to identify vulnerability, assessment of the special needs of the target group and referral to the proper services in order to guarantee an integrated and effective approach.

### **3.2 Pilot Initiative: development of tools for the assessment of the special needs of survivors of torture and/or serious violence**

Under the *Pilot Initiative* a specific **tool** for the assessment of the special needs of survivors of torture and/or serious violence was elaborated, with the support of the extensive experience of all the project partners in assisting survivors of torture and/or serious violence in their own national context. IRCT, UNHCR, ECRE provided their contribution in the elaboration of the tool.

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<sup>20</sup> Italy realised 6 focus groups, France 5, Germany 6, Greece 5, Malta 1, Portugal 7.

<sup>21</sup> See paragraph 3.2

<sup>22</sup> Italy organised the expert meeting on 18<sup>th</sup> October 2016, France on 2<sup>nd</sup> February 2017, Germany on 19<sup>th</sup> September 2017, Greece on 13<sup>th</sup> January 2017, Malta N/A, Portugal on 2<sup>nd</sup> March 2017.

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The starting point for the elaboration of the tool was the EASO “Quality tool for the identification of persons with special needs”<sup>23</sup>. The process developed towards adapting the tool to the reality of the asylum systems in the countries involved in the project to make it appropriate and usable by professionals who assist survivors of torture and/or serious violence in different stages of the asylum procedures, within the reception centers and in different kind of services.

The objective was to map ‘**special needs**’ in the following areas of intervention: legal, reception, health (physical and psychological) and social needs. The results of the national field researches offered an important empirical groundwork to extract a list of these crucial special needs. Thus, findings of the research work, together with inputs by partner organizations during the exchange of knowledge in the **transnational meeting in Berlin** (27 and 28 October 2016) provided the contents for a first draft of the tool, which was then prepared by CIR, amended and revised by partners.

The tool was sent to the National Advisory Board<sup>24</sup> and validated by the Scientific Committee<sup>25</sup>. All partners agreed that it should be a flexible tool to be managed by different professionals at different stages of the asylum procedure and reception and in different contexts; able to assess the survivor’s present special needs; able to give indications on prioritization of interventions; able to guide professionals in providing adequate responses to the individual’s particular special needs; able to give a synthetic overview of the ‘special needs assessment’ and offering space for actions to be put in place and referrals. This instrument was not intended as a tool to identify survivors of torture and/or serious violence, as it

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<sup>23</sup> EASO, *Quality tool for the identification of persons with special needs*, available at: <https://ipsn.easo.europa.eu/it/easo-tool-identification-persons-special-needs>

<sup>24</sup> In **Italy** the NAB is composed by Lorenzo Mosca of Niguarda Hospital in Milan and Professor Sergio Marchisio of the “Sapienza” University, Political Science Faculty; in **France** is composed by Jérôme Boillat (NGO parcours d’Exil), Carole Capdeboscq (Office Français de protection des réfugiés et apatrides – OFPRA), Cécile Nicolas (director of a France Terre d’Asile reception center); in **Germany** by Frauke Steuber by Senate Administration Integration, Work and Social Affairs, Silci Schriefers by National Association of Psychosocial centre Dusseldorf, Marc Millies by refugee Council Bremen and Nadja Soborowski by General Secretary of the German red Cross; in **Greece** is composed by Nikos Gionakis, psychologist Babel-Syneirmos, Katerina Komita, lawyer GCR, Vicky Megariti, social worker; in **Malta** by Dr. Katrine Camilleri (JRS Malta) and Dr. Roberta Buhagiar (UNHCR Malta); in **Portugal** the role of the NAB was insured by the steering committee for the reception and integration of asylum seekers and refugees, coordinated by the Institute of Social Security and composed of relevant governmental and non-governmental stakeholders.

<sup>25</sup> The Scientific Committee is composed by Hèlène Behr, Daphné Bouteillet-Paquet, Lisbet Ilkjær, Christopher Hein and Richard Grünberg.

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applies to beneficiaries already identified as such.

The first result of the phase of the Pilot Initiative was the elaboration of *TARS - Special Needs (Tool for the Assessment of Response to the Special Needs of Survivors of Torture and Violence)*, an operational instrument designed to assist professionals in (1) assessing if and to which extent the service adequately and comprehensively responds to the beneficiary's special needs, and, possibly, (2) correcting some aspects of assistance or referring the person to a more appropriate service.

This tool contains 4 sections: 1) Special Procedural Needs, 2) Special Reception Needs, 3) Special Health Needs – divided in a Medical Section and a Psychological/Psychiatric Section, 4) Special Social Needs.

*TARS - Survivors* can be used by any professional (lawyer, legal advisor, social worker, mental health professional, medical doctor, caseworker, etc.), although it is recommended that each professional completes *only* the section pertaining to their own field of assistance. In each section, there is a set of special needs in the form of statements. Each professional completing the tool is required to evaluate on a scale between 0 and 4 the extent these statements are true or false for the particular case examined. For each item, if the evaluation is 0-2, a recommendation is provided to help the professional in making an appropriate correction of that aspect of assistance. At the end of each section, there is a list of item values and an overall score of the section given by the mean value of items. The list of item values offers an overview of strengths and weaknesses of the service, allowing the user to immediately detect which aspects of assistance should be modified to properly meet the special needs of the survivors of torture and violence. If the overall mean score of the section is 0-2, a recommendation is made to refer the beneficiary to a more appropriate service. Space for general recommendations and comments by the professional is given in the final page of each section. Furthermore, at the end of each section, there are two open questions to be submitted to the final beneficiary (one asking suggestions to improve the assistance provided and the second one investigating the quality of communication within the service) in order to have a subjective feedback directly from the beneficiary to check what aspects of assistance did not meet their needs. At the end of the tool, a summary of results (composed of tool recommendations and beneficiary's indications) offers an overview of the assistance provided to the beneficiary, detecting the recommended corrective measures in order to improve it according to the special needs of the individual case. The tool can be completed in all its sections or just in some or even one of them, depending on the context in which it is used.

A **testing exercise** was carried out at national level by project partners that used the *TARS - Special Needs* in different contexts of assistance in order to test out the functioning of the instrument. The testing was meant to involve 40 final

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beneficiaries in 5 participating countries, and 20 final beneficiaries in one participating country for a overall number of 220 tests.

A description of the Pilot Initiative made by each partner was reported at the **Rome transnational meeting** of 27<sup>th</sup> and 28<sup>th</sup> March 2017. During the meeting it emerged that some partners were not able to carry out the testing of the tool for obstacles encountered during their experience since the tool could not be filled in only by one professional and in different contexts. Furthermore, the tool should focus on the assesment of the individual's need (QASN - Survivors) to better meet the goal of the project. Therefore, the elaboration of a different, more functional and lighter version of the tool seemed to be essential to the goals of the project. For this reason, a second version of the tool was elaborated in the form of a questionnaire with Yes/No answers.

The second version of the tool, which is the one included in this report<sup>26</sup> is named ***QASN - Questionnaire for the Assessment of the Special Needs of Survivors of Torture and/or Serious Violence***.

It is aimed, again, at assessing the special needs of survivors of torture and serious violence with a quicker and more easily manageable instrument. Differently from the previous tool, this can be entirely completed by any professional who has an overall picture of the assistance provided to a survivor of torture and/or serious violence (for example a caseworker or a social worker). Like the previous tool, it is organized in four sections: 1) Special Procedural Needs; 2) Special Reception Needs; 3) Special Health Needs - a) Medical Section and b) Psychological Section; 4) Special Social Needs. Each section contains questions addressed to either the beneficiary or the professional (interviewer), as well as questions concerning accompanied minors and gender and sexual orientation issues, to be answered only if applicable.

Each question is provided with *Yes/No* (or *Not applicable*) answers, space for comments and, in certain cases, a recommendation to organise/secure the service mentioned in that question. At the end of the questionnaire, space is provided for the professional to give important actionable recommendations useful for the future management of the case (i.e. recommendations that can prove valuable for staff meetings, procedure, etc.). The questionnaire is also meant to raise the professionals' awareness about the special needs of survivors in their practice and to stimulate cooperation in different areas of assistance. The tool so developed was presented during a one-day training seminar, organized in each involved country.

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<sup>26</sup> See Paragraph 5.3

**The training seminar**<sup>27</sup> has been conceived into two sessions: an open session with national and local institutions, local and national asylum authorities, relevant stakeholders and technical session with professionals working with vulnerable asylum seekers in different stages of the asylum procedures and within the reception centres. The aim was, on one hand, to present the ongoing results of the Pilot Initiative and, on the other, to test and adjust the tool on the basis of feedback given by the professionals who used the new tool in their work with survivors of torture and serious violence.

Because of this double elaboration of the Pilot Tool, part of the submissions carried out by partners made use of *TARS - Special Needs* (157 in total – Italy 40, Greece 35, France 34, Malta 25, Portugal 23, Germany 0) and part of them were carried out using *QASN-Survivors* (Germany 40, Portugal 5, Malta 8, Greece 5, France 6, Italy 5, according to what is described in the national research reports).

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<sup>27</sup> **Italy** organised the training seminar on 24<sup>th</sup> March 2017; **France** on 18<sup>th</sup> April 2017; **Germany** on 20<sup>th</sup> April 2017 in Düsseldorf and on 21<sup>st</sup> April in Cologne; **Greece** on 22<sup>nd</sup> March 2017; **Malta** on October 2017; **Portugal** on 15<sup>th</sup> September 2017.

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## Chapter 4

## Synthesis of the research findings

### 4.1 Main research findings at transnational level

This chapter will outline the main results of **desk and field research** on the assessment of and response to the special needs of asylum seekers who survived torture and/or serious violence in procedure and reception in Italy, France, Germany, Greece, Malta and Portugal. The intention was not to do a systematic comparative study, which is beyond the aim of this project, but to outline the main findings of our research at transnational level and to give an overall (though partial) picture. Here the focus will be on the common findings emerged from the national research activities, trying to detect those challenging issues that call for an implementation of mechanisms and instruments to effectively respond to the protection needs of survivors of torture and/or serious violence. Our intentions are also to report on some specific national situations, whereas they have a particularly serious and detrimental impact on the life of survivors themselves.

All the countries of research have transposed the Directive 2013/32/EU and Directive 2013/33/EU of the European Parliament and Council of 26 June 2013 laying down standards for the procedure and reception of applicants for international protection, except **Germany** with an infringement procedure in course and **Greece** that has partially transposed them into domestic law.

Although the Directives aim at creating homogeneity in the asylum system of EU countries, providing norms for the *special needs* of “victims of torture and violence” (among others), there are still several distinctions in the practice of Member States for legislative, political and geographical reasons. There are differences, for example, on how the Directives have been transposed by the Member States in domestic law, the extent the Directives were adopted at national level, how national and local governments and authorities interpreted the law and organized services.

It is interesting to notice that the present project partnership is composed of two countries characterized by first massive arrival by sea, i.e. **Greece** and **Italy**; two countries dealing the accommodation and integration of high numbers of asylum seekers, i.e. **France** and **Germany**, which, in addition, were exposed, in certain periods, to land migration flows, in particular **Germany**; and two countries that have a relatively low number of asylum seekers but with national specificities that are interesting and worth to be highlighted, i.e. **Malta** and **Portugal**.

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*Access to territory and identification*

With regards to access to territory at the borders, there is a discrepancy in the laws of the different states. For example, **Italy** and **Malta** do not have a border procedure for arrivals at airports, so that all of those who seek asylum can have access to the procedure and territory. Differently, in **Germany**, **France** and **Greece** the pre-screening procedure is applied at the airport before the asylum seeker is officially admitted to the territory. In **Portugal**, the asylum seeker who undergoes the procedure for asylum in the airport is held in detention until their claim is assessed.

In those countries interested to massive sea arrivals, namely **Italy** and **Greece**, the hotspot approach is in place<sup>28</sup>. The hotspot approach foresees the first identification of the migrant with related applicant's mug shot, fingerprints and medical screening within the hotspot. This means keeping the migrant in restricted areas until formalisation of the asylum claim. Such approach has some critical implications, especially in periods of high numbers of arrivals, that often do not allow to keep the timeframe of retention provided by national law.

A case particularly worth of attention, because of the implications it has for victims of torture and/or serious violence is that of **Greece** regarding the so called 'fast-track procedure'. **Greece** introduced this special border procedure<sup>29</sup> (visibly connected to the implementation of the EU-Turkey statement) that foresees fewer guarantees. Such procedure is applied in case third-country nationals or stateless persons arrive in large numbers and apply for international protection at the border or at airport/port transit zones or while remaining in Reception and Identification Centres (RIC). This procedure, currently applied in Eastern Aegean Islands, provides among others that: (a) the registration of asylum applications, the notification of decisions and other procedural documents, as well as the receipt of appeals, may be conducted by staff of the Hellenic Police or the Armed Forces; (b) the asylum procedure shall be concluded in a very short time period (no more than 2 weeks). The fast-track border procedure does not apply to Dublin family cases and vulnerable persons. However, it is quite evident that these shortened time-limits and restrictive and psychologically subjecting conditions of procedure undoubtedly affect, not only the procedural guarantees available to asylum seekers in general, but the eventuality for victims of torture of being identified as such, and make the all procedure traumatic for them.

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<sup>28</sup> ECRE, DCR, CIR, GCR, ProAsyl (Germany), *The implementation of the hotspots in Italy and Greece*, December 2016, available at: <http://bit.ly/2hdIdXj>.

See also: CIR, *update on the implementation of the hotspots in Greece and Italy*, 30 June 2017 available at: <http://www.asylumineurope.org/news/30-06-2017/italygreece-update-implementation-hotspots>

<sup>29</sup> Article 60(4) L. 4375/2016

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In **Malta** a specific border procedure is not provided for sea arrivals. Upon arrival, all persons arriving irregularly and seeking international protection are taken to an Initial Reception Centre (IRC) for screening. All persons undergo a preliminary individual interview with Immigration Police. Persons claiming to be unaccompanied minors, family groups with children and other manifestly vulnerable persons are prioritised for processing, with the Agency for the Welfare of Asylum-Seekers, assuming responsibility over their cases. Outside the IRC, there is no formal vulnerability assessment conducted for the purpose of addressing specific reception needs generally resulting in the non-identification of vulnerable persons entering Malta through regular channels.

Generally speaking, the legislations of partner countries provide exceptions to detention in transit areas for vulnerable asylum seekers. For example in **France**, vulnerable asylum seekers cannot be held in transit areas. Nevertheless, the crucial part of this aspect is the assessment of the vulnerability. Being identified as someone with *special needs* is a pre-condition for a survivor of torture and/or other serious violence to be assisted in an proper way. One of the first and clearest outcomes that emerges with stark clarity from our field research in all the countries involved is the shortage of specific mechanisms, standard operating procedures and adequate tools for an early identification of victims of torture and/or serious violence. Differently from other countries, Italy provided SOP<sup>30</sup> issued by the Italian Ministry of Interior - Department of Civil Liberties and Immigration - for disembarking areas and hotspot that calls for the identification of asylum seekers with special needs. It delegated this task to specific authorized humanitarian and international organizations, that however, at the time of the research, reported significant shortcomings and difficulties in the application of tools and procedures to identify *invisible* vulnerabilities. In all the countries involved, the obligation to detect vulnerabilities is fulfilled at its best with the interviews and the completion of a form from the authority (police) or administrative officers, who are not trained or specialized in these issues. They are mostly carried out in absence of health staff, in environmental conditions that are unfit for this aim, such as overcrowded first accommodation centers (like hotspot) (**Italy** and **Greece**), in absence of a cultural mediator (**France**), at disembarking areas (**Germany**), during the asylum interview with determining authority or in detention (**Portugal**) or within a very limited timeframe (**Greece, Portugal, Malta**).

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<sup>30</sup> SOP, Standard Operating Procedures Ministry of Interior, Standard Operating Procedures applicable to Italian hotspots, available at: <http://bit.ly/2kt9JBX>

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In summary, for different reasons connected to the characteristics of the time-frame, logistic and bureaucratic organization of the asylum system, in fact, all the researchers of this project found that only the obvious, visible and/or overly reported vulnerabilities are registered in the claim forms. *This de facto excludes the recognition of traumatized asylum seekers as people with special needs*, because most of the signs of their vulnerability can be recognized only by health personnel. In many cases, the shortcomings or the lack of trained personnel impede any identification or make it serendipitous, or eventually delay it to a later stage when the survivor, possibly, runs into other, more specialized, services.

Obviously, this problem with identification has a huge knock-on effect on all the aspects of procedure, reception and assistance to survivors, complicating or even impeding them to benefit of due procedural guarantees and appropriate referral.

### *Information*

Another common problematic issue is the transfer of clear and complete information on the asylum system and its relevant actors. Many efforts have been made in this sense, especially at port disembarking areas and in hotspot by EASO, UNHCR and IOM and NGOs (for example, in **Italy**), but still there are many problems and critical issues. The information transfer about asylum procedure is generally part of early information sessions usually accomplished in different contexts in different nations, but generally soon after the arrival (at disembarking areas, hotspots, in detention, etc.) or it is part of a later legal counselling, which is, however, not always provided, especially if the person has not been identified as vulnerable. Early transfer of information is complicated by a number of factors: language barrier, scarce availability of interpreters, different educational level of asylum seekers, their difficulty to concentrate on the information provided because of post-traumatic symptoms and the new and unstable living situation<sup>31</sup>. However, it must be said that this transfer of information is critical not only at disembarking areas, or in hotspot, but also in more stable circumstances, as reported by Zentrum Überleben, the Italian Council for Refugees, France Terre d'Asile and the Portuguese Council for Refugees, who emphasized how the survivors' ability to assimilate information about the asylum procedure may be significantly impaired because of posttraumatic states. This incomplete and unclear information combined with reduced ability to concentrate and retain information, contributes to the turmoil and sense of uncertainty that a traumatized asylum seeker lives in

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<sup>31</sup> CIR, *Maieutics – Handbook*, “*Elaborating a common interdisciplinary working methodology (Legal-Psychological) to guarantee the recognition of the proper international protection status to victims of torture and violence*”, December 2012

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the early phase of arrival in the host country. For Dublin cases, the issue about clarity of information and predictability of timeframe and what will happen is even more crucial, so much to make some of them mention an increase of their suicidal thinking in direct connection with this state of uncertainty and instability.

### *Procedure*

A widely shared remark about procedure is that in **all the countries** covered by the research, free legal assistance to asylum seekers is not provided by the state, neither during the early phase of ‘pre-screening’ for access to the territory in those countries that have such practice, nor during the preparation for substantive interview. Legal counselling and medical and psychological assessment and care are generally provided by NGOs. In order to obtain such services, asylum seekers, especially those who are not accommodated in reception centers equipped with internal services, have to contact them in the territory in order to receive an adequate legal, medical and psychological support. The importance of legal aid and orientation is crucial at this stage, because it is often from here that the referral is made to other services, including the medical and the psychological ones.

The legislations of the countries provide certain procedural guarantees in favour of vulnerable people, which, in principle, should be applied to both before and during the eligibility interview. These procedural guarantees, particularly important for victims of torture and violence, relate, among other things, to the possibility of prioritizing, omitting or postponing the interview, as well as requesting an extend period of time to present evidence for the decision-making by the asylum authority. Although some countries have not transposed all the procedural guarantees provided by the Directive 2013/32/EU, in such cases some good practices<sup>32</sup> related to them were reported. For example, in **Malta**, where domestic law does not specifically provide for the postponement of interview due to the applicants’ health – but just the omission at discretion of the Office of the Refugee Commissioner, the determining authorities generally suspend the asylum claim until the victim of torture and/or serious violence is ready to sustain the interview, not providing a definite deadline for it. The same practice is used by determining authorities for the requested medical or psychological certificates in support of the asylum claim. In the case of **France**, there is the possibility to address a report on the vulnerability of the asylum seeker directly to the determining authority through a dedicated email.

However, generally speaking, procedural guarantees can be applied if the person has been taken in charge from services, being them external or internal to the reception center. It is rare that police authorities alert the determining authorities of

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<sup>32</sup> For additional information please see chapter 5

the necessity of prioritizing or omitting an application, as well as informing them about the need of a medical certification to facilitate a correct decision making and it would be difficult for them to take a decision about it, except in cases of evident trauma or vulnerabilities. Accordingly, the assessment of vulnerability, provided by law in almost all the countries, does not guarantee that in practice the person is taken in charge by specialized services, as further shown below.

Regarding Dublin procedure, there are no adequate practical measures applied to assess the vulnerability of applicants, despite the Dublin Regulation provides for such assessment. Although *ad hoc* forms are available to check the health conditions and vulnerabilities of asylum seekers, they are generally filled in, again, by authorities in absence of health personnel, and the resulting documents turn out to be superficial or poor in information about health conditions. This result may also be ascribed to poor information transferred to the applicant about the Dublin Regulation in general, and the relevance of health documents in particular for the case. In addition, such information is often lost in the communication between countries and is not shared. Furthermore, medical and/or psychological examinations that could prove the person's actual state of health and that can be an evidence to apply the discretionary or humanitarian clauses of the Dublin Regulation, are hardly required from authorities.

In practice, because of these multiple failures in giving information and processing the health issues, NGOs play a key role in providing support to Dublin cases during the procedure.

Finally, the lacunae or even failure in providing assistance, especially with supporting certifications, determines that victims of torture and violence cannot be adequately treated and assisted on arrival in the countries of destination, with consequent foreseeable effects in providing adequate accommodation in reception centers and assistance in general.

### *Reception*

The reception systems in the different countries presents a range of different challenging issues<sup>33</sup>. However, the general finding is that the reception system turns out to be inadequate to meet, in some cases, even basic needs of asylum seekers, in other cases the special needs of survivors. There are significant differences in the organization and quality of the reception systems of the countries, and stark differences exist among different geographical areas of the same country. However, the feature common to all the countries involved is that no specific re-

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<sup>33</sup> Aida, *Wrong counts and closing doors: The reception of refugees and asylum seekers in Europe*, June 2016, available at: [http://www.asylumineurope.org/sites/default/files/shadow-reports/aida\\_wrong\\_counts\\_and\\_closing\\_doors.pdf](http://www.asylumineurope.org/sites/default/files/shadow-reports/aida_wrong_counts_and_closing_doors.pdf)

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ception center exist on these territories for survivors of torture and/or other serious violence. The best existing accommodation for them is that of small reception centers placed in big cities where multiple services, internal and external to the reception center, are available and where NGOs with significant expertise may support survivors of torture and/or other violence (for example in **Italy**, Rome and Milan). However, many reception centers are overcrowded, placed in isolated areas like mountains (**Italy**) or islands (**Greece**) with no or complicated connections to more served areas, provided only with basic services like food (sometimes of poor quality), and no or totally insufficient legal and health service. Since 2015, the increase in the numbers of asylum seekers to be accommodated, induced some states to set up emergency shelters and reception centers, equipped with basic services (**France, Italy, Germany, Greece**). Also the standards of service provision in second-line reception centers suffered from the fact of having often being opened on the wave of emergency (**Italy**). In **Germany**, due to the competence of federal states in the provision of reception conditions, the framework and capacity of reception facilities can be widely distinct from one Land to another, with a lack of a national approach in implementing the assessment of special needs.

Other difficulties mentioned in the research **by all partners** were the lack of standard operating procedure and tools to identify and monitor the special reception needs of survivors, insufficiency and even absence of services internal to the reception centers, difficulties in the communication between internal and external services, lack of safe and private accommodation, lack of gender sensitive accommodation in case of sexual violence, lack of expert knowledge and training among service providers, insufficient tailored made service, limited access to multidisciplinary support service for victims of torture and/or serious violence, the shortage of services of mental health care, language barriers in the provision of services, among others.

A special mention has to be made regarding detention. Our research did not systematically investigate detention. However, as well known, detention is incompatible with being a torture survivor. Detention can and has been shown to aggravate survivors' psychological disorders, posttraumatic symptoms and depression. Despite this well known incompatibility, from our research it arises that, in some cases, asylum seekers who were subjected to torture and/or other serious violence and not identified as such, may be found in detention. Although the management bodies and the personnel working in detention facilities is aware of the risk that their population may include survivors, no active and systematic screening is generally carried out, but just a generic and not formalized 'attention' is paid to the problem. Although detention should be revoked in cases victims of torture and/or serious violence, the release may take a significant duration of time, which is detrimental for the person's health condition.

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### *Services*

From research it emerges clearly that legal, health and social services that try to respond to the *special needs* of survivors of torture and/or other serious violence are mostly provided by NGOs in all the countries involved. And this is for different reasons. For example, in **Germany** specialized Centers provide health services, so trying to compensate the limited access of asylum seekers to the national health care system in the initial phase of their staying (first 15 months); in **Greece**, NGOs try to compensate the shortcomings or even lack of medical and legal personnel on islands; in **Malta** they provide that psychological and legal support that mainstream health services cannot supply with; in **all the research countries** NGOs supply the public system with their specialised services and special expertise in the care of victims of torture and violence. A rare exception to this are a few and small specialized health services, which are guaranteed by the national health system (for example, in **Italy**), which have the necessary medical, psychiatric, and psychological *know how* to treat victims of torture and/or other serious violence and to provide with certification of torture sequelae. However, the general situation of the public health system is one of lack of specialized expertise in terms of professional knowledge and *ad hoc* services. Even, in those rare cases when medical and psychological assistance is freely provided by the National Health Service (NHS) on the national territory, only a few services have the expertise to deal with specific issues posed by survivors of torture and/or other serious violence. For this reason, generally speaking, the public health services are not the places of choice for the care of victims of torture, who use them mainly for emergency or basic health needs and bureaucratic issues. Nonetheless, in some cases, the asylum determining authority requires that the consequences of torture being ascertained and certified by a public health service, that by and large ignore the standards of the *Istanbul Protocol* to certificate them. However, NGOs services, although better and deeper prepared to deal with the special needs of torture survivors depend on external funding for their activities and this creates conditions for instability and discontinuity of care, which is a particularly detrimental condition for victims of torture and/or other serious violence.

A special mention is due for those cases who were not able to access the services of an NGO. Not having a standardized mechanism of identification and assessment of the health state – medical and psychological – of asylum seekers, the issuance of medical and psychological report for the asylum claim is extremely unlikely, as well as their take in charge for therapy.

*Training of staff*

Another transnational critical outcome that emerges with force from the research is the need of training for the staff working with survivors of torture and/or other serious violence. In all the research countries, this need was manifestly declared by stakeholders during interviews in every field of intervention. Equally, this lack of specialized knowledge on the special needs of survivors of torture and/or violence emerged from the Pilot Initiative phase, during which tools for the assessment of such needs were submitted. This shortcoming or lack of training on themes relevant for the care of survivors of torture and/or other serious violence is particularly detrimental to their asylum claim, particularly when it regards health and legal services. In fact, the ability of interviewing a survivor is a crucial skill both for counselling services that provide assistance and collect the asylum seeker's story, and for asylum authorities, whose awareness of central issues in trauma is crucial to conduct an ethical interview and take a fair decision. In addition, the possibility for health services to certificate the consequences of torture and/or other serious violence both in physical and mental health may be crucial for such a decision. In lack of such awareness and expertise, some procedural guarantees risk to be just on paper or superficially guaranteed.

This need of specialised training was registered in all the countries involved and it was expressed by legal advisors, physicians and psychologists, social workers, personnel in reception centers, interpreters and cultural mediators, and even authorities, such as Dublin Units, members of the asylum commissions.

*Interpreters and cultural mediators*

A general shortage of interpreters and cultural mediators of pertinent languages was recognized in different kind of services and all along the asylum procedure. Those available were deemed not sufficiently aware and professionally trained about the themes relevant to the assistance of survivors of torture and/or serious violence. In contrast to this reality, and appropriately, the most part of stakeholders consider interpreters and cultural mediators as key figures that have a crucial role in the information transfer and communication between professionals and beneficiaries. For this reason, it is of utmost importance that these professionals are available since the early phases of assistance and procedure, and it is equally essential that they be professionally trained (for example, about trauma and also rules of therapeutic setting) to interact in a correct way with victims of torture and/or serious violence. Beneficiaries confirmed the centrality of the role of the interpreter and cultural mediator in the events that marked their asylum story, both in negative and positive terms.

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*Accompanied minors*

Regrettably, very poor or, alternatively, almost no attention is dedicated to torture survivors' children in procedure, reception and assistance. The indicators and risks of the transgenerational transmission of trauma is still very underestimated and not taken into consideration in the organisation of services, in terms of tailored health services, adequate spaces in reception and protection measures put in place by all variety of services.

*Staff psychological wellbeing*

Another transnational stark result of this research is the feature emerged from questions investigating the psychological wellbeing of the staff working with victims of torture and/or serious violence, to which really scarce or no attention is paid. The risk of vicarious traumatization of the staff working with survivors is largely and homogenously underestimated by the policy of all the stakeholders involved in procedure, reception and assistance, while this aspect has a deep impact on the quality of organisational life. On the contrary, the need of psychological supervision is utterly felt by professionals and staff in general working with survivors, especially in the legal and psychological services, who are those more exposed to the accounts of violence and the psychological aftermaths of trauma.

## 4.2 Main research findings in France<sup>34</sup>

La recherche documentaire menée a mis en lumière que la loi du 29 juillet 2015, portant réforme de l’asile, a introduit de nombreuses garanties et dispositions prévues par les directives « Accueil »<sup>35</sup> et « Procédure »<sup>36</sup> quant à l’identification et la prise en compte des besoins particuliers des demandeurs d’asile victimes de torture et de violence. Si cette loi a ainsi amélioré la procédure d’asile pour les victimes de torture et de violence, la transposition de ces deux directives reste cependant parcellaire.

La réforme de l’asile a modifié de manière conséquente la procédure d’asile en France. Désormais, préalablement à l’enregistrement d’une demande d’asile, le demandeur d’asile doit se présenter à une plateforme d’accueil pour demandeurs d’asile (Pada) où lui sera délivrée dans un délai raisonnable une convocation au Guichet unique (Guda). Ce guichet regroupe la Préfecture chargée d’enregistrer la demande d’asile et de déterminer la procédure applicable à l’examen de la demande d’asile, et l’Office français de l’immigration et de l’intégration chargé de proposer une solution d’hébergement et d’ouvrir les droits à l’Allocation pour demandeur d’asile (Ada).

A l’étape du Guichet, l’Ofii est également chargé de procéder à l’évaluation de la vulnérabilité<sup>37</sup> de tout demandeur d’asile afin de déterminer, le cas échéant, ses besoins particuliers en matière d’accueil. L’évaluation est organisée par le biais d’un entretien individuel avec le demandeur d’asile, sans que la présence d’un interprète ne soit explicitement prévue. Il est confié aux agents de l’Ofii le soin de procéder à cette évaluation par le biais d’un questionnaire. Ce questionnaire pose cependant certaines difficultés, sa rédaction ne permet en effet que d’identifier les vulnérabilités dites objectives. Plusieurs profils de personnes vulnérables tels que les victimes de traite ou de torture ne sont pas visées par ce questionnaire. Elles ne peuvent en effet être identifiées que si elles font spontanément état d’un besoin de prise en charge. Par ailleurs, l’identification des besoins organisée par cette évaluation est limitée aux besoins particuliers en matière d’hébergement.

L’évaluation des besoins de prise en charge n’est pas faite par l’agent de l’Ofii mais par le médecin de l’Ofii après transmission de documents à caractère médical<sup>38</sup>. Aucun examen du demandeur d’asile par le médecin de l’Ofii n’est prévu,

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<sup>34</sup> Written by France Terre d’Asile.

<sup>35</sup> Directive 2013/33/UE du Parlement européen et du Conseil du 26 juin 2013 établissant des normes pour l’accueil des personnes demandant la protection internationale

<sup>36</sup> Directive 2013/32/UE du Parlement européen et du Conseil du 26 juin 2013 relative à des procédures communes pour l’octroi et le retrait de la protection internationale

<sup>37</sup> Conformément à l’Article L.744-6 du Ceseda

<sup>38</sup> Conformément à l’Article R.744-14 du Ceseda

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cette évaluation se fait sur le seul fondement des documents transmis. L'avis du médecin n'est pas contraignant et ne conduit pas automatiquement à une adaptation des conditions matérielles d'accueil.

La procédure organisée au niveau de l'Ofii se révèle donc incomplète pour évaluer les besoins particuliers des victimes de torture et de violence et ne répond en ce sens que partiellement aux objectifs posés par la directive « Accueil ».

Une identification et évaluation des besoins est également assurée par les structures du dispositif national d'accueil. Le dispositif national d'accueil ne dispose pas d'assez de place d'hébergement pour l'ensemble des demandeurs d'asile, les Pada assure donc cette mission auprès des non-hébergés. Elles ont désormais pour rôle d'informer l'Ofpra « *des vulnérabilités du demandeur d'asile qui pourraient nécessiter une adaptation de la procédure devant l'Ofpra* »<sup>39</sup>. Il s'agit bien d'assurer une évaluation des besoins particuliers des demandeurs d'asile et notamment des victimes de violence et de torture. Toutefois, aucun moyen additionnel n'a été alloué aux Pada pour réaliser cette mission.

Parmi les lieux d'hébergement vers lesquels les demandeurs d'asile peuvent être orientés via le Guichet unique, seuls les centres d'accueil pour les demandeurs d'asile (Cada) remplissent une mission d'évaluation des besoins particuliers et d'orientation vers une prise en charge appropriée<sup>40</sup>. L'équipe du centre peut également procéder à une évaluation de la vulnérabilité des personnes hébergées et en informer l'Ofii afin que les besoins particuliers soient pris en compte. Cette mission ne reste toutefois qu'une simple possibilité et aucune formation des personnels intervenant auprès des victimes de torture et de violence n'a été prévue par la loi de 2015, contrairement aux obligations européennes.

Eu égard aux besoins particuliers en terme de procédure, la directive « Procédure » a posé des obligations additionnelles d'identification, a défini des garanties procédurales spéciales pour les demandeurs d'asile et a précisé le cadre de la certification médicale. La loi du 29 juillet 2015, transposant cette directive, a introduit des éléments d'évaluation des besoins particuliers en matière de procédure mais celle-ci ne prend pas la forme d'une procédure formelle.

L'Ofpra a la possibilité de « *définir les modalités particulières d'examen qu'il estime nécessaires pour l'exercice des droits d'un demandeur en raison de sa situ-*

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<sup>39</sup> Marché relatif aux prestations de premier accueil et d'accompagnement (Mission B5, Ofii, Maché n°15 25001- Prestations de premier accueil et d'accompagnement des demandeurs d'asile – Cahier des clauses techniques particulières, 29 août 2015).

<sup>40</sup> Arrêté du 29 octobre 2015 relatif au cahier des charges des centres d'accueil pour demandeurs d'asile, NOR: INTV1525114A, J.O. du 3 novembre 2015

ation particulière ou de sa vulnérabilité »<sup>41</sup>. Toutefois, cela suppose préalablement une évaluation des besoins particuliers et aucune procédure formelle n'est prévue en ce sens. Pour définir des modalités particulières d'examen, l'Ofpra se fonde sur les informations transmises par l'Ofii<sup>42</sup>. Or comme souligné précédemment, la procédure au Guichet unique ne permet pas de détecter des vulnérabilités dites subjectives. L'Ofpra peut également se fonder sur les informations transmises par le demandeur d'asile. Néanmoins, la présentation par le demandeur d'éléments étayés relatifs à ses craintes de persécutions suppose généralement une stabilisation de sa situation administrative et sociale ainsi qu'un soutien juridique adéquat. Dans le cas de victimes torture et de violence, un obstacle supplémentaire est à souligner. En effet, les personnes souffrant de psycho-traumatisme sont plus susceptibles de ne pas révéler les actes de violences dont elles ont fait l'objet à leur conseiller ou à l'Ofpra. De plus, même si ces personnes sont prises en charge par des professionnels de la santé mentale, le temps du soin peut être incompatible avec le temps administratif.

Plusieurs modalités particulières d'examen ont été prévues par la loi. L'Ofpra peut ainsi décider de statuer en priorité sur les demandes de personnes vulnérables ou reporter l'entretien avec l'officier de protection selon les besoins du demandeur. Il est également possible pour un demandeur d'asile dans l'incapacité durable de se présenter à son entretien d'en être exempter. L'Ofpra peut aussi requalifier une demande d'asile de la procédure accélérée à la procédure normale en vue de fournir des garanties procédurales non organisées dans la procédure accélérée. Le demandeur d'asile peut enfin formuler le besoin de choisir le sexe de son interprète et de l'officier de protection si cela est « *manifestement fondé par la difficulté pour le demandeur d'exposer l'ensemble des motifs de sa demande d'asile, notamment ceux liés à des violences à caractère sexuel* »<sup>43</sup>. L'Ofpra évalue le caractère fondé de la demande pour accorder ces modalités particulières.

De plus, la réforme de l'asile a introduit la possibilité d'être accompagné par un tiers lors de l'entretien<sup>44</sup>. Le tiers à l'entretien peut être soit un avocat ou un représentant d'une association habilitée. Il ne peut intervenir qu'à l'issue de l'entretien pour formuler des observations. De sa propre initiative, l'Ofpra a élargi cette possibilité puisque le guide des procédures de l'Ofpra prévoit une possibilité d'accompagnement par un professionnel de santé mentale. Une telle requête doit être justifiée essentiellement par l'objectif de sécurisation du demandeur d'asile, si l'existence de troubles du comportement serait susceptible de perturber le bon

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<sup>41</sup> Conformément à l'Article L.723-3 du Ceseda

<sup>42</sup> Conformément à l'Article L.744-6 du Ceseda

<sup>43</sup> Conformément à l'Article L.723-6 du Ceseda

<sup>44</sup> Conformément à l'Article L.723-6 du Ceseda

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déroulement de l'entretien. La présence du tiers peut être sécurisant ou constituer un soutien adéquat pour une victime de torture afin de l'aider à verbaliser les persécutions subies.

Plusieurs autres adaptations non fixées par loi ont été prévues par l'Ofpra pour l'examen des demandes des victimes de torture et de violence telles que prévoir une durée adéquate d'entretien, une attitude bienveillante, un cadre sécurisant. Le groupe de travail interne « victimes de torture » à l'Ofpra a un rôle particulièrement pertinent à jouer pour l'adaptation de la procédure d'asile, notamment au niveau de la formation des officiers de protection et au soutien dont ceux-ci bénéficient.

La loi du 29 juillet 2015 a également transposé les dispositions européennes en matière de certification médicale. L'office peut ainsi demander à la personne sollicitant l'asile de se soumettre à un examen médical<sup>45</sup>. Cet examen médical existait de manière informelle dans le cas de jeunes filles ou femmes menacées d'excision. D'après l'Ofpra, cette démarche pourra aussi intervenir lorsque le déroulement de l'entretien laisse supposer que la santé mentale du demandeur d'asile affecte lourdement sa capacité à verbaliser ses craintes. Aucune mention explicite n'est faite de l'éventualité de demander à une victime de torture et de violence de se soumettre à un examen médical. La loi rappelle l'importance des certificats médicaux, qui doivent être pris en compte par l'Office parallèlement aux autres éléments de la demande.

### *Synthesis of results of the national field research*

### *Synthèse des résultats de recherche français*

L'étude de terrain conduite entre septembre et octobre 2016 est le résultat de groupes de discussion organisés avec des demandeurs d'asile et des interviews de différents acteurs de l'asile. Ce travail de terrain a permis d'approfondir la recherche documentaire portant sur l'identification et l'évaluation des besoins particuliers des victimes de torture et de violence dans la procédure d'asile en France.

Cinq groupes de discussion, sur cinq thématiques différentes, ont été organisés avec des demandeurs d'asile ou bénéficiaires d'une protection internationale victimes de torture et de violence. Ils se sont tenus dans 4 structures de France terre d'asile, au Cada d'Asnières, au Cada de Paris, au Kiosque et à la Pada de Bordeaux, ainsi qu'au sein du Cada de Forum-réfugiés Cosi à Bron. Parallèlement, ont été organisées 12 interviews auprès d'acteurs de la rétention, de directeurs de Cada et de Pada, de la chargée de mission vulnérabilités de l'Ofpra, Coralie CAP-DEBOSQ, de la Directrice du pôle santé de l'Ofi, Docteur Thanh LE LUONG, et de professionnels de santé mentale exerçant en centre de soin spécialisé.

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<sup>45</sup> Conformément à l'Article L.723-5 et L.752-3 du Ceseda

Premièrement, il ressort de ces groupes de discussion et des interviews qu'une distinction doit être faite entre les personnes hébergées en Cada et les autres. Les besoins mis en exergue par les personnes hébergées en Cada ne sont pas du même ordre que pour les autres participants aux groupes.

En termes de besoin en matière d'accueil, le premier besoin est en effet l'hébergement pour les personnes non-hébergées. Celles-ci estiment que leur prise en charge médicale et psychologique, malgré un besoin formulé, n'est pas la priorité tant qu'ils n'ont pas de logement. Ils sont contraints de dormir dans la rue ou en hébergement d'urgence et ne peuvent se soigner correctement. Ils notent que leur santé mentale et physique s'aggrave en raison de cette précarité. Les personnes hébergées en Cada ont toutes formulées que leur arrivée au centre d'accueil était un soulagement. Leurs besoins en matière d'accueil sont différents et sont relatifs à un besoin de plus de tranquillité et d'intimité, la colocation ou cohabitation étant peu propice à cela.

Les besoins en termes de procédure varient en fonction du type de prise en charge également. Les personnes non-hébergées en Cada, telles que les personnes dites « dublinées » ou celles n'ayant accès qu'à la Pada, soulignent un manque d'information et d'accompagnement. L'identification et l'évaluation des besoins sont quasi-nulles. Par manque de temps et de moyens humains, seules les personnes qui manifestent clairement un besoin peuvent être réellement accompagnées. Ainsi, les signalements à destination de l'Ofpra pour requérir un aménagement de la procédure sont rares. En outre, les personnes ne sont pas toujours aidées pour la rédaction de leur récit et ne savent pas quel élément de leur récit doit être mis en avant. Ils ne reçoivent que rarement une préparation à leur examen, pourtant fondamental pour les personnes souffrant de psycho-traumatisme.

En comparaison avec les personnes prises en charge en Cada, les inégalités sont criantes. Les personnes interrogées font part d'un réel soutien tout au long de leur procédure. Il n'existe cependant pas en Cada de procédure formelle d'évaluation des besoins, celle-ci se fait sur la base des échanges avec les demandeurs d'asile et grâce à l'expérience des professionnels. Les difficultés formulées sont principalement l'attente de la décision et un manque de formation des professionnels des centres aux problématiques relatives aux victimes de torture et de violence.

La réponse apportée aux besoins en matière de santé est moins inégalitaire depuis l'ouverture de la couverture maladie universelle<sup>46</sup> aux personnes dublinées. À l'instar des demandeurs d'asile en procédure normale ou accélérée, les personnes placées en procédure Dublin ont accès au système de santé. L'accès à un suivi médical est de manière général aisé, seul un problème de formation est souligné. L'accès à un professionnel de santé mentale est de manière récurrente compliqué, soit en raison d'une sur-sollicitation des centres de soin spécialisés ou profession-

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<sup>46</sup> Depuis le 1<sup>er</sup> janvier 2016

nels, soit en raison d'une offre inexistante sur le territoire. Cet accès peut donc être long à se mettre en place alors que le besoin est grand pour des personnes victimes de torture et de violence. Les Cada ont souvent des partenariats avec des professionnels de santé ce qui facilite et accélère l'accès pour leurs résidents. Est également soulignée une mauvaise compréhension du rôle du psychologue. Certaines personnes ne consultent pas de psychologue ou de psychiatre, alors que le besoin est présent. Dans leur culture, le suivi psy est réservé aux déments, aux fous. Enfin, les personnes non-francophones rencontrent davantage de difficultés dans l'accès aux soins. Il existe en effet un manque d'interprètes et surtout d'interprètes formés aux problématiques liées aux victimes de torture et de violence.

Concernant les besoins sociaux, une distinction doit de nouveau ici être faite entre les personnes hébergées en Cada et les autres. Les personnes hébergées en Cada ont accès à de nombreuses activités, qu'elles soient récréatives, de sensibilisation ou de développement personnel. Elles aimeraient cependant pouvoir accéder au marché du travail : l'attente en Cada peut être longue et les personnes font part d'un certain ennui et d'un sentiment d'inutilité. Ce sentiment est également partagé et plus profond pour les personnes non-hébergées en Cada, qui n'ont que rarement accès à des activités. Aucune activité, en raison des moyens alloués, n'est organisée en Pada. L'inactivité et l'ennui conduit les personnes à ressasser leur histoire, à penser continuellement à leur situation, ce qui a un impact négatif sur leur état mental. Les personnes en procédure Dublin interrogées sont dans l'attente de régularisation de leur situation et dans l'attente de pouvoir enregistrer une demande d'asile. Ce temps leur paraît très long et ne fait qu'accroître un sentiment d'inutilité et d'infériorité par rapport aux autres demandeurs d'asile. De même, leur situation légale incertaine est créatrice d'angoisse et d'une incapacité à se projeter, à envisager leur futur. Tous les participants au groupe de discussion sur la procédure Dublin ont fait état de pensées suicidaires lorsqu'ils étaient en procédure Dublin.

En conséquence, le constat est, outre les problèmes pointés par le travail de recherches documentaires, qu'une inégalité de traitement claire existe entre les personnes hébergées et non-hébergées en Cada. Les personnes victimes de torture et de violence voient leurs besoins particuliers majoritairement satisfaits lorsqu'elles sont prises en charge en Cada, malgré des insuffisances principalement liées à l'absence de procédure formelle d'identification et d'évaluation des besoins et à la formation des professionnels. Cette satisfaction est essentiellement le fait d'une action proactive des centres plutôt qu'aux obligations légales qui leur sont posées. En revanche, les besoins primaires, tels que l'accès à un logement ou l'impossibilité d'être accompagné juridiquement, peuvent ne pas être satisfaits pour les personnes non-prises en charge en Cada, ce qui est un frein à tout autre type d'aide et à la réussite de leur demande d'asile.

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***Recommendations on how to improve the assessment of the special needs***

**Une procédure rapide d'identification des personnes vulnérables telles que les victimes de torture et de violence**

Afin d'améliorer l'évaluation des besoins particuliers des victimes de torture et de violence, une procédure permettant l'identification des personnes vulnérables telles que les victimes de torture et de violence doit être prioritairement mise en place. La procédure existante auprès de l'Ofii ne permet pas d'identifier toutes les vulnérabilités, seules les vulnérabilités objectives sont détectées.

**- Une procédure formelle d'évaluation des besoins en termes de procédure**

En outre, une procédure formelle d'évaluation des besoins en termes de procédure doit être créée. La procédure existante auprès de l'Ofii permet simplement d'évaluer les besoins en termes d'accueil. L'Ofpra se fonde sur une diversité de sources d'information pour évaluer ces besoins. La formalisation de cette procédure permettrait d'éviter une inégalité de traitement entre les demandeurs d'asile.

**- La formation de l'agent de l'Ofii en charge de l'évaluation des besoins**

L'agent de l'Ofii en charge de l'évaluation des besoins doivent avoir reçu une formation spécifique relative à la prise en charge des demandeurs d'asile victime de torture et de violence, conformément aux dispositions de la directive accueil.

**- L'évaluation de la vulnérabilité liée à des violences et des actes de torture devrait être faite conjointement avec un professionnel de santé**

La présence d'un professionnel de santé au moment de l'évaluation de la vulnérabilité permettrait d'améliorer la procédure de l'Ofii et peut-être d'identifier plus aisément les victimes de torture et de violence.

**- Le rôle des plateformes d'accueil pour demandeurs d'asile (Pada) et des centres d'accueil pour demandeurs d'asile (Cada) doit être clarifié eu égard à l'évaluation des besoins particuliers des personnes vulnérables et un budget adéquat alloué**

Le législateur a donné aux Pada et aux Cada une mission d'évaluation des besoins particuliers, cette mission n'est cependant pas définie clairement. Par ailleurs, aucun moyen supplémentaire n'a été alloué aux Pada et aux Cada pour réaliser cette mission. Les Pada n'ont en effet pas les moyens humains et financiers d'organiser cette mission. Seules les personnes qui font état spontanément d'un besoin vont être accompagnées. En Cada, l'évaluation des besoins est or-

ganisée mais aucune procédure formelle existe, l'évaluation est faite sur la base des échanges avec les demandeurs d'asile.

**- Les travailleurs sociaux des centres (Pada et Cada notamment) doivent recevoir une formation eu égard aux besoins particuliers des victimes de torture et de violence ;**

Le personnel des Pada et des Cada est en charge de l'évaluation des besoins particuliers des personnes vulnérables. La réalisation de cette mission suppose que le personnel de ces structures reçoivent une formation eu égard aux besoins particuliers des victimes de torture et de violence.

**- En centre de rétention ou en zone d'attente, une procédure formelle pour évaluer les besoins particuliers des personnes vulnérables doit être adoptée**

Aucune procédure formelle pour évaluer les besoins particuliers des personnes vulnérables n'a été mise en place en centre de rétention ou en zone d'attente. L'évaluation des besoins n'est pas systématique, est non obligatoire et suppose un comportement proactif du personnel des centres de rétention ou des zones d'attente.

### 4.3 Main research findings in Germany<sup>47</sup>

Das Zentrum ÜBERLEBEN setzt sich national und international für Überlebende von Folter und Kriegsgewalt ein. Im Zentrum suchen Männer, Frauen und Kinder aus rund 50 Ländern Hilfe – momentane sind die Hauptherkunftsländer: Syrien, Irak, Afghanistan, Libyen, Eritrea, Somalia und die Türkei. Die Hilfesuchenden erhalten medizinische, psychotherapeutische, sozialarbeiterische und integrative Unterstützung. Um Sprachbarrieren im interkulturellen Beratungs- und Behandlungssetting zu überwinden, arbeitet das Zentrum mit speziell geschulten Dolmetscherinnen und Dolmetscher zusammen. Neben der Rehabilitation von traumatisierten Geflüchteten steht auch die Integration und berufliche Qualifizierung bis hin zur gesellschaftlichen Teilhabe von Menschen mit unterschiedlichen Flucht- und Migrationserfahrungen im Mittelpunkt unserer Arbeit. Im Zentrum ÜBERLEBEN gGmbH wird seit 2016 die operative Tätigkeit des 1992 gegründeten Behandlungszentrum für Folteropfer (bzfo e. V.) fortgeführt.

#### *Zusammenfassung der nationalen Sekundärforschung*

Die Erhebungen und Ergebnisse der im Projekt angelegten Sekundär- wie auch der Primärforschung im Partnerland Deutschland zeichnen sich im Gegensatz zu anderen Partnerländern insbesondere durch das politische System des Föderalismus aus. Während auf der Bundesebene die nationale Gesetzgebung für einheitliche Regelungen, insbesondere auch die Umsetzung europäischer Vorgaben sorgen soll, müssen letztlich die 16 Bundesländer nationale und europäische Vorgaben praktisch umzusetzen. Auf diese Weise hat der Föderalismus im EU-Mitgliedsstaat Deutschland 16 verschiedene Aufnahmesysteme hervorgebracht, während die Struktur des Asylverfahrens (in Bundeshoheit) in ganz Deutschland überwiegend einheitlich ist.

Die Erhebungen im Rahmen des Projektes zeigten einmal mehr, dass im nationalen Recht keine Aussagen oder gar Vorgaben bezüglich der Ermittlung von vulnerablen Personen, insbesondere von Folteropfern unter den Asylsuchenden und der Beurteilung ihrer Bedürfnisse gemacht werden. Spätestens seit 2007 ist bekannt, dass das Fehlen eines solchen Ermittlungs- und Beurteilungsverfahrens zu einer Unterversorgung von besonders schutzbedürftigen Asylsuchenden führen kann, da der erste Schritt in eine bedarfsgerechte Versorgung fehlt<sup>48</sup>.

Dem folgend kann bundesrechtlich nicht garantiert werden, dass Überlebende

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<sup>47</sup> Written by Zentrum Überleben gGmbH.

<sup>48</sup> Report from the Commission to the Council and the European Parliament on the application of Directive 2003/9/EC of 27 January 2003 laying down minimum standards for the reception of asylum seekers (26.11.2007)

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von Folter besondere Verfahrensgarantien erhalten bzw. besondere Bedarfe bei der Aufnahme erfüllt werden, wie sie in den entsprechenden EU-Richtlinien 2013/32/EU und 2013/33/EU definiert wurden.

Das Bundesamt für Migration und Flüchtlinge (BAMF), eine nachgeordnete Behörde des Bundesministeriums des Inneren, entscheidet über Asylanträge auf der Basis des Asylgesetzes, des Aufenthaltsgesetzes sowie auf Grundlage von europäischen Richtlinien und Regulierungen (z.B. Dublin Abkommen). Die Arbeit des BAMF ist dezentral in jedem Bundesland der Bundesrepublik Deutschland organisiert, die Verfahrensschritte sind jedoch durch die genannten Gesetze einheitlich geregelt.

Die Voraussetzungen für die Gewährung internationalen Schutzes, das Vorhandensein von politischer Verfolgung sowie Abschiebeverbote werden im Rahmen der vom BAMF durchgeführten Anhörung – auch persönliches Interview genannt – geprüft. Die Anhörung ist daher der wichtigste Verfahrensschritt für Asylsuchende, da an dieser Stelle über ihren Status entschieden wird.

Vor dieser Anhörung im regulären Asylverfahren müssen die Menschen zunächst in Deutschland und in diesem regulären Verfahren ankommen. Werden sie an den nationalen Grenzen durch die Bundespolizei kontrolliert, entscheidet diese ob der angetroffene Person die Weiterreise gewährt wird, um ihren Antrag bei einer entsprechenden Landesanstalt zu vervollständigen, in dem sie ihr Asylbegehren vorträgt. Wenn die Person keine Erklärung für die persönliche Notwendigkeit vorbringen kann, kann die Bundespolizei die Einreise verweigern.

An Flughäfen können Schutzsuchende ebenfalls vor dem Übertritt der nationalen Grenze erkannt und aufgehalten werden. Während des sogenannten „Flughafenverfahrens“ ist es die Aufgabe der Grenzkontrolle die individuellen Gründe für den Flug und der Einreise zu ermitteln. In Fällen „offensichtlich unbegründeter“ Asylgesuche kann die Einreise verweigert werden. Für diese Prüfung stehen grundsätzlich 48 Stunden zu Verfügung. Ist innerhalb dieser Zeit keine solche Entscheidung möglich, werden die Personen ebenso in das reguläre BAMF-Verfahren weitergeleitet, wie Personen bei denen von einem begründeten Asylgesuch ausgegangen wird<sup>49</sup>.

In Reaktion auf den hohen Anstieg von Asylantragszahlen wurden neue Regulierungen vorgenommen und unter anderem beschleunigte „Direktverfahren“ eingeführt. Durch die Kooperation von Bundes- und Landesbehörden an einem Ort, den „Ankunftszentren“, wurden die Wartezeiten während des gesamten Prozesses dramatisch reduziert. Asylverfahren sollen hierdurch in nur wenigen Tage

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<sup>49</sup> BAMF (2016) <http://www.bamf.de/DE/Fluechtlingsschutz/Sonderverfahren/FlughafenVerfahren/flughafenverfahren-node.html>

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andauern (möglichst 48h). Allerdings wird an diesen Direktverfahren vor allem der Mangel an unabhängigen Beratungsangeboten kritisiert<sup>50</sup>, demnach ist fraglich, ob Schutzsuchende zu jeder Zeit ausreichend über ihre Situation oder ihre Rechte informiert sind.

#### *Identifikation von Personen die besondere Verfahrensgarantien benötigen*

Die zuständige Behörde (BAMF) sichert zu, dass Folterüberlebende im Rahmen des Asylverfahrens besondere Verfahrensgarantien erhalten, wie sie in der EU-Verfahrensrichtlinie Richtlinie 2013/32/EU definiert wurden. Hierzu wurden im BAMF „Sonderbeauftragte“ für besonders schutzbedürftige Asylsuchende installiert, die das Anhörungsverfahren unter anderen auch für Opfer von Folter durchführen. Sonderbeauftragte müssen von den Betroffenen selbst oder auf Anfrage von externen Personen wie Anwälten oder Sozialarbeitern angerufen werden. Im Kontext von speziellen Verfahren wie dem Flughafenverfahren oder beschleunigten Verfahren gibt es keine zusätzlichen Schritte zur Sicherstellung der Identifikation eines Folteropfers.

Das BAMF ist die nationale Behörde, die Artikel 18 der Verfahrensrichtlinie 2013/32/EU folgend eine medizinische Untersuchung einleiten könnte, sofern es Anzeichen gibt, die auf Erfahrungen von Folter oder Gewalt hinweisen. Die Ergebnisse sollen laut Richtlinie bei der Entscheidung über Asylgesuche gewürdigt werden.

#### *Identifikation und Einschätzung von aufnahmespezifischen Bedürfnissen*

Während die BAMF-Außenstellen in den Bundesländern für das Asylverfahren zuständig sind, sind es die Landes- und Kommunalbehörden – genauer gesagt die betreffenden Sozialämter der Region, in die Asylbewerberinnen und Asylbewerber verteilt werden – die für Aufnahmebedingungen von Menschen, die internationalen Schutz suchen, auf der Basis des Asylbewerber-Leistungs-Gesetzes (AsylbLG), verantwortlich sind. Zusätzlich zur grundlegenden Versorgung mit Essen, Unterkunft und Kleidung gewähren diese Behörden weitere Leistungen wie eine spezifische Gesundheitsversorgung oder notwendige medizinische Ausstattung.

Der Zugang zu medizinischer, psychiatrischer und psychologischer Behandlung hängt im deutschen Gesundheitssystem vom Versicherungsstatus der jeweiligen Person ab. Personen mit legalem Aufenthalt die Behandlung die im Bedarfsfall notwendig ist, Asylbewerber\_innen jedoch haben innerhalb der ersten 15 Monate nach ihrer Einreise nach Deutschland nur eingeschränkten Zugang zum Gesundheitssystem. Dies bedeutet, dass die Leistungen für sie auf Notfälle

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<sup>50</sup> Vgl. Flüchtlingsrat Berlin 2016 Quelle: [http://www.fluechtlingsinfo-berlin.de/fr/pdf/Ankunftszentrum\\_Berlin.pdf](http://www.fluechtlingsinfo-berlin.de/fr/pdf/Ankunftszentrum_Berlin.pdf)

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und akute Schmerzzustände beschränkt sind<sup>51</sup>, dies umfasst nicht die Rehabilitation und Interventionen, wie sie die Opfer von Folter benötigen. Zusätzliche Leistungen können nur unter bestimmten Umständen wie im Fall von vulnerablen Geflüchteten gewährt werden, die zuständigen Sozialämter entscheiden dann im Einzelfall, ob diese beantragten Leistungen gewährt werden.<sup>52</sup>

Auch bezüglich der Beurteilung von besonderen Bedarfen bei der Aufnahme existiert keine nationale einheitliche Vorgabe. Da die Zuständigkeit hierfür bei den Ländern liegt, existiert kein flächendeckendes Verfahren zur Identifikation von Opfern von Folter, sofern es überhaupt ein solches Verfahren gibt. Obwohl die EU-Aufnahmerichtlinie 2013/33/EU dies in Artikel 22 einfordert, fehlt dieser erste Schritt in eine adäquate Versorgung (s.o.)

#### *Zusammenfassung der nationalen Primärforschung*

Die deutsche Primärforschung hat sich sowohl auf den Widersprüchen zwischen nationalstaatlichen Gesetzen und EU-Vorgaben sowie auf den Kontrast zwischen nationalen Gesetzen und der praktischen Umsetzung des Asylverfahrens in Berlin fokussiert. Erneut wird dieser Zusammenhang durch die Zuständigkeitstrennung zwischen Behörden auf Bundes- und Landesebene bestimmt.

Neben Interviews mit deutschen Expert\_innen, wie zum Beispiel Anwäl\_t\_innen und Sozialarbeiter\_innen, führte das Zentrum ÜBERLEBEN Gruppeninterviews mit Geflüchteten durch (sogenannte Fokusgruppen), in welchen das Asylverfahren, das Dublin-Verfahren und Bedürfnisse bei der Aufnahme thematisiert wurden. Des Weiteren hatten Projektmitglieder informelle Gespräche mit im Feld tätigen Fachleuten, die für ein offizielles Interview nicht bereit waren, wie z.B. Beamte der Bundespolizei.

Vor dem Hintergrund der im Rahmen der Sekundärforschung ermittelten Defizite in der Umsetzung der EU-Richtlinien innerhalb des deutschen Rechts, war es überraschend, wie die Zielgruppe ihre eigenen Bedarfe beschreibt und welche Schwerpunkte dabei gesetzt wurden. Es wurden weniger konkrete individuelle medizinische Bedürfnisse formuliert, als vielmehr der allgemeine aber grundlegende Wunsch nach mehr Informationen und Transparenz im und über das Asylverfahren, bzw. das nationale und europäische Asylsystem.

#### *Identifikation von Personen die besondere Verfahrensgarantien benötigen*

Der Gesetzgeber selbst geht davon aus, dass spezifische Verfahrenssicherheiten bei Asylverfahren von Folteropfern durch die Etablierung der „Sonderbeauftrag-

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<sup>51</sup> Vgl. § 4 AsylbLG

<sup>52</sup> Vgl. § 6AsylbLG

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ten“ (s.o.) sichergestellt sind, auch ohne die Implementierung eines entsprechenden Verfahrens der Identifizierung, gemäß den Vorgaben der EU. Die nationale Sekundärforschung machte deutlich, dass solche Fälle tatsächlich ausschließlich auf Wirken von externen Personen wie Anwält\_innen oder Sozialarbeiter\_innen an die “Sonderbeauftragten” weitergereicht werden. Überlebende von Folter werden in der Praxis nicht durch die Mitarbeiter\_innen des BAMF selbst z. B. im Rahmen der Anhörung als solche identifiziert. Die Anrufung der Sonderbeauftragten und damit auch die Chance auf ein adäquates und faires Asylverfahren wird maßgeblich dadurch bestimmt, ob betroffene Personen juristisch vertreten oder anderweitig rechtlich beraten werden. Die Interviews mit den Experte\_innen machten zudem deutlich, dass es, selbst wenn Folteropfer als solche von externen Personen identifiziert werden, nicht genügend geschulte Sonderbeauftragte durch das BAMF vorgehalten werden, die sich der sensiblen Fälle annehmen können.

Im Kontext von „Direktverfahren“ ist es aufgrund der sehr kurzen Dauer zwischen Asylgesuch und einer Entscheidung, und insbesondere aufgrund des Mangels von rechtlicher, medizinischer und psychologischer Unterstützung in den Ankunftscentren mehr als unwahrscheinlich, dass Opfer von Folter identifiziert werden. Hierdurch werden die EU-rechtlichen Garantien auf faire und qualitativ hochwertige Asylverfahren nicht umgesetzt. Unter anderem auch deshalb nicht, weil entgegen Artikel 18 der Richtlinie 2013/32/EU kaum medizinische Untersuchungen eingeleitet werden. Aufgrund dessen sind Folterüberlebende bei ihrem Gesuch nach internationalem Schutz benachteiligt. Eine im Zuge dieser Untersuchung belegte Folter- bzw. Gewalterfahrung kann ein entscheidendes Beweismittel für das Asylverfahren sein. Laut der Aussage einiger Expert\_innen wiegt dieses Defizit noch schwerer, wenn Sprachmittler\_innen, die in der Anhörung übersetzen, nicht professionell sind oder sich sogar weigern, belastende Berichte von Folter zu übersetzen. Letztlich stellt die Anhörung die einzige verbleibende Chance dar, über solche Erlebnisse zu berichten. Hieraus erwächst ein enormer Druck auf die Betroffenen, der immer häufiger zu Krisensituationen führt.

Ähnlich verhält es sich mit den Dublin-Verfahren. Auch hier ist es vor allem Dritten überlassen die zuständige Behörde (BAMF) über Folter- und Gewalterfahrung von rückzuführenden Personen zu informieren und eine Rückführung zu verhindern. Eine Kommunikation, z. B. zwischen Bundespolizei und dem BAMF, bzgl. eines bestimmten Falles oder einer bestimmten Person findet nicht statt. In der Praxis kann es hierdurch tatsächlich vorkommen, dass der Grenzschutz Folterüberlebende als solche identifiziert, jedoch weder das BAMF informiert, noch die Betroffenen über ihre Rechte aufklärt hat, wie in einem informellen Interview dargelegt wurde.

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Es bleibt festzuhalten, dass es praktisch keine flächendeckenden, standardisierten Verfahren zur Identifikation von Folterüberlebenden in Deutschland gibt und dies mit weitreichenden negativen Folgen hat, sowohl mit Blick auf die Asylverfahren als auch mit Blick auf die Versorgung im Rahmen der Aufnahme.

Ergebnisse der Interviews und Fokusgruppen:

- Folteropfer werden durch Zufall identifiziert, unter anderem direkt an der Grenze; meist bleibt dies dann jedoch ohne Konsequenz.
- Die zuständige Behörde führt kein aktives Beurteilungsverfahren zur Ermittlung von Personen, die besondere Verfahrensgarantien benötigen, durch, sondern handelt nur auf Anfrage von außen; verfügt nur über sehr begrenzte Kapazitäten mit negativen Folgen für die Qualität der Anhörungs- sowie der Dublinverfahren.
- Folterüberlebende erhalten zu wenig Informationen und Beratung.
- Sprachmittler nehmen häufig negativen Einfluss auf den Verlauf der Anhörung, oft zum Nachteil der Schutzsuchenden.

*Identifikation und Einschätzung von aufnahmespezifischen Bedürfnissen* Da die EU-Richtlinie 2013/33/EU durch den nationalen Gesetzgeber nicht umgesetzt wurde, ist es an den 16 Bundesländern zu entscheiden, ob und in welcher Form die EU-Vorgaben umgesetzt werden sollen. Im Land Berlin kooperiert der Senat mit einem Netzwerk aus NROs, um die Ermittlung und Beurteilung von Personen mit besonderen Bedürfnissen bei der Aufnahme zu gewährleisten. Eine von diesen Organisationen ist das Zentrum ÜBERLEBEN<sup>53</sup>. Allerdings verfügt das Netzwerk nicht über die ausreichenden Kapazitäten, um die Nachfrage nach Beratung und Beurteilung zu decken.

Im Rahmen der Erhebung wurde deutlich, dass in Berlin, und obwohl das Netzwerk bereits seit 2009 tätig ist und Schulungen zum Thema anbietet, nach wie vor ein erheblich Bedarf an Informationen und Kompetenzen besteht, wie mit der Zielgruppe der besonders Schutzbedürftigen wie Folterüberlebende rechtlich und praktisch umgegangen werden muss. Auch in diesem Kontext gilt der Grundsatz, dass solange die Praktiker\_innen im Feld nicht über die Kompetenzen verfügen, Anzeichen für Gewalt- und Foltererfahrungen aufnehmen zu können, ist es den Betroffenen selbst überlassen Bedürfnisse zu formulieren und bei der zuständigen Behörde zu beantragen. Dabei können die Behörden im Rahmen einer „Ermessensentscheidung“ eine entsprechende Versorgung oder Behandlung genehmigen oder auch ablehnen. Entscheidend dabei ist die Frage, ob die beantragte Leistung eine „notwenige Leistung“ ist oder nicht. Von der Einschätzung der Behörde hängt

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<sup>53</sup> Berliner Netzwerk für besonders Schutzbedürftige Flüchtlinge (BNS)

folglich ab, ob eine entsprechende Therapie für Folterüberlebende bewilligt wird oder nicht.

Neben den strukturellen Barrieren überhaupt als folterüberlebende Person identifiziert zu werden, treten somit zusätzliche sozialrechtliche Hürden und Behördenpraxis auf, die in Summe dazu führen, dass Betroffene regelmäßig nicht die Unterstützung und Behandlung bei der Aufnahme erhalten, die ihnen EU-rechtlich zusteht.

Wie in anderen Ländern existiert auch in Deutschland ein flächendeckendes spezialisiertes Versorgungsangebot für Folterüberlebende. 37 psychosoziale Zentren bieten psychosoziale Rehabilitationsmaßnahmen an, die einen multidisziplinären Ansatz verfolgen, und sowohl medizinische, als auch psychotherapeutische, soziale und rechtliche Unterstützung bieten. Diese Zentren sind vor allem in Ballungsräumen verortet. Der ländliche Raum ist deutlich unterversorgt.

Ergebnisse von Experteninterviews und Fokusgruppen:

- Zielpersonen benötigen mehr Unterstützung bei der Beantragung von zusätzlichen Leistungen nach §6 AsylbLG.
- Das Aufnahmesystem leidet unter einem Mangel an professionellen Dolmetscher\_innen, die insbesondere im gesundheitlichen Kontext benötigt werden.
- Ein nationaleinheitliches Beurteilungsverfahren existiert nicht, einzelne Best-Practice-Beispiele existieren nur auf regionaler Ebene.
- Für bedürftige Schutzsuchende wie Folterüberlebende fehlt der Zugang zum Gesundheitssystem.
- Es fehlen bedarfsgerechte Versorgungsangebote, insbesondere für Folterüberlebende, die weiter besondere Bedarfe, z. B. im medizinischen oder sozialen Bereich haben.
- Basal Bedürfnisse wie Unterbringung, Essen aber auch Informationen spielen für die Zielpersonen eine sehr wichtige Rolle und stellen einen enorm wichtigen Faktor für die psychische Gesundheit von Folterüberlebenden dar.
- Es herrscht ein Mangel an im Umgang mit Folterüberlebenden kompetenten Sozialarbeiter\_innen in den Unterkünften und Beratungsstellen.

*Zusammenfassung und Empfehlungen*

Das EU-Mitgliedsland Deutschland hat die Richtlinien 2013/32/EU und 203/33/EU bislang nicht angemessen umgesetzt; die Frist hierzu lief im Juli 2015 aus. Die Vorgaben an die Mitgliedsstaaten Folterüberlebende im Rahmen von Beurteilungen der individuellen Bedarfe bei der Aufnahme und bezüglich des Verfahrens zu identifizieren, blieb rechtlich folgenlos, und auch in der Praxis werden diese Rechte von Folterüberlebenden nicht umgesetzt. Deshalb wurde ein Vertragsverletzungsverfahren gegen Deutschland durch die EU-Kommission eingeleitet. Daneben zeichnet sich das deutsche Aufnahme- und Asylsystem durch eine

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hohe regionale Differenziertheit aus. Letztlich existieren 16 sehr verschiedene Aufnahmesysteme.

*Identifikation:* Opfer von Folter und unmenschlicher Behandlung müssen identifiziert werden. Solange es kein solches Verfahren gibt, kann keine adäquate Beurteilung der individuellen Bedarfe wie auch der Fluchtgründe garantiert werden. Deshalb muss das Mitgliedsland Deutschland ein Verfahren etablieren, welches Betroffene systematisch und möglichst schnell ermittelt und identifiziert. Mitarbeiter\_innen des BAMF und der Aufnahmeeinrichtungen der Länder müssen für den Umgang mit der Zielgruppe sowie für die Hinweisaufnahme auf mögliche psychische Belastungen geschult werden.

*Rehabilitation:* Nach einer möglichst frühzeitigen Identifizierung müssen die Betroffenen schnell in angemessene Versorgungsangebote weitervermittelt werden. Der Zugang zum Gesundheitssystem und den benötigten Rehabilitationsmaßnahmen müssen durch den Staat gesichert und finanziert werden.

*Aufnahmebedingungen:* Die Aufnahmebedingungen müssen so gestaltet werden, dass psychiatrische und psychotherapeutische Behandlungen effektiver wirken können. Spezialisierte Aufnahmeeinrichtungen für vulnerable Gruppen sollten Standard sein. Wichtige Stellgrößen hierzu sind Zimmergrößen, Betreuungs- und Belegungsschlüssel sowie die Kompetenzen im Umgang mit traumatisierten Asylsuchenden.

*Umsetzung relevanter Gesetze:* Deutschland muss sicherstellen, dass die Vorgaben des CAT, General Comment 3, der EU-Verfahrensrichtlinie sowie der EU-Aufnahmerichtlinie umgesetzt werden, und die Opfer von Folter und unmenschlicher Behandlung die Versorgung und Betreuung erhalten, die sie benötigen.

*Die Dublin-Verordnung:* Das Zentrum ÜBERLEBEN wird auch weiterhin auf die Revision der Dublin-Verordnung und einer Verbesserung der Situation von Folterüberlebenden, die unter die Vorgaben der Verordnung fallen, hinarbeiten. So lange die europäischen Richtlinien nicht umgesetzt sind und hierdurch ein gemeinsamer Standard im Umgang mit den Projektzielgruppe hergestellt wird, sollten diese nicht in andere EU-Mitgliedsstaaten rücküberstellt werden.



#### 4.4 Main research findings in Greece<sup>54</sup>

Είναι κοινή διαπίστωση πως ο μαζικός αριθμός άτυπων αφίξεων (άνω των 800.000 ανθρώπων) στην Ελλάδα τα τελευταία δυο και πλέον έτη άσκησε σημαντική πίεση στην ελληνική και ευρύτερα ευρωπαϊκή πολιτική ασύλου. Σε διάστημα λίγων, μόνο, μηνών, στις αρχές του 2016, το κλείσιμο της αποκαλούμενης «βαλκανικής οδού»– επί της ουσίας κλείσιμο των συνόρων μεταξύ Ελλάδας και κεντρικής Ευρώπης– και η Συμφωνία ΕΕ-Τουρκίας οδήγησαν στην «οργάνωση» των θεσμοθετημένων από το 2015 «hotspot».<sup>55</sup> Με την ελληνική ονομασία τους ως Κέντρα Υποδοχής και Ταυτοποίησης (ΚΥΤ) ετοιμάστηκαν πέντε μονάδες στα πέντε αντίστοιχα κεντρικά, νησιωτικά, σημεία διέλευσης των προαναφερθεισών ροών (Λέσβος, Σάμος, Χίος, Κως, Λέρος). Αρχικά λειτουργούσαν ως σημεία διέλευσης των νέο-αφιχθέντων, με στόχο τη διευκόλυνση της διαχείρισης της προσφυγικής Κρίσης με την καταγραφή και ταυτοποίησή τους. Στη συνέχεια, όμως, μετετράπησαν στην πρώτη γραμμή ελέγχου-αποτροπής των αποκαλούμενων «μεικτών» μεταναστευτικών ροών. Τα αποτελέσματα, πολύπλευρα.

Το πλέον γνωστό είναι η de facto και άνευ διακρίσεων κράτηση στα ελληνικά hotspot (άλλως ΚΥΤ) νέο-αφιχθέντων και ο μετέπειτα γεωγραφικός περιορισμός στα νησιά, έως την ολοκλήρωση της διαδικασίας ασύλου, και ως διπλή συνέπεια της ενεργοποίησης της Συμφωνίας ΕΕ-Τουρκίας, στις 20 Μαρτίου 2016, και της ψήφισης του Ν.4375/2016 λίγες ημέρες αργότερα (3 Απριλίου 2016). Συγκεκριμένα, βάσει του Άρθρου 14 του εν λόγω Ν.4375/2016, κατά τη διαδικασία πρώτης υποδοχής και ταυτοποίησης οι νέο-αφιχθέντες υπάγονται σε «περιορισμό της ελευθερίας τους» – με όρους νομικούς, κράτηση– για διάστημα έως και 25 ημερών εντός των ΚΥΤ.<sup>56</sup> Σαφέστατα, η στέρηση της ελευθερίας και μάλιστα σε συνθήκες ιδιαίτερα ακατάλληλες αποτελεί μέτρο με σοβαρές ψυχολογικές, μεταξύ άλλων, επιπτώσεις στο πλήρες φάσμα των άτυπα νεοεισελθέντων

<sup>54</sup> Written by the Greek Council for Refugees.

<sup>55</sup> European Commission, (13/05/2015), Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions: a European Agenda on Migration, **Διαθέσιμο στο:** <http://bit.ly/2ktwjtE> [τελευταία πρόσβαση στις 26/07/2017], p.6.

<sup>56</sup> Greece: Law No. 4375 of 2016 on the organization and operation of the Asylum Service, the Appeals Authority, the Reception and Identification Service, the establishment of the General Secretariat for Reception, the transposition into Greek legislation of the provisions of Directive 2013/32/EC [Greece], 3 April 2016, **Διαθέσιμο στο:** <http://www.refworld.org/docid/573ad4cb4.html> [τελευταία πρόσβαση στις 29 July 2017]



στην ελληνική επικράτεια.<sup>57</sup> Ωστόσο, οι επιπτώσεις είναι πολλαπλάσιες για τις περιπτώσεις θυμάτων βασανιστηρίων και άλλων μορφών κακοποίησης, τα οποία εξαναγκάζονται να διαβιούν υπό συνθήκες που όχι μόνο δεν αρμόζουν στα ιδανικά της αποκατάστασης, που πρέπει να απολαμβάνουν, αλλά και καθιστούν ως συνεπακόλουθο τον επανατραυματισμό τους, με την αναβίωση των τραυματικών εμπειριών του παρελθόντος.

Βεβαίως, να αναφερθεί πως βάσει του Άρθρου 50 Ν.4375/2016, προβλέπεται η έγγκαιρη αναγνώριση όσων αιτούντων άσυλο χρήζουν ειδικών διαδικαστικών εγγυήσεων κατά τη διάρκεια της καταγραφής της αίτησής τους, –ή και σε μεταγενέστερο στάδιο της διαδικασίας, κατά το οποίο αυτές οι ανάγκες γίνονται εμφανείς– συμπεριλαμβανομένων, πρωτίστως, των περιπτώσεων θυμάτων βασανιστηρίων, βιασμού ή σοβαρής σωματικής, ψυχολογικής ή σεξουαλικής βίας. Στο ίδιο πλαίσιο, βάσει του Άρθρου 14 του Ν.4375/2016, οι εν λόγω περιπτώσεις οφείλουν, κατόπιν της αναγνώρισής τους, να παραπέμπονται στις αρμόδιες, αναλόγως ευαλωτότητας, υπηρεσίες, για την υποστήριξή τους, καθώς και να μεταφέρονται στην ενδοχώρα για την ολοκλήρωση της διαδικασίας υποδοχής, εξαιρούμενες, έτσι, από τη διαδικασία συνόρων. Οι ως άνω προβλέψεις προσκρούουν, ωστόσο, σε σειρά νομικών και μη παραγόντων και διαρκώς μεταβαλλόμενων πρακτικών, που καθιστούν προβληματική την εύρυθμη λειτουργία τους.

Βάσει του Άρθρου 60(4) του Ν.4375/2016, που καθορίζει την επιταχυμένη (fast-track) διαδικασία συνόρων, και η οποία άρχισε να εφαρμόζεται πλήρως κατά τους τελευταίους μήνες, η διαδικασία ασύλου στα νησιά, στην οποία συμπεριλαμβάνονται οι διαδικασίες καταγραφής, εξέτασης του παραδεκτού και της ουσίας του αιτήματος, καθώς και της τυχόν προσφυγής κατά πρωτοβάθμιας αρνητικής αποφάσεως, θα πρέπει να ολοκληρώνεται εντός διαστήματος 14 ημερών. Εκ των πραγμάτων, αυτός ο χρονικός περιορισμός δυσχεραίνει τον ήδη προβληματικό εντοπισμό των ευάλωτων περιπτώσεων, που κατεξοχήν, σε συνέχεια της Συμφωνίας ΕΕ-Τουρκίας, δύναται να αναγνωρισθούν κατά το μας-δυο ημερών στάδιο καταγραφής τους,<sup>58</sup> εγείροντας κρίσιμους προβληματισμούς. Αν μη τι άλλο, και στο πλαίσιο της εξέτασης του παραδεκτού, ο μη εντοπισμός της ευαλωτότητας συνδράμει στην πιθανή επιστροφή αιτούντων σε μια τρίτη

<sup>57</sup> Για παράδειγμα, βλ. MsF, (18/07/2017), **Υποστηρίζοντας θύματα βασανιστηρίων στην Ελλάδα, Διαθέσιμο στο:** <https://www.msf.gr/magazine/ypostirizontas-thymata-basanistirion-stin-ellada> [τελευταία πρόσβαση στις 26 Ιουλίου 2017]

<sup>58</sup> aida: Asylum Information Database, (23/05/2017), Country Report: Greece, **Διαθέσιμο στο:** <http://www.asylumineurope.org/reports/country/greece> [accessed 26/07/2017], p.24.

χώρα (Τουρκία), που δεν είναι ασφαλής.

Προς την ίδια κατεύθυνση, και συνδυαστικά με τις χρόνιες ελλείψεις εξειδικευμένου, ιατρικού, προσωπικού, συνεπικουρούν και οι προβλέψεις του Άρθρου 60(4α) του Ν.4375/2016, που παραχωρεί αρμοδιότητες καταγραφής στις αστυνομικές και ένοπλες δυνάμεις. Ήτοι, σε προσωπικό που είναι ακατάλληλα εκπαιδευμένο για να αναγνωρίσει όλους, πλην των πλέον ορατών δεικτών ευαλωτότητας. Έως ένα βαθμό, το πρόβλημα στοιχειωδώς, λόγω του τεράστιου αναλογικά όγκου και των γενικότερων συνθηκών, αντιμετωπιζόταν, στο παρελθόν, από την συνεπικουρία, κατά τις διαδικασίες αναγνώρισης, ιατρικού προσωπικού ΜΚΟ όπως οι Γιατροί του Κόσμου ή η Praksis. Από τις 31 Μαΐου, 2017, ωστόσο, η λόγω έλλειψης χρηματοδότησης αποχώρηση των εν λόγω οργανώσεων από τα ΚΥΤ σηματοδοτεί την επιστροφή σε μια κατάσταση κατά την οποία η διάγνωση (και περίθαλψη) των ευάλωτων περιπτώσεων επαφίεται στο μηδαμινό ιατρικό προσωπικό (1-2 άτομα) του στρατού, που εξακολουθεί να λειτουργεί εντός των ΚΥΤ.

Επί του παρόντος, το ΚΕΕΛΠΝΟ (Κέντρο Ελέγχου & Πρόληψης Νοσημάτων) έχει προκηρύξει συνολικά 395 θέσεις ιατρικού και βοηθητικού προσωπικού, που αναμένεται να τοποθετηθούν στα νησιά.<sup>59</sup> Είναι σημαντικό, ωστόσο, να αναφερθεί ότι μεταξύ των θέσεων που έχουν προκηρυχθεί, δεν υπάρχει πρόβλεψη για την πρόσληψη ψυχιάτρων, που είναι και οι πλέον κατάλληλοι για τη διάγνωση και περίθαλψη των πλέον ευάλωτων περιπτώσεων, όπως τα θύματα βασανιστηρίου. Συνέπεια αυτού, είναι η διαίونيση της αδυναμίας έγκαιρου εντοπισμού των ευάλωτων περιπτώσεων και δη των θυμάτων βασανιστηρίων, καθώς, επίσης, και η εντεινόμενη αδυναμία περίθαλψής τους.

Τέλος, ιδιαίτερη ανησυχία προκαλεί και η επικείμενη δημιουργία τυποποιημένης λίστας (standardized template) με κριτήρια αναγνώρισης των ευάλωτων περιπτώσεων,<sup>60</sup> η οποία, πέραν από το ότι προσκρούει στην υποχρέωση εξατομικευμένης εξέτασης, δεν δύναται, όπως μας ανέφεραν σε συναντήσεις μας κατά τη διάρκεια του Ιουλίου (2017) πληθώρα ιατρικών οργανώσεων, όπως οι Γιατροί χωρίς Σύνορα και οι Γιατροί του Κόσμου, να εξασφαλίσει την αναγνώριση όλων των ευάλωτων περιπτώσεων.

<sup>59</sup> ΚΕΕΛΠΝΟ (Κέντρο Ελέγχου & Πρόληψης Νοσημάτων), (10 July 2017), Πρόσκληση Εκδήλωσης Ενδιαφέροντος, **Διαθέσιμο στο:** <http://bit.ly/2v2IDm3> [τελευταία πρόσβαση στις 26 July 2017]

<sup>60</sup> European Commission, (13 June 2017), Annex to the Report from the Commission to the European Parliament, the European Council and the Council: Sixth Report on the Progress made in the implementation of the EU-Turkey Statement, **Διαθέσιμο στο:** <http://bit.ly/2vZX4r1> [τελευταία πρόσβαση στις 26/07/2017]

Εκ των πραγμάτων, λοιπόν, η έως τώρα προβληματική και ανεπαρκής αναγνώριση και μετέπειτα αποκατάσταση των ευάλωτων περιπτώσεων, όπως τα θύματα βασανιστηρίων, επιδεινώνεται επικίνδυνα.

### **Synthesis of results of the national field research (updated to July 2017)**

Όπως φανερώνεται, έως ενός βαθμού η αναγνώριση των εν γένει ευάλωτων περιπτώσεων και δη των θυμάτων βασανιστηρίων καθίσταται προβληματική λόγω δομικών, όπως κάποιες εκ των ρυθμίσεων του Ν.4375/2017, παραγόντων. Αντίστοιχους προβληματισμούς, ωστόσο, γεννούν και τα αποτελέσματα της διεξαχθείσας, στο πεδίο (κυρίως Λέσβος, Σάμος, Χίος και Αθήνα), έρευνας κατά το 2016-2017, τα οποία, αν και μη ποσοτικοποιησίμα, λόγω των αποκλίσεων που παρατηρούνται στην εφαρμογή της διαδικασίας ασύλου ανά περιοχές, καταδεικνύουν τις επιπτώσεις που η μη αναγνώριση θυμάτων βασανιστηρίων ή/και άλλων ευάλωτων περιπτώσεων φέρει στις ζωές των ενδιαφερομένων.

Μεταξύ άλλων:

- 1) Παρατηρήσαμε πως από το καλοκαίρι του 2017, για πολλές περιπτώσεις νέων αφίξεων, υπάρχουν σημαντικές καθυστερήσεις και, ενίοτε, μια παντελής έλλειψη διεξαγωγής οποιουδήποτε ιατρικού screening. Το παραπάνω, μας το επιβεβαίωσαν και μέλη της Ύπατης Αρμοστείας του ΟΗΕ, αλλά και μέλη ΜΚΟ, στο πλαίσιο της Ομάδας Εργασίας Προστασίας (Protection Working Groups) της 18<sup>ης</sup> Ιουλίου 2017.<sup>61</sup> Αναδεικνύεται, συνεπώς, η συνεχιζόμενη έλλειψη αναγνώρισης των ευάλωτων περιπτώσεων, μεταξύ των οποίων και τα θύματα βασανιστηρίων που κρατούνται και διαβιούν σε ακατάλληλες συνθήκες (βλ. παρακάτω).
- 2) Όπως αναδείχθηκε μέσω των εστιασμένων συζητήσεων που είχαμε με ομάδες επωφελουμένων (focus group discussions), ως μείζον πρόβλημα παραμένει η έλλειψη πρόσβασης σε βασική πληροφόρηση αναφορικά με τα δικαιώματά τους –αν και πρέπει να αναφερθεί πως η κατάσταση είναι σαφώς βελτιωμένη συγκριτικά με παλαιότερα χρόνια. Θα μπορούσε, ενδεχομένως, κάποιος να πει πως προ της Συμφωνίας ΕΕ-Τουρκίας η επίλυση του ζητήματος να μην ήταν τόσο επιτακτική, δεδομένου ότι, κατόπιν της καταγραφής τους, όλοι/ες οι

<sup>61</sup> Οι Ομάδες Εργασίας Προστασίας είναι συναντήσεις που διοργανώνονται ανά τακτά (δυο εβδομάδες) διαστήματα υπό την αιγίδα της Ύπατης Αρμοστείας του ΟΗΕ, και στις οποίες συμμετέχουν οργανώσεις που δραστηριοποιούνται στο χώρο Προστασία των Προσφύγων, όπως το Ελληνικό Συμβούλιο για τους Πρόσφυγες.

νεοαφειχθέντες/είσες διατηρούσαν (τότε) τη δυνατότητα εισόδου στην ενδοχώρα, και άρα, για την περίπτωση των θυμάτων βασανιστηρίων, και την ευκαιρία πρόσβασης στην εξιδεικευμένη περίθαλψη των, συνολικά, δυο μονάδων αποκατάστασης που δραστηριοποιούνται στην Αθήνα, υπό την αιγίδα των ΜΚΟ «Γιατροί Χωρίς Σύνορα» και «Βαβέλ». Ακόμη και τότε, ωστόσο, μας παρουσιάστηκε περίπτωση θύματος βασανιστηρίων που μόνο κατόπιν δικής μας ενημέρωσης και παρέμβασης κατάφερε να λάβει προτεραιότητα στην καταγραφή του αιτήματος και τη μετέπειτα εξέτασή του, ελλείψει κατάλληλης ενημέρωσης αναφορικά με τα δικαιώματά του ως ανήκοντος στην κατηγορία των ευάλωτων ατόμων. Δεδομένου, δε, ότι σε συνέχεια της Συμφωνίας οι νέες αφίξεις αναγκάζονται σε εγκλωβισμό τους στα νησιά, όπου οι δυνατότητες περίθαλψης είναι από περιορισμένες έως ανύπαρκτες, καθίσταται πασιφανές ότι η κατάλληλη πληροφόρηση αποτελεί μείζονος σημασίας ζήτημα για ευάλωτους ανθρώπους, των οποίων η γνώση αναφορικά με τα δικαιώματα που τους προσδίδει το ευάλωτο της κατάστασής τους (δλδ. δικαίωμα μεταφοράς στην ενδοχώρα) μπορεί να καθορίσει και τις πιθανότητες πρόσβασής τους σε κατάλληλη περίθαλψη.

- 3) Περαιτέρω, ακόμη και στην περίπτωση, που οι αιτούντες παραπέμπονταν σε ιατρική εξέταση λόγω διάγνωσης κάποιου πιθανού δείκτη ευαλωτότητας κατά τη διάρκεια της πρωτοβάθμιας συνέντευξής τους, από τους αρμόδιους χειριστές, από την εμπειρία μας στη Λέσβο κατά τους χειμερινούς και καλοκαιρινούς, μήνες του 2017, η εν λόγω παραπομπή περιλαμβάνει την εξέταση για χρονικό διάστημα 30 λεπτών σε ψυχολόγο της Ευρωπαϊκής Υπηρεσίας Ασύλου (EASO), ή την παρπομπή στο μοναδικό ψυχίατρο του νησιού που, λόγω υπέρογκου φόρτου εργασίας, δύναται να πραγματοποιηθεί έως και τρεις μήνες αργότερα. Όπως, ευλόγως, γίνεται αντιληπτό, και λαμβάνοντας υπόψη τη δυσκολία και μόνο που ένα θύμα βασανιστηρίου αντιμετωπίζει στην αποκάλυψη των τραυματικών εμπειριών, των οποίων θύμα έχει υπάρξει, το εν λόγω χρονικό διάστημα ουδόλως δεν μπορεί να θεωρηθεί επαρκές για την ουσιαστική χαρτογράφηση του ψυχολογικού προφίλ του, και επομένως για την έκδοση μιας αξιόπιστης γνωμάτευσης αναφορικά με την ευαλωτότητά του.
- 4) Επιπλέον, η έρευνα στο πεδίο μας αποκάλυψε πως, ακόμη και σε περιπτώσεις όπου το screening, και άρα η αναγνώριση των αιτούντων ως υπαχθέντων στις ευάλωτες κατηγορίες, είχε διεξαχθεί με επιτυχία,

η εν λόγω αναγνώριση κατά κανένα τρόπο δεν οδήγησε και στην de facto αντιμετώπισή τους βάσει των κατευθυντήριων αρχών, όπως αυτές έχουν αποτυπωθεί στο Νόμο. Συγκεκριμένα, μεταξύ Απριλίου-Μαΐου 2017 στη Σάμο, λάβαμε γνώση για περιπτώσεις στις οποίες η διοικήτρια του ΚΥΤ κατ' επανάληψη και πλήρως αδικαιολόγητα παρενέβαινε στη διαδικασία ασύλου, αρνούμενη να διαβιβάσει τις εισηγήσεις ευαλωτότητας στην Υπηρεσία Ασύλου, εφόσον η ίδια έκρινε, αυθαίρετα, πως ο εκάστοτε βαθμός ευαλωτότητας των αιτούντων δεν ήταν αρκετά σημαντικός. Μάλιστα, παρατηρήσαμε πως η ίδια Διοικήτρια, η οποία χαρακτηριζόταν από μια άκρως προσβλητική και αντιδεοντολογική συμπεριφορά προς τους νέο-αφιχθέντες, αναλάμβανε, συστηματικά και εξίσου αυθαίρετα, την εξ' ιδίαν αναγνώριση και κρίση επί του ποιοι, από τους/τις νέο-αφιχθέντες/είσες ήταν «πραγματικά» ευάλωτοι.

- 5) Στην Αθήνα, από την άλλη, έχουμε ως Ελληνικό Συμβούλιο για τους Πρόσφυγες κατ' επανάληψη, κατά το 2017, υπάρξει μάρτυρες υποθέσεών μας, οι οποίες αφορούσαν αποδεδειγμένα, βάσει ιατρικής γνωματεύσεως, περιπτώσεις θυμάτων βασανιστηρίων, στις οποίες όχι απλά η Υπηρεσία Ασύλου δεν έλαβε υπόψη της τις προαναφερθείσες γνωματεύσεις κατά τη διάρκεια της συνέντευξης ασύλου, αλλά και δεν εξέτασε ούτε στο ελάχιστο τους ισχυρισμούς των αιτούντων αναφορικά με την παρελθοντική θυματοποίησή τους. Το αποτέλεσμα, μάλιστα, σε πρόσφατη υπόθεσή μας τον Ιούνιο του 2017, ήταν η πλήρως ανυπόστατη απόρριψη του αιτήματος του επωφελουμένου μας, παρά το ότι ο ίδιος είχε κατ' επανάληψη υπάρξει θύμα βασανισμού, αλλά και το ότι οι ισχυρισμοί του, αναφορικά με τη μελλοντική αναβίωση των εν λόγω τραυματικών εμπειριών, σε περίπτωση επιστροφής στη χώρα καταγωγής του, είχαν γίνει αποδεκτοί από την χειρίστρια.

Αναφορικά, δε, με τις συνθήκες διαβίωσης στα νησιά, παρά τη δραματική μείωση των ροών από τις 20 Μαρτίου 2016 και έπειτα, η αργοπορία εξέτασης των αιτημάτων και ειδικά των προσφυγών, συνδυαστικά με τον εγκλωβισμό της συντριπτικής πλειοψηφίας των νέο-αφιχθέντων, έχουν οδηγήσει στην κατά πολύ υπέρβαση του αριθμού διαθέσιμων θέσεων φιλοξενίας στις κρατικές δομές. Ενδεικτικά, κατά τις 26 Ιουλίου 2017, υπολογιζόταν πως ο αριθμός των αιτούντων στα νησιά υπερέβαινε τις 15.000, με τις διαθέσιμες θέσεις των δομών φιλοξενίας να ανέρχονται

μετά βίας λίγο άνω των 8.500.<sup>62</sup> Δεδομένων, δε, των προαναφερθεισών ελλείψεων εξειδικευμένου, ιατρικού, προσωπικού και της κατά συνέπεια μη αναγνώρισης ευάλωτων περιπτώσεων, το παραπάνω σηματοδοτεί μια κατάσταση κατά την οποία, για το σύνολο του πληθυσμού και πόσο μάλλον για τα μη αναγνωρισμένα θύματα βασανιστηρίου, οι εντεινόμενες συνθήκες διαβίωσης είναι, τουλάχιστον, τραγικές.

Ενδεικτικά, σε κρατητήριο στη Σάμο, οι εκεί κρατούντες υπερέβαιναν κατά το πενταπλάσιο τη χωρητικότητα της δομής. Στη Χίο, από την άλλη, η αύξηση του ρυθμού αφίξεων, κατά τους ανοιξιάτικους και καλοκαιρινούς μήνες του 2017, είχε οδηγήσει σε συνωστισμό και την τοποθέτηση σκηνών για την υποδοχή των νέων αφίξεων μέχρι και στην παραλία. Στο ΚΥΤ της ΒΙΑΛ, περαιτέρω, στο οποίο έχουν κατά διαστήματα αναφερθεί από ξυλοδαρμούς μέχρι βιασμούς ανηλίκων,<sup>63</sup> οι διατροφικές παροχές προς τους εγκλωβισμένους της Χίου ισοδυναμούσαν με την καθημερινή παροχή μερίδων φαγητού με βάση τα μακαρόνια, τις οποίες, μάλιστα, πολύ από τους εκεί εγκλωβισμένους αιτούντες αναγκάζονταν να μαγειρέψουν εκ νέου. Η λίστα, βεβαίως, συνεχίζεται, συμπεριλαμβάνοντας υγειονομικά προβλήματα, όπως η τοποθέτηση σκουπιδιών κατά μήκος της διαδρομής προς τον χώρο επισιτισμού, η μάστιγα αρουραίων που κυκλοφορούσαν στον καταυλισμό λόγω έλλειψης ποντικοφαρμάκου από το Δήμο, αλλά και ζητήματα ασφάλειας, που επιδεινώνονται, μεταξύ άλλων, λόγω της απουσίας φωτισμού κατά τις νυχτερινές ώρες. Οι δε συνθήκες διαβίωσης, συνδυαστικά με τη μη τακτική παρουσία ψυχοκοινωνικής στήριξης εντός καταυλισμών, όπως είναι αναμενόμενο, οδηγεί πολλές περιπτώσεις (ειδικά, μακροχρόνια) διαμενόντων σε χειροτέρευση της ψυχολογικής τους κατάστασης που, υπό συνθήκες, έχει οδηγήσει και στη δημιουργία ή ενίσχυση αυτοκτονικών τάσεων.

Σαφώς, τα παραπάνω, είναι κρίσιμα προβλήματα, τα οποία χρήζουν αντιμετώπισης προς όφελος όλων, ανεξαιρέτως, των αιτούντων που έχουν αναγκαστεί σε εγκλωβισμό στα νησιά. Ωστόσο, όπως γίνεται

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<sup>62</sup> Hellenic Ministry of Digital Policy, (26 July 2017), *Communication and Information, Summary Statement of Refugee Flows to Eastern Aegean Islands*, Διαθέσιμο στο: <http://bit.ly/2h1OAOc> [τελευταία πρόσβαση στις 26/07/2017, 13:39pm]

<sup>63</sup> Βλ. ΕΡΤ ΑΙΓΙΟΥ, (19 Απριλίου 2016), Βιασμός 13χρονου στο HOTSPOT της ΒΙΑΛ-κρατείται 29χρονος, Διαθέσιμο στο: <http://www.era-aegean.gr/?p=10520> και ΕΡΤ ΑΙΓΙΟΥ, (1 Απριλίου 2016), Άγρια νύχτα με ξυλοδαρμούς στο Κέντρο Κράτησης της ΒΙΑΛ, συμπλοκές μεταξύ Σύριων και Αφγανών- 5 τραυματίες, Διαθέσιμο στο: <http://www.era-aegean.gr/?p=9505> [για αμφότερα, τελευταία πρόσβαση στις 26/07/2017]



αντιληπτό, η ανάγκη είναι πολλαπλάσια για τα θύματα βασανιστηρίων και άλλων μορφών κακοποίησης που, λόγω της ελλιπούς αξιολόγησής της ευαλωτότητάς τους, γίνονται έρμαια μιας αέναης θυματοποίησης.

### **Recommendations on how to improve the assessment of the special needs (updated to July 2017)**

Η αναγνώριση των θυμάτων βασανιστηρίων, άλλων μορφών κακοποίησης και λοιπών ευάλωτων ατόμων, που εισέρχονται στην ελληνική επικράτεια αποτελεί επιτακτική ανάγκη. Αυτό, διότι η συνεχιζόμενη, όπως διαφαίνεται από την προηγηθείσα ανάλυση, ελαττωματική έκβαση της εν λόγω διαδικασίας, φέρει σημαντικές επιπτώσεις, όχι μόνο επί της διαδικασίας και εξέτασης των αιτημάτων ασύλου, καθυστερώντας, αλλά, πρωτίστως, και επί της μη παροχής της απαραίτητης υποστήριξης των ευάλωτων αιτούντων.

Συνεπώς, και επαναλαμβάνοντας την πάγια θέση τόσο του ΕΣΠ, όσο και άλλων οργανώσεων που δραστηριοποιούνται στον χώρο της προστασίας των Προσφύγων και εν των εν γένει ανθρωπίνων δικαιωμάτων, αναφορικά με το μη ασφαλές της Τουρκίας ως χώρας υποδοχής για κατατρεγμένους ανθρώπους, προτείνουμε:

1. Την περαιτέρω βελτίωση των υπαρχόντων δομών υποδοχής και φιλοξενίας, με στόχο το σεβασμό των δικαιωμάτων και της αξιοπρέπειας όλων ανεξαιρέτως των φιλοξενουμένων.
2. Την άρση του γεωγραφικού περιορισμού στα νησιά, που φέρει σημαντικές ψυχοκοινωνικές επιπτώσεις σε όλους τους αιτούντες ανεξαιρέτως, και ειδικά στις ευάλωτες περιπτώσεις, όπως τα θύματα βασανιστηρίου.
3. Σε αρμονία με τις διατάξεις του άρθρου 46(2) του Ν.4375/2016, τη χρήση εναλλακτικών, της κράτησης, μέτρων, αντί της έως τώρα de facto διοικητικής κράτησης όλων ανεξαιρέτως των παράτυπα εισελθόντων.
4. Τη μέριμνα για την αύξηση και κατάλληλη εκπαίδευση τόσο του αρμόδιου για την καταγραφή, ταυτοποίηση και μετέπειτα εξέταση των αιτημάτων ασύλου, προσωπικού, όσο και την τοποθέτηση, στους χώρους διαμονής των αιτούντων, επαρκούς και εξειδικευμένου ιατρικού προσωπικού, με στόχο την αξιόπιστη και έγκαιρη αναγνώριση του βαθμού ευαλωτότητας των εκάστοτε αιτούντων, καθώς και τη δυνατότητα περίθαλψής τους από την πρώτη στιγμή της αύξησής τους εντός ελληνικών συνόρων.

#### 4.5 Main research findings in Italy<sup>64</sup>

La presente sintesi illustra gli aspetti più salienti della procedura di riconoscimento della protezione internazionale e dell'accoglienza in Italia, con riferimento alle norme relative ai sopravvissuti a tortura e/o a gravi forme di violenza e ai risultati di una ricerca sul campo che tenta di restituire un quadro sulla loro effettiva attuazione.

##### *Procedura d'asilo*

La richiesta di protezione internazionale può essere presentata presso la polizia di frontiera o alla Questura, ove deve comunque essere formalizzata tramite la compilazione di un verbale (cosiddetto "C3") e del formulario per la determinazione dello Stato competente ad esaminare la domanda (c.d. "formulario Dublino").

A seguito dell'adozione, nel maggio 2015, dell'Agenda Europea sulla Migrazione da parte della Commissione Europea, in Italia sono stati istituiti dei centri che seguono il cosiddetto "Hotspot approach", designati a identificare rapidamente, registrare e fotosegnalare i migranti e coordinare i rimpatri. Presso gli hotspot i migranti possono presentare la richiesta di protezione internazionale. Il Ministero dell'Interno ha pubblicato a febbraio 2016 un documento operativo per individuare i compiti specifici dei vari attori coinvolti nell'ambito degli hotspot italiani "Standard Operating Procedures" (SOP). Le SOP prevedono il supporto alle autorità italiane da parte delle organizzazioni internazionali (UNHCR e OIM) e dell'Agenzia Europea per il Supporto all'Asilo nell'identificazione delle vulnerabilità nell'area di sbarco e negli hotspot, per i quali "sono previsti servizi a supporto specifici". Tuttavia, le vulnerabilità non visibili - quali tortura e violenza grave - sono di difficile individuazione in un contesto emergenziale caratterizzato da consistenti arrivi. EASO ha firmato a dicembre 2016 un nuovo Piano Operativo con le autorità italiane, rafforzando il supporto fornito nelle varie attività svolte, inclusa la tempestiva identificazione delle vulnerabilità<sup>65</sup>. Questa viene, altresì, facilitata dalla presenza di EASO durante le visite mediche per agevolare lo scambio di informazioni con le autorità. Infine, Frontex ha il compito di assistere le autorità italiane nell'attività di identificazione, registrazione e rilevamento delle impronte digitali dei cittadini di paesi terzi in arrivo.

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<sup>64</sup> Written by the Italian Council for Refugees

<sup>65</sup> EASO ha sviluppato uno strumento per l'identificazione di persone con bisogni specifici disponibile al seguente indirizzo: <https://ipsn.easo.europa.eu/it/easo-tool-identification-persons-special-needs>

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Sulla base di specifici accordi con le autorità sono altresì presenti organizzazioni della società civile competenti nell'identificazione delle vulnerabilità.

Inoltre in base alla legislazione, adeguata informativa deve essere assicurata allo straniero che manifesta la volontà di chiedere la protezione internazionale ai valichi di frontiera e nelle relative zone di transito.

Il verbale C3, redatto dalla Questura, richiede di specificare eventuali condizioni di salute e di vulnerabilità del richiedente, ma spesso le autorità di polizia non compilano questa parte o lo fanno in modo incompleto.

Il d.lgs. 25/2008<sup>66</sup> (cosiddetto “decreto procedure”) prevede che le autorità competenti a decidere sulle istanze siano le Commissioni Territoriali per il riconoscimento della protezione internazionale (di seguito CT).

Il decreto in questione prevede, oltre alla procedura ordinaria, una procedura prioritaria nel caso di richieste palesemente fondate, laddove il richiedente sia considerato vulnerabile, nello specifico nel caso di minore non accompagnato o che necessiti di garanzie procedurali particolari.

Inoltre la procedura prioritaria si applica nel caso in cui il richiedente provenga dai Paesi individuati a tal fine dalla Commissione Nazionale per il diritto di asilo (di seguito CN) che, tra gli altri scopi, ha quello di coordinare le Commissioni Territoriali. Tale procedura è altresì applicata nel caso in cui il richiedente sia trattenuto presso un Centro di Permanenza per i Rimpatri (CPR)<sup>67</sup>.

*Garanzie previste in favore di sopravvissuti a tortura e/o gravi forme di violenza.*

L'art. 17 del d.lgs. 142/2015,<sup>68</sup> rubricato “Accoglienza di persone portatrici di esigenze particolari” include, tra le persone vulnerabili con esigenze particolari, le vittime di tortura e/o forme gravi di violenza, prevedendo, a loro favore, servizi specifici per l'assistenza e per l'adeguato supporto psicologico.

La valutazione iniziale della sussistenza delle condizioni di vulnerabilità deve essere effettuata nei centri di prima accoglienza, dove il richiedente è accolto per il tempo necessario all'espletamento delle operazioni di fotosegnalamento, alla verbalizzazione della domanda di asilo e all'accertamento delle condizioni di salute fin dal momento dell'ingresso.

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<sup>66</sup> D. lgs 28/01/2008 n. 25 come emendato dal d.lgs 18/08/2015 n. 142

<sup>67</sup> L. 13 aprile 2017, n. 46 Conversione in legge, con modificazioni, del decreto-legge 17 febbraio 2017, n. 13, recante disposizioni urgenti per l'accelerazione dei procedimenti in materia di protezione internazionale, nonché per il contrasto dell'immigrazione illegale.

<sup>68</sup> D. lgs 18/08/2015 n. 142 di recepimento della Direttiva 2013/33/UE, relativa all'accoglienza dei richiedenti protezione internazionale

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Nella prassi, la stragrande maggioranza dei richiedenti viene collocata in centri di accoglienza straordinaria (C.A.S.)<sup>69</sup> che non rientrano nella logica dualista della prima e seconda accoglienza, rispondendo all'esigenza di immediata collocazione. Di fatto le persone permangono per la durata dell'intera procedura, senza poter quasi mai essere trasferiti in centri di seconda accoglienza dello SPRAR<sup>70</sup>. Basti pensare infatti che non più del 20% dei richiedenti asilo e titolari di protezione internazionale è ospitato in centri del Sistema di protezione.

Purtroppo gli standard variano molto da centro a centro e il sovraffollamento, unito all'insufficienza del personale specializzato, limitano fortemente l'attività di identificazione, verifica e risposta adeguata alle esigenze particolari dei sopravvissuti a tortura e grave forma di violenza<sup>71</sup>.

Nei centri di seconda accoglienza SPRAR<sup>72</sup> sono attivati servizi speciali di accoglienza per i richiedenti portatori di esigenze particolari, che tengono conto delle misure assistenziali da garantire al caso singolo, in relazione alle sue specifiche condizioni.

In base alla legge, i servizi predisposti nei centri di prima e seconda accoglienza devono garantire una valutazione iniziale e una verifica periodica della sussistenza delle condizioni della persona vulnerabile da parte di personale qualificato e la sussistenza di esigenze particolari deve essere comunicata dal gestore del centro di accoglienza alla prefettura presso cui è insediata la CT competente, per l'eventuale apprestamento di garanzie procedurali particolari ai sensi del decreto procedure.

Il decreto procedure prevede che i richiedenti asilo siano collocati in centri di accoglienza e consente allo straniero trovato in condizione irregolare sul territorio e condotto in un CPR<sup>73</sup> di poter presentare richiesta di protezione internazionale. La normativa sull'accoglienza prevede inoltre che non possano essere sottoposti a detenzione amministrativa i richiedenti le cui condizioni di salute o di vulnerabilità siano incompatibili con il trattenimento, tuttavia la prassi suggerisce che non viene effettuata una verifica all'ingresso nei CPR. La normativa prevede altresì che nell'ambito dei servizi socio-sanitari garantiti in questi centri deve es-

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<sup>69</sup> Centri di accoglienza straordinaria previsti con circolare del Ministero dell'Interno dell'8 gennaio 2014 e istituiti sulla base di accordi con le Prefetture locali al fine di fronteggiare l'afflusso di cittadini stranieri in arrivo in Italia.

<sup>70</sup> Servizio di Protezione per Richiedenti Asilo e Rifugiati

<sup>71</sup> Medici Senza Frontiere, *Traumi ignorati*, July 2016, available at [http://archivio.medicisenzafrotiere.it/pdf/Rapp\\_Traumi\\_Ignorati\\_140716B.pdf](http://archivio.medicisenzafrotiere.it/pdf/Rapp_Traumi_Ignorati_140716B.pdf)

<sup>72</sup> Servizio di Protezione per Richiedenti Asilo e Rifugiati

<sup>73</sup> CPR (Centro di permanenza per i rimpatri)

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sere assicurata la verifica periodica della sussistenza di condizioni di vulnerabilità che richiedono misure di assistenza particolari.

### *Garanzie procedurali*

La CT può esaminare in via prioritaria la domanda di protezione internazionale in alcune ipotesi, tra cui rientra quella in cui la stessa sia presentata da una persona vulnerabile che necessita di garanzie procedurali particolari.

Ai fini dell'esame della domanda, la CT, ove necessario, può consultare esperti su aspetti particolari, come quelli di ordine sanitario, di genere o inerenti ai minori. La Commissione, sulla base degli elementi forniti dal richiedente, può altresì disporre, previo consenso dello stesso, visite mediche dirette ad accertare gli esiti di persecuzioni o di danni gravi subiti. Tali visite dovrebbero essere effettuate secondo le Linee Guida emanate dal Ministero della Salute per l'assistenza ai richiedenti asilo e rifugiati vittime di tortura e violenza grave<sup>74</sup>. Se la Commissione non dispone visite mediche, il richiedente può effettuarle a proprie spese e sottoporre i risultati alla CT medesima ai fini dell'esame della domanda.

La CT può **omettere** l'audizione del richiedente, tra l'altro, in tutti i casi in cui risulti certificata dalla struttura sanitaria pubblica o da un medico convenzionato con il Servizio sanitario nazionale l'incapacità o l'impossibilità di sostenere un colloquio personale.

Il colloquio può essere **rinvio** qualora le condizioni di salute del richiedente, certificate come indicato sopra, non lo rendano possibile ovvero qualora l'interessato richieda ed ottenga il rinvio per gravi motivi.

All'audizione può essere ammesso **personale di sostegno** per prestare la necessaria assistenza al richiedente con esigenze particolari, quali ad esempio uno psicologo o un assistente sociale, professionisti che possano supportarlo nell'esposizione delle esperienze dolorose che lo riguardano.

In base al decreto procedure come recentemente modificato,<sup>75</sup> il colloquio personale innanzi le CT deve essere videoregistrato ed una copia della relativa trascrizione in italiano deve essere consegnata al richiedente. In sede di colloquio, il richiedente può formulare istanza motivata di non avvalersi della videoregistrazione. Su tale istanza decide la CT con provvedimento non impugnabile.

### *Decisioni e impugnazioni*

La CT può accogliere la domanda riconoscendo lo status di rifugiato oppure la protezione sussidiaria. Può altresì rigettare la domanda negando la protezione internazionale *tout court* oppure può, pur negandola, riconoscere l'esigenza di

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<sup>74</sup> D.M. 03 aprile 2017

<sup>75</sup> L. 46/2017 di conversione, con modificazioni, del d.l. 13/2017

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assicurare la protezione umanitaria che può essere garantita, tra l'altro, a coloro che hanno subito torture e violenze nei paesi di transito e non nel paese di origine.

Avverso le decisioni di diniego, il richiedente può proporre ricorso avanti al giudice ordinario al quale, in virtù della legge 46/2017, vengono resi disponibili la videoregistrazione dell'audizione personale e il verbale di trascrizione. Contrariamente alla precedente normativa, il giudice non ha l'obbligo di fissare l'udienza di comparizione del richiedente tranne in casi limitati previsti dalla legge sulla base delle sue valutazioni. Per esempio, il ricorrente può fare istanza motivata di essere ascoltato, istanza che il giudice accoglie solo se la ritenga essenziale ai fini della decisione.

L'esclusione della obbligatorietà di sentire il ricorrente è da considerarsi una forte limitazione del suo diritto di difesa, in particolare per le vittime di tortura e violenza grave che, a causa del loro stato di salute, potrebbero non essere state in grado di rispondere esaurientemente alle domande in sede di audizione innanzi alla CT, ed essere invece maggiormente in condizioni di esporre il proprio vissuto avanti al giudice, grazie anche alle cure ricevute durante la procedura di asilo. In questo caso sarà fondamentale il ruolo degli avvocati adeguatamente formati per poter predisporre un ricorso in cui si facciano presenti le motivazioni essenziali per cui il ricorrente vada ascoltato.

Contro la decisione del giudice, la precedente normativa prevedeva la possibilità di proporre ricorso in Corte d'Appello e in Cassazione. Il nuovo testo legislativo ha eliminato la fase di appello, limitando così le possibilità di impugnazione al solo ricorso per Cassazione.

### ***Principali risultati della ricerca sul campo in Italia***

Di seguito verranno descritti i risultati della ricerca sul campo condotta in Italia sui bisogni specifici delle vittime di tortura e/o violenza grave nella procedura e in accoglienza. Questa parte del rapporto si basa su informazioni raccolte attraverso interviste agli *stakeholder* e *focus group* con i sopravvissuti a tortura e/o violenza grave, la somministrazione in diversi contesti di assistenza e in diverse aree geografiche del territorio nazionale degli strumenti per la valutazione dei loro bisogni specifici (*TARS – Survivors* e *QASN*) le tavole rotonde nonché le riunioni con gli esperti e i seminari di formazione.

Il rapporto che segue si concentra sulle questioni più cruciali che emergono dal contesto nazionale e organizza le informazioni raccolte in base alle aree di assistenza.

La seguente analisi dei bisogni specifici dei sopravvissuti a tortura e/o violenza grave non dovrebbe ignorare il fatto che l'identificazione stessa dei sopravvis-

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suti è ancora molto problematica e non segue una procedura standardizzata. Tale identificazione, che dovrebbe avvenire il più precocemente possibile, in realtà richiede tempo e spazio adeguati e, secondo i risultati della ricerca, non può di fatto essere effettuata in contesti di emergenza, come le aree di sbarco o le strutture di accoglienza a breve termine come gli Hotspot. Infatti, le vulnerabilità non-visibili emergono soprattutto nelle successive fasi dell'accoglienza, in particolare laddove è effettivamente applicato l'approccio multidisciplinare.

### *Bisogni procedurali specifici*

Uno dei principali bisogni procedurali specifici dei sopravvissuti a tortura e/o violenza grave, che emerge sia dalle interviste sia dalla somministrazione dello strumento elaborato nel corso del progetto, è quello di ricevere informazioni chiare e complete sulla procedura in generale, i suoi attori, le sue fasi, e in particolare sull'importanza che ha rivelare le eventuali violenze subite. La causa delle difficoltà nel soddisfare questo bisogno è doppia: da un lato, l'informazione avviene generalmente attraverso materiale scritto (come le brochure) che presenta una serie di difficoltà di comprensione per motivi linguistici e relativi al livello di scolarizzazione del richiedente; dall'altro lato attraverso le sessioni informative di gruppo che vengono effettuate di routine, nelle aree di sbarco o negli Hotspot. Questo setting di gruppo rende complesso verificare se le informazioni siano state correttamente comprese dai singoli individui. La comprensione incompleta o il malinteso è un evento particolarmente frequente per le persone affette da stati mentali post-traumatici a causa delle difficoltà di concentrazione e delle alterazioni della memoria che caratterizzano tali sindromi. D'altro canto, anche nel caso in cui i sopravvissuti, in linea di principio, avessero occasione di rivelare in un setting individuale le violenze subite durante l'identificazione e la registrazione, a causa della loro generale riluttanza a rievocare le esperienze traumatiche, solitamente non riportano in modo spontaneo tali eventi. Più spesso, la loro storia e l'effettivo motivo per il quale chiedono asilo emergono nel contesto del colloquio con i servizi legali nei centri di accoglienza, presso le ONG o in altri tipi di servizi.

Come è emerso dalla nostra ricerca, i servizi legali italiani risultano essere piuttosto preparati per affrontare i bisogni specifici dei sopravvissuti, anche se vengono registrate alcune debolezze, soprattutto nei servizi che si trovano in aree remote, isolate e lontane dalle grandi città. Gli operatori legali sono generalmente informati sulle specifiche garanzie legali previste per le vittime di tortura, anche se nella pratica dell'assistenza non sono molto sostenuti da altri tipi di servizi.

Al contrario, emerge in modo netto il bisogno specifico per i sopravvissuti a tortura e/o violenza grave di una presa in carico multidisciplinare e olistica, in particolare in collaborazione con servizi sanitari specializzati nella valutazione

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psicologica e nella cura dei sopravvissuti. Tale sinergia è fondamentale per due motivi: 1) nella fase di richiesta d'asilo (e anche in appello), in particolare ai fini della produzione di una certificazione sulle conseguenze delle violenze subite, che sia riconosciuta come valida per la determinazione dello status dalle autorità decisionali (generalmente basata sul *Protocollo di Istanbul*); 2) nella riabilitazione delle persone sopravvissute a tortura per il grande valore che ha la protezione internazionale come condizione primaria di recupero di una stabilità delle condizioni di vita, dei propri diritti, e di significato per la propria esperienza. In Italia tale approccio multidisciplinare e olistico all'assistenza dei sopravvissuti è piuttosto diffuso e praticato, specie nelle grandi città, dalle ONG che hanno competenza nella cura delle vittime di tortura, o dai servizi legali dei centri di accoglienza che dispongono di contatti con servizi sanitari esterni del Sistema Sanitario Nazionale (SSN) o del privato sociale specializzati e con i servizi sociali. Questo approccio risulta meno probabile, quando non totalmente assente, in aree più remote di altre regioni (come la Sicilia, l'Umbria, la Campania e la Calabria, sulle quali si è focalizzata la nostra ricerca).

Altri bisogni procedurali specifici sono legati alle condizioni psicologiche in cui si trovano i sopravvissuti a tortura e/o grave violenza, che hanno una ricaduta sulla raccolta della loro storia. La sofferenza post-traumatica rende spesso difficile la comprensione reciproca durante l'intervista in Commissione Territoriale, favorendo un clima emozionale di sospetto e di confusione rispetto ai fatti e alle esperienze vissute. Per questo motivo diventa cruciale che tale fase di raccolta della storia possa essere svolta con tempi più dilatati e in un clima di reciproca fiducia *prima* dell'audizione, nel contesto di una consulenza legale. La preparazione dell'intervista e la raccolta della storia da parte di un consulente legale esperto sono dunque fondamentali per l'adozione di una decisione appropriata da parte dell'autorità competente, e sono molto apprezzate dalle vittime che si sentono in qualche modo sollevate dal compito estremamente gravoso dal punto di vista emotivo, e a volte inaffrontabile, di dover raccontare la propria storia in una sola sessione e di fronte all'autorità.

L'intervista, che avvenga in un servizio legale o innanzi all'autorità decisionale, richiede tempo e spazio sufficienti, un luogo confortevole e tranquillo, la creazione di un clima di fiducia, l'eventuale presenza di personale di sostegno, in base alla richiesta del richiedente asilo o dell'organizzazione che lo assiste. Dalle interviste con gli operatori legali e con i membri di alcune Commissioni Territoriali è emersa una forte richiesta di formazione sulle tecniche di colloquio con i richiedenti asilo sopravvissuti a tortura e/o grave violenza.

Un altro bisogno specifico che influisce notevolmente sull'esito dell'intervista è la possibilità di scegliere il genere e l'etnia (o la nazionalità) del mediatore culturale, in modo da evitare che la persona possa sentirsi in difficoltà a rivelare

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informazioni sensibili. La consapevolezza dell'importanza delle condizioni in cui debbano essere svolte le interviste sembra essere sufficientemente diffusa in Italia, soprattutto nel contesto di lavoro delle ONG.

Gli operatori legali sono particolarmente esposti ai contenuti traumatici delle storie di vita e alle emozioni vissute dalle vittime; è probabilmente per questo motivo che, insieme agli psicologi, risultano essere particolarmente bisognosi di supervisione psicologica. Questa esigenza, sebbene molto sentita, risulta in modo netto e inequivocabile ampiamente ignorata nella maggior parte dei contesti in cui si offre consulenza legale ai sopravvissuti in Italia.

Un'altra esigenza emersa e spesso trascurata, è quella di proteggere i figli dei sopravvissuti. Infatti, assistere all'intervista dei genitori - in particolare alle interviste legali e psicologiche - è estremamente dannoso per la salute psicologica dei bambini, anche in tenerissima età. Una scarsa consapevolezza di questo rischio da parte degli operatori legali è stata registrata attraverso la ricerca.

### *Bisogni specifici in accoglienza*

A proposito dei bisogni specifici in accoglienza, il primo e più importante, specialmente riferito dai beneficiari, è quello di trovarsi in un ambiente tranquillo che consenta di recuperare le energie psico-fisiche nella vita quotidiana. I centri di accoglienza in Italia, sebbene si differenzino per dimensioni, tipologia di servizi presenti e livello di accoglienza, sono per lo più luoghi molto affollati, con camere in cui dormono più persone, e spazi comuni non ospitali o non adeguati a favorire il recupero dei sopravvissuti. Restano importanti differenze a livello di servizi offerti tra due tipi di centri, i CAS (centri di accoglienza straordinaria) e gli SPRAR (centri di seconda accoglienza): i primi di carattere più emergenziale e con servizi di base, e i secondi di dimensioni più ridotte e con una maggiore offerta di servizi (legali e sanitari). Sono di fatto scomparsi i centri per vulnerabili che nel sistema dello SPRAR erano, negli anni passati, modellati per rispondere ai bisogni degli utenti in condizioni fisiche e mentali più fragili. Rimangono in funzione alcuni rari centri per disagio mentale di piccole dimensioni che non sono in grado di rispondere in maniera soddisfacente al bisogno, né in termini quantitativi né qualitativi (i pochi posti disponibili sono riservati ai casi psichiatrici più gravi). In sintesi, non esistono di fatto centri adeguati a rispondere ai bisogni dei sopravvissuti a tortura e/o gravi violenze. In ogni caso, attualmente sembra più appropriata la loro collocazione negli SPRAR, dove possono trovare una rete di servizi interni (un servizio legale, un servizio psicologico, a volte anche quello medico) più articolata. In assenza di tali servizi, è fondamentale che la persona possa trovarli all'esterno del centro di accoglienza. È fondamentale creare una rete di servizi che possano lavorare in sinergia nelle varie fasi della procedura d'asilo e della successiva integrazione sociale che richiede spesso notevoli sforzi,

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una continuità e coordinamento degli interventi. Dunque, l'ubicazione del centro diventa cruciale per poter offrire a queste persone quell'assistenza di carattere multidisciplinare e quella presa in carico olistica di cui necessitano. La posizione decentrata e lontana dai servizi di molti centri di accoglienza italiani si profila come assolutamente non adatta a soddisfare i bisogni dei sopravvissuti.

All'interno dei centri di accoglienza, un bisogno particolarmente rilevante è quello di sentire di vivere in un luogo sicuro, da cui è bandita qualunque forma di molestia, violenza e minaccia che possa procurare una ritraumatizzazione, un rischio a cui sono particolarmente esposte le persone che hanno subito traumi. A questo proposito è molto importante che il centro prenda tutte quelle misure che rendano meno probabile l'innescarsi di tali situazioni.

Una preoccupazione molto forte registrata tra i sopravvissuti è anche quella relativa al trattamento dei dati sensibili e delle informazioni che hanno fornito sulla propria storia e, dunque, il rispetto del principio di confidenzialità nei servizi interni ai centri di accoglienza. Sembra perciò particolarmente importante offrire sufficienti misure e garanzie di confidenzialità per favorire un senso di sicurezza e di controllo sul proprio ambiente, una dimensione fondamentale per chi ha subito gravi forme di violenza. E' difficile stabilire quanto di questo timore sia basato su un dato di realtà e quanto sulla vulnerabilità psicologica dei sopravvissuti. Ci limitiamo qui a registrarne la presenza.

Un altro bisogno specifico è la presenza di un *caseworker* come figura di riferimento stabile, con il quale il beneficiario possa instaurare una relazione di fiducia e al quale possa rivolgersi per qualsiasi problema. Tra i suoi compiti dovrebbe esserci la responsabilità di coordinare gli interventi sulla base di una visione complessiva della presa in carico del beneficiario. Nei centri di accoglienza non si fa molto ricorso a questa figura, che, laddove presente, rimane spesso più teorica che reale a causa dell'alto numero di casi che il caseworker deve seguire. In caso di presenza di figli dei sopravvissuti, questi dovrebbero avere dei *caseworker* specificamente dedicati, diversi da quelli del genitore, per poter disporre di una figura adulta a cui rivolgersi in caso di indisponibilità concreta o emotiva del genitore stesso. Nei centri di accoglienza dovrebbero essere previsti spazi di gioco e studio protetti appositamente dedicati ai minori, spazi che raramente è possibile trovare nelle strutture di accoglienza italiane.

### *Bisogni sanitari specifici*

Un primo basilare bisogno di salute specifico dei sopravvissuti a tortura è quello di una precoce presa in carico da parte dei servizi sanitari, così da prevenire la cronicizzazione delle varie condizioni e sindromi post-traumatiche. In assenza di un sistema che precocemente ricerchi le vulnerabilità non visibili, più frequentemente questo bisogno non viene soddisfatto, e la presa in carico, quando

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avviene, si verifica in una fase più avanzata del percorso, nei centri di accoglienza o in altri servizi. Come già riportato, in Italia, lo screening delle vulnerabilità in una fase precoce come nelle aree di sbarco, negli Hotspot e nei centri di primissima accoglienza, riguarda per lo più le vulnerabilità visibili. Per supplire a questa carenza, in Sicilia una piccola unità medico-psicologica di una ONG (ME. DU.) che lavora con le vittime di tortura (Progetto On.To) fornisce un intervento precoce e di emergenza di carattere medico e psicologico alle vittime di tortura, cercando di intercettarle subito dopo lo sbarco, al centro di accoglienza per richiedenti asilo (CARA) di Mineo e nei CAS della Provincia di Ragusa. In questi ultimi, il servizio cerca di supplire anche alla carenza strutturale di servizi medici e psicologici, soprattutto dei centri più isolati che non hanno facile accesso ai servizi sanitari. Questo piccolo team ha invitato i centri a utilizzare il questionario elaborato nell'ambito del progetto "Protect",<sup>76</sup> uno strumento per l'individuazione sistematica, e ha istruito il personale a rilevare segni e sintomi della sofferenza post-traumatica. Tuttavia, tale utilizzo è basato sulla singola iniziativa del servizio o dell'ente gestore, e per questo motivo lo *screening* si attua sul territorio nazionale in modo sporadico e non sistematico.

L'accesso a uno screening medico e a una valutazione psicologica gratuita, la continuità e la stabilità delle cure sono elementi essenziali della presa in carico dei sopravvissuti, mentre gli interventi medici e psicologici, isolati od occasionali, non costituiscono una risposta sufficiente e adeguata. Dal punto di vista della salute, i sopravvissuti a tortura e/o violenza grave hanno bisogno di trovare professionisti di alto profilo nel campo dell'assistenza medica e psicologica, specificamente formati, e in grado di affrontare la gravità delle conseguenze e la complessità del trattamento, che richiede un approccio di cura della persona, considerata nella sua globalità, attraverso un metodo di lavoro integrato tra servizi. E' necessario, inoltre, disporre di medici e psicologi con competenze interculturali, in grado di svolgere un colloquio clinico anche alla presenza di mediatori linguistico-culturali. Soprattutto per i servizi di carattere sanitario si dovrebbero prediligere medici dello stesso sesso del paziente oppure offrire alla persona la possibilità di scegliere tra professionisti di entrambi i sessi, specialmente nei casi di violenza sessuale. Solo alcuni servizi sanitari a Roma e Milano riescono a rispondere a quest'ultimo bisogno con invii a centri specifici, che si occupano di vittime di violenza.

Dalla ricerca è emerso un grande bisogno di formazione specifica del personale medico e psicologico dislocato nelle Aziende Sanitarie Locali (ASL) del territorio nazionale e nei presidi ospedalieri.

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<sup>76</sup> Disponibile al seguente indirizzo: <http://protect-able.eu/wp-content/uploads/2013/01/protect-questionnaire-english.pdf>

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Questa carenza ha naturalmente un impatto non solo sulla cura e sulla presa in carico, ma anche sulla possibilità della certificazione sulle conseguenze della tortura e delle violenze. Infatti, le strutture sia mediche sia psicologiche dovrebbero essere in grado di rilasciare una certificazione (generalmente basata sul *Protocollo di Istanbul*) che possa essere utilizzata dai servizi legali per sostenere la domanda d'asilo di fronte alle Commissioni Territoriali. Queste ultime, infatti, riconoscono soltanto certificazioni che provengono dal Sistema Sanitario Nazionale e da alcuni enti accreditati.

E' fondamentale poter redigere un piano terapeutico individualizzato, in cui salute medica e psicologica possano integrarsi reciprocamente. Dal punto di vista psicologico è importante avere accesso a interventi condotti da personale esperto nella cura delle vittime di tortura, in grado di offrire counselling e psicoeducazione sulle conseguenze della tortura, terapie psicologiche specifiche per il trauma (EMDR, terapie focalizzate sul trauma, la terapia senso motoria, la terapia dell'esposizione narrativa, etc.), così come metodi di riabilitazione alternativi (come i laboratori artistici, quelli di riabilitazione psicosociale, i metodi per promuovere l'empowerment).

E' importante che i servizi di salute abbiano sistemi per monitorare la continuità delle cure e gli eventuali *drop out*, che sono molto frequenti nel caso dei sopravvissuti a tortura per una serie di ragioni, alcune delle quali riferibili ai sintomi post-traumatici, come le alterazioni della memoria e la dissociazione, che rendono più probabile dimenticare gli appuntamenti, o i sintomi di evitamento che possono portare gli interessati a rifiutare l'assistenza sanitaria. I servizi di salute sembrano avere una scarsa consapevolezza dell'importanza di monitorare questo aspetto.

Altrettanto importante è predisporre sistemi di tutela specifici per i pazienti 'ad alto rischio' (per es. i pazienti suicidari o con gravi condotte autolesive), un aspetto più facile da curare per le strutture psichiatriche ospedaliere che hanno la possibilità di effettuare ricoveri. Il personale medico e psicologico presente nei centri di accoglienza italiani, generalmente nei CARA e negli SPRAR, è per lo più insufficiente a rispondere al bisogno, ed è totalmente assente nei CAS. Sarebbe fondamentale inserire queste figure in tutti i tipi di centri di accoglienza per poter rispondere ai bisogni di salute specifici dei sopravvissuti.

Sul piano della cura, specie psicologica dei figli dei sopravvissuti, si registra la carenza maggiore. Per questi piccoli pazienti, un bisogno specifico fondamentale è quello di poter accedere a un servizio psicologico che si occupi di trasmissione transgenerazionale del trauma. Sul tema si registra una scarsa consapevolezza e la quasi assenza di servizi adeguati.

E' cruciale che il personale sanitario che prende in carico le vittime di tortura

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e/o grave violenza possa avvalersi di supervisione psicologica continua e sistematica, per poter scongiurare i rischi di traumatizzazione vicaria e poter garantire una maggiore qualità del servizio offerto. Un aspetto, quello della supervisione psicologica, estremamente carente, quando non totalmente assente, nella maggior parte dei servizi relativi alla salute presi in considerazione dalla ricerca.

Nonostante le criticità sopra illustrate, si accolgono favorevolmente le Linee Guida emanate recentemente dal Ministero della Salute per l'assistenza ai rifugiati vittime di tortura e violenza grave che contengono una serie di indicazioni utili per i professionisti coinvolti nell'assistenza, riabilitazione e trattamento dei sopravvissuti a tortura<sup>77</sup>.

### *Bisogni sociali specifici*

Sebbene i servizi sociali abbiano un ruolo preminente in una fase più avanzata del percorso di integrazione, essi dovrebbero poter rispondere anche precocemente ad alcuni bisogni specifici delle persone sopravvissute a tortura e/o violenza grave. Il primo in ordine di tempo è l'accesso a corsi di lingua che prevedano l'utilizzo di una metodologia adatta a persone con difficoltà di concentrazione e che soffrono di una serie di sintomi che interferiscono con l'apprendimento. Tali opportunità sembrano essere del tutto assenti per il momento sul territorio nazionale. Anche la successiva formazione professionale dovrebbe poter essere adattata alle esigenze del singolo individuo, attraverso la costruzione di progetti *ad hoc* che tengano in considerazione tutti gli aspetti della presa in carico e della riabilitazione (anche l'assunzione di eventuali terapie farmacologiche).

Il bisogno che si profila come più urgente in Italia rispetto all'assistenza sociale dei sopravvissuti è quello di formare gli operatori sociali sulle tematiche rilevanti per le vittime di tortura e/o violenza grave. Sarebbe di grande beneficio che gli operatori sociali fossero consapevoli dell'importanza del loro ruolo per la riabilitazione dei beneficiari. E' fondamentale, ad esempio, promuovere l'*empowerment* della persona con strumenti adeguati, coinvolgendola in attività che accrescano il senso di autostima e controllo sulla propria vita, promuovendo così una sensazione di *agency* e di efficacia. Laddove possibile e richiesto, anche la facilitazione dei contatti con comunità significative per la persona risponde a un bisogno di carattere sociale che deve essere svolto con grande competenza. Infatti se da un lato il bisogno di espandere la propria rete sociale e di suppor-

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<sup>77</sup> *Linee Guida per la programmazione degli interventi di assistenza e riabilitazione nonché per il trattamento dei disturbi psichici dei titolari dello status di rifugiato e dello status di protezione sussidiaria che hanno subito torture, stupri o altre forme gravi di violenza psicologica, fisica o sessuale*, del 22 marzo 2017, pubblicata in G.U. 24/04/2017 n. 95.  
Cfr. Capitolo 5 in questo rapporto, "Best Practices".

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to rappresenta un bisogno umano fondamentale, dall'altro, occorre usare molta cautela e consapevolezza, poichè non sempre i sopravvissuti nutrono questo desiderio specie in relazione alle proprie comunità di appartenenza, oppure questo desiderio può essere molto ambivalente. Dunque, un'attenta capacità di ascolto è fondamentale in questi casi.

### *Raccomandazioni*

I richiedenti protezione internazionale sopravvissuti a tortura e/o gravi forme di violenza devono poter contare su un sistema di identificazione, presa in carico e referral affinché i loro bisogni specifici vengano soddisfatti nell'ambito della procedura di asilo, dell'accoglienza e dei servizi di assistenza medico-psicologici.

L'approccio multidisciplinare deve essere sempre garantito ai sopravvissuti a tortura e/o gravi forme di violenza, così come la presenza di operatori qualificati.

Per rispondere adeguatamente ai bisogni specifici dei sopravvissuti a tortura e/o grave forme di violenza, gli operatori devono essere dotati di strumenti specifici che li guidino nell'attività di identificazione di tali bisogni, di presa in carico e di referral ai servizi specializzati.

Tutti gli operatori coinvolti nell'assistenza, in particolare consulenti legali e psicologi, devono potersi avvalere di supervisione psicologica al fine di garantire la capacità di fornire un adeguato spazio di assistenza e cura ai sopravvissuti a tortura e/o grave violenza.

Le Linee Guida del Ministero della Salute per l'assistenza ai rifugiati vittime di tortura e violenza dovrebbero essere applicate su tutto il territorio nazionale e costituire un reale strumento operativo per i professionisti al fine di effettuare interventi strutturati e coordinati.

Il rilevamento delle vulnerabilità dovrebbe avvenire il prima possibile e comunque non appena viene presentata la richiesta di protezione internazionale. Le autorità preposte alla registrazione della domanda di protezione dovrebbero avere cura di indicare nel verbale C3 e in qualunque altro formulario (c.d. formulario Dublino) le informazioni sullo stato di salute e le vulnerabilità del richiedente, sempre quando la riservatezza e la protezione dei dati personali sia assolutamente garantita.

In ogni caso, in considerazione delle difficoltà presentate da tale rilevazione, essa dovrebbe essere concepita come 'continua' nel corso della procedura e dell'assistenza.

## 4.6 Main research findings in Malta<sup>78</sup>

### Synthesis Desk Research

#### 1. Asylum procedure

##### *a. Regular procedure*

The office of the Refugee Commissioner (RefCom) is the authority responsible for examining and determining applications for international protection at First Instance. The procedure in place is a single procedure for both refugee status and subsidiary protection.

When an individual either enters or is found staying in Malta in an irregular manner and expresses a need for international protection, he is taken to an Initial Reception Centre (IRC) where his vulnerability will be assessed, together with other procedures. In the IRC, the Immigration Police will also assess whether there are legal grounds and reasons to detain the individual, whether a detention alternative should be applied or whether the applicant should enjoy full liberty. If a ground for detention is found, and detention is deemed to be necessary, he will be detained and his application will be processed from the detention centre.

The initial stages of the procedure include the filling of a form and a Dublin interview. If the applicant is not eligible for a Dublin transfer, a substantive interview is scheduled. No legal aid is provided at First Instance, yet applicants are authorised to seek their own lawyer. A number of NGOs provide free legal assistance at First Instance.

An appeal mechanism challenging the First Instance decision is available before the Refugee Appeals Board during the 2 weeks following the notification of the decision. An appeal to the Board has suspensive effect such that an asylum seeker may not be removed from Malta prior to a final decision being taken on his or her appeal.

##### *b. Accelerated procedure*

Accelerated procedures are also foreseen in national law for applications that appear to be *prima facie* inadmissible or manifestly unfounded. Nonetheless, applicants for asylum are afforded a full interview by the Refugee Commissioner except the ones coming from a safe country of origin. The recommendation of the Refugee Commissioner is then transmitted to the Refugee Appeals Board, with the Board having a 3-day time-limit, specified at law, during which an examination and review of the Refugee Commissioner's recommendation is to be carried out.

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<sup>78</sup> Written by aditus foundation, Malta.

In practice, accelerated procedures are not generally used in Malta except for the applicants coming from a safe country of origin. Moreover, according to the Regulations<sup>79</sup>, whenever it is considered that an applicant requires special procedural guarantees as a consequence of having suffered torture, rape or other serious form of psychological, physical or sexual violence, the accelerated procedure shall not be applied.

## **2. Vulnerable applicants**

### **c. Identification**

The Agency for the Welfare of Asylum-seekers (AWAS)<sup>80</sup> is the main actor in Malta responsible for implementing Government policy regarding persons with special reception needs, and is in charge of the necessary assessments.

Upon arrival, all persons arriving irregularly in Malta and seeking international protection are taken to an Initial Reception Centre for screening. Persons claiming to be unaccompanied minors, family groups with children and other manifestly vulnerable persons are prioritised for processing, with AWAS assuming responsibility over their cases. All persons are spoken to individually by Immigration Police in a preliminary interview.

During their stay at the IRC, persons referred as vulnerable will undergo either an age assessment or a vulnerability assessment. Persons who are undoubtedly children are immediately treated as such without recourse to any age assessment procedures. Age assessment is undertaken in all other cases. Unaccompanied minors are placed under the Minister's care and legal responsibility, and assigned an AWAS social worker that should ensure the child's best interests on the basis of a care plan.

The main consequence of a conclusion that a person is vulnerable is that he

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<sup>79</sup> Subsidiary Legislation 420.07 Procedural Standards for granting and withdrawing international protection Regulations

<sup>80</sup> The function of the Agency for the Welfare of Asylum-seekers (AWAS) is the implementation of national legislation and policy concerning the welfare of refugees, persons enjoying international protection and asylum-seekers. In practice, AWAS manages reception facilities, provides information programmes in the area of employment, housing, health, welfare and education, and promotes government schemes related to resettlement voluntary returns. It is established through the 'Agency for the Welfare of Asylum Seekers Regulations', Subsidiary Legislation 217.11 of July 2009, available at: <http://www.justiceservices.gov.mt/DownloadDocument.aspx?app=lom&itemid=9566&l=1>.

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shall not be subject to a detention decision<sup>81</sup>. In those cases where vulnerability emerges only after a person has been detained, the result shall be communicated to the Police authorities so that the detention order is withdrawn with immediate effect. The person shall be released from detention and offered accommodation at an Open Centre.

One of the main issue is that vulnerable individuals who arrive regularly are not taken to the IRC and hence they could have their special needs missed and may only be identified at a later stage when they begin to make contact with NGOs.

Beyond this direct impact of detention, age and vulnerability assessments seem to be of little consequence as no specialised services are available for people who would be deemed vulnerable. Moreover, the vulnerability assessment is generic and does not explicitly identify victims of torture or violence.

No other mechanism for the identification of victims of torture and violence is in place in Malta, as also RefCom does not have a specific mechanism in place for the identification of such victims. However, all the officers involved in the asylum process are always alert on identifying such persons. The Office of the Refugee Commissioner may also receive referrals from AWAS.

Finally, identification of vulnerable adults in detention centres only takes place by NGO staff that would visit detention regularly. NGO staff would assess the individual and then refer to AWAS for the Vulnerable Adults Assessment Procedure. Psychological and legal support would also be provided by such NGOs.

#### *d. Support during the asylum procedure*

Apart from generic information on the procedure provided by RefCom no state support is available in preparation for the substantive interview at RefCom. In practice, several NGOs specialized in asylum provide support, assistance and advice for asylum-seekers but most of the migrants who arrive legally are not provided with any information<sup>82</sup>.

According to the law<sup>83</sup>, the personal interview may be omitted only when the Commissioner is able to make a positive recommendation on the basis of

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<sup>81</sup> ‘Reception Regulations’ Reg. 14 “*Provided that applicants identified as minors shall not be detained, except as a measure of last resort:*

*Provided further that applicants who claim to be minors shall not be detained, except as a measure of last resort, unless the claim is evidently and manifestly unfounded.*

*21 (3) Whenever the vulnerability of an applicant is ascertained, no detention order shall be issued or, if such an order has already been issued, it shall be revoked with immediate effect.”*

<sup>82</sup> Asylum-seekers who arrived in Malta legally who were interviewed for the report confirmed that they only received support from local NGOs. They mentioned being referred by friends or members of their communities not by authorities.

<sup>83</sup> Procedural Regulations, Regulation 10(5).

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evidence available or when it is not reasonably practicable due to the applicant's situation. According to practitioners who have assisted a number of asylum-seekers medical reports are usually taken into consideration, especially with regard to applicants with mental health problems where reports provided by medical professionals are given considerable weight in the evaluation of the applicant's need for protection. Medical reports documenting torture and other violence are not routinely provided by asylum applicants. Moreover, RefCom does not habitually refer asylum applicants for medical examinations, including where testimonies of experiences of torture or violence are mentioned during the asylum interview.

If a person is identified by RefCom as a victim, or potentially as such, as a general rule the person is referred to Mater Dei Hospital for the necessary treatment and assessment (both physical and psychological). If the person is not mentally or physically fit, the Office would suspend the asylum procedure until such a time when the applicant is fit enough to continue with the asylum procedure.

In some cases, RefCom may consult/seek advice from medical experts in cases where the applicant is unfit for the interview. RefCom also allows applicants to submit medical certificates in support of their claim regarding experiences of torture and violence. The determining authority may also make use of medical examinations in case these are deemed to be necessary for the asylum procedure.

#### *e. Reception of vulnerable applicants*

Seven reception centres are established in order to accommodate asylum-seekers. No specialised centre is available for victims of torture or violence.

Some families, single women and unaccompanied children are accommodated in separate Open Centres, but in the past it has happened that families shared accommodation with other groups.

Follow-up and monitoring of individuals identified as vulnerable is very limited.

Asylum-seekers victims of torture and violence are entitled to access to the national health system. All are entitled to core support but accessing the full complement of health services will depend on the protection level granted to the individual.

### **3. Conclusions**

Malta still lacks a formalised and efficient government structure that can identify, assess and appropriately meet the needs of vulnerable groups arriving in both a regular and irregular manner.

Moreover, poor conditions in detention and reception centres exacerbate the strain on the individuals' psychological well-being and may induce a sense of



threat that heightens their reticence to disclose their past traumas and hence make it less likely for their needs to be known.

### **Synthesis Field Research**

This research drew upon the knowledge and working experience of professionals working in the field and the beneficiaries' own personal experience to shed light on the current barriers and shortcomings that impede the specific needs of victims of torture and violence being met. The stakeholders interviewed provided valuable information about the current state of affairs regarding the identification and treatment of survivors of torture and/or serious violence and the identification and assessment of reception specific needs. Stakeholders consulted were Jesuit Refugee Service (JRS), UNHCR, Office of the Refugee Commissioner and the governmental Migrant Health Unit.

The Office of the Refugee Commissioner reported not having a specific mechanism in place to identify victims of torture or violence, but claimed that all the officers involved in the asylum process are always alert on identifying such persons. On the other hand, a NGO providing legal assistance highlighted that during RSD interviews, individual victims of violence or torture may possibly be identified by the caseworker in charge, but this would often be the case if the experience or its consequences are expressly spoken about or else are very pronounced.

Two of the stakeholders interviewed referred to the Vulnerable Adult Assessment Procedure (VAAT/ARAT) as the specific procedure that exists for the identification of vulnerable groups in detention centres in Malta. Whether this assessment is currently conducted in reception centres and how, by whom and when it would be conducted is unknown to stakeholder interviewees. According to the knowledge of these stakeholders, other than the Vulnerable Adult Assessment tool mentioned above, which is not specific to torture or violence and is utilised for individuals in detention, no mechanism exists where victims of torture and violence can be identified early on in the asylum procedure. When migrants are taken to the Initial Reception Centre (IRC), a basic health screening is carried out but no psychologists take part in this screening. Moreover, the staff in these centres is not trained nor has the expertise to identify victims of torture. The Government official mentioned that very few cases of victims of torture and violence were officially noticed over the past few years.

Furthermore, many vulnerable individuals who are not detained (e.g. non-boat arrivals) would have their special needs missed and may only be identified at a later stage when they begin to make contact with NGOs. According to three of the stakeholders, early identification is primarily inhibited by the lack of a

formalised, functional structure at state level, where individual's different needs are assessed, monitored and provided for; the absence of trained personnel in status determining authorities, reception and detention centres that can identify such needs, the language barrier, the fact that traumatised individuals do not easily disclose their difficulties and the poor conditions in detention and reception centres that further inhibits disclosure as individuals feel unsafe and distrusting of authorities. One of the stakeholders feels that another inhibiting factor is the fact that such an assessment is not recognised as integral to the asylum procedure and is hence not incorporated in current asylum policy.

When a person is identified by the Office of the Refugee Commissioner as a victim of torture/serious violence, or potentially as such, as a general rule the person is referred to mainstream health services for the necessary treatment and assessment (both physical and psychological). However, an asylum seeker would face multiple hurdles within the process of accessing mainstream health services including a complex system that is difficult to understand, lack of support in negotiating this system, fragmented services, language barriers, xenophobia and racism.

All stakeholders interviewed highlighted that vulnerable adults, including victims of torture and violence, are not provided with any structured or specialised support and no monitoring and follow-up mechanism is found within the asylum system. Moreover, all stakeholders explained that mainstream services (including health and social services) do not have a specialised service for the assessment, treatment and rehabilitation of victims of torture or violence and would only be treated within the general psychiatric services if mental health issues were identified. Further to mainstream public services, all stakeholders explained that as a result of this current situation, individuals that have been exposed to trauma are often referred to an NGO that provides psychological support to such individuals.

Stakeholders interviewed confirmed that no state support is available in preparation for the substantive interview. One of the stakeholders, whose NGO provides legal support for asylum seekers, explained that in cases where they identify victims of a traumatic event, they feel unsupported and at a loss "[we] don't know what to do with that person". The stakeholders also mentioned that they have all had cases where they were in contact with state authorities to postpone individual interviews for certain individuals until they were well enough. One of the stakeholders additionally explained that given the absence of state support, in the case of traumatised individuals, they themselves often contact JRS for guidance as how best to support the individual with asylum related concerns. All of the stakeholders explained that upon their recommendations, substantive interviews, though not omitted have been postponed until the individual was deemed fit to be interviewed. There have also been cases when the applicant was granted

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Temporary Humanitarian Protection until he/she was fit enough for the interview. The Office of the Refugee Commissioner explained that in extreme cases they may decide to omit the interview and issue a decision based on the available information.

The Office of the Refugee Commissioner claimed it in some cases it may consult/seek advice from medical experts in cases where the applicant is unfit for the interview. RefCom also explained that it may also make use of medical examinations in case these are deemed to be necessary for the asylum procedure. However, a government official from the health sector confirmed that no policy or formal cooperation is in place between the Refugee Commissioner and the practitioners about the possibility of medical reports to be drafted for asylum-seekers or referrals for follow-up after the interviews by caseworkers. Two of the stakeholders explained that to their knowledge the Refugee Commissioner seeks little to no advice from medical experts and does not generally make use of medical examinations to verify experiences of torture or violence. One of the stakeholders however explained that as an NGO they often present medical and psychological reports to help substantiate the claims being made by the asylum-seekers on the cases they would be offering legal assistance to. She therefore explained that this is therefore in the minority of claims as the NGO supports only a limited number of cases.

One of the stakeholders spoke of the conditions and services in detention centres explaining that these are poor, lacking in trained staff and cultural mediators, lacking in a structure that offers social work, medical, and psychological support to vulnerable asylum seekers. Psychological and legal support would be provided by such NGOs but this stakeholder believes this role should be taken on by government services rather than NGOs. In terms of health assistance in detention, this stakeholder explained that this was inadequate. A private firm was contacted to provide GP services and basic medicine but she feels this service was very basic, not gender sensitive and did not cater for the mental health needs of certain asylum seekers. In terms of social services providing educational, recreational and socializing activities for asylum seekers, this stakeholder explained that the only activities provided were temporary and part of time-bound EU funded projects.

Interviews/focus group with beneficiaries confirmed many of lacunae in the identification and treatment of survivors of torture and/or serious violence highlighted by stakeholders.

A Syrian refugee, Fatima<sup>84</sup>, who arrived with her family after being relocated from Greece, spoke vehemently about the conditions in the IRC, where she spent

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<sup>84</sup> All names are not the interviewee's real names.

3 days. “It is the worse place I ever stayed”. Fatima described the centre as an isolated building, with poor sanitation and hygiene and situated far from the main cities. She explained that this experience affected her psychologically as she felt like she was in a prison, she “never stopped crying” and felt like 3 days were “3 years”.

Similarly, refugees spoke of detention as overcrowded and only capable of meeting the most basic of needs. Paul, a Nigerian refugee, explained that the only people he could speak to about his needs were detention staff and soldiers who often would try their best to provide clothes and access to medical services and meet his basic needs but no more than that. He explained that no support was offered by government social workers and only spoke of an NGO that visited regularly to provide support. Paul explained that in terms of medical assistance in detention, while very basic, he was always taken to see a doctor and provided medication whenever he needed it. There were no recreational activities other than a TV to be shared amongst a large group of people. His access to the outside was only for 2 hours a day and the outside space was very small. In general, Paul explained that the conditions in detention were difficult and affected him psychologically - he was low in mood and felt “like I am going crazy”.

Fatima confirmed that no assessment of vulnerability was conducted during her family’s stay in the initial reception centre. They were provided with little information and got no support or legal assistance and the social worker simply encouraged them to relax and deal with their issues after. Fatima did however mention that their basic medical needs were met but no psychological support was provided to help them deal with the trauma they had experienced. She also explained that she was able to communicate because she had a good command of English but no interpreters were present so she feels that “without English there would be no communication”.

Fatima explained that she did not receive any support in preparation for her asylum interview. She was not assisted by personnel during the interview but was provided with an interpreter. Fatima strongly feels that during the asylum procedure “[her] needs were not understood”. This was also confirmed by the youth during the focus group, who expressed clear sentiments of fear and intimidation in relation to the interviewing caseworker and the process itself.

The focus group confirmed that, other than the Vulnerable Adult Assessment tool mentioned above, no mechanism exists where victims of torture and violence can be identified early on in the asylum procedure. In the focus group the young

refugees gave a generally negative picture of their experiences during the asylum procedure. As Fatima, they confirmed that no preparation of information was provided to them before the interview and that they were not clear about the various stages of the procedure and their implications. They commented that some of them had visited an NGO for assistance.

In summary research highlighted the following lacunae:

- 1) The lack of a formalised and efficient government structure that can identify, assess and appropriately meet the needs of vulnerable groups arriving in both a regular and irregular manner.
  - 2) Government departments and entities working separately on different aspects of the asylum procedure – reception, status determination etc.
  - 3) An unclear reception policy and hence uncertainty among service providers of how it should be applied in practice.
  - 4) The lack of a clear referral mechanism for vulnerable asylum seekers to appropriate support and treatment services.
  - 5) The lack of an appropriate structure that can offer specialised, holistic support to vulnerable groups. Not only is the structure lacking but expert knowledge and training in this area is also scant, leaving service providers at a loss about how to support these individuals.
  - 6) Within the asylum procedure the following shortcomings may detract from a person's overall well-being and might prevent the individual from receiving the adequate protection in line with their needs:
    1. Minimal consultation in the status determining procedure with medical professionals and experts in the field of trauma both to substantiate the asylum claim as well as to ensure that such difficulties are taken into account directly when interviewing these individuals;
    2. the lack of support personnel present in the asylum interview for vulnerable asylum seekers.
  - 7) Poor conditions in detention and reception centres exacerbate the strain on the individuals' psychological well-being and may induce a sense of threat that heightens their reticence to disclose their past traumas and hence make it less likely for their needs to be known.
  - 8) The lack of an integration policy.
  - 9) The lack of willingness from state entities to dedicate resources to making the necessary changes within the asylum system to ensure that vulnerable groups are afforded the protection they require and their well-being safeguarded.
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- 10) The fact that many of the services for vulnerable groups tend to be reactive and focused on crisis management rather than being proactive and focused on empowerment.
- 11) The lack of cultural mediators/interpreters present at different stages of the asylum procedure that can support people in telling their story, making their needs known and accessing any support available.

### **Recommendations**

Through the various interviews conducted, stakeholders and refugees provided an overview of their knowledge and experience of/with the current policies and practices relating to the assessment of vulnerable asylum seeking groups (including victims of torture and violence) in Malta. They were able to provide insight into the current system operating to the best of their knowledge, identify shortcomings and provide recommendations for change<sup>85</sup>.

The following are the recommendations provided:

1. Harmonisation of Malta's reception regime so as to ensure a focal point for the early identification of vulnerable individuals. This harmonisation has only partially occurred through the creation of the IRC, requiring further efforts to operate effectively in practice for all asylum-seekers independently of their mode of entry to Malta;
2. A Memorandum of Understanding, based on the Istanbul Protocol, between health services and the asylum procedure should be established, with a view to regulating referrals from one service to another, provision of reports from health professionals for asylum determination, etc. This MOU should be accompanied by specialised training;
3. Training in the area of trauma and the special needs of vulnerable groups should be provided for all staff coming into contact with refugees, be it in reception centres or during the asylum interview. All staff should be trained to identify individuals at risk of mental health difficulties. Such training should provide relevant staff with the ability to go beyond overt symptoms in their assessment;
4. Interpreters/Cultural mediators should be employed and made available to asylum seekers at every stage of the asylum procedure. Also, interpreters should be available in the assessment and treatment services for vulnerable groups;

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<sup>85</sup> It must also be noted that not all stakeholders were aware of the current practice especially that related to regular arrivals and the new reception procedures

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5. The development of a specialised treatment centre/team to which asylum seeking victims of torture and violence can be referred for the development of a treatment plan based on a comprehensive assessment of needs. Such a treatment centre should adopt a long-term holistic approach catering for the needs from all angles – psychological, physical etc. It should therefore adopt a multi-disciplinary team approach. One of the stakeholders believes that such a specialised unit would be very useful if it caters for all victims of torture and violence and does not automatically become the ‘asylum seeker treatment centre’, leading to further segregation of asylum seekers from the mainstream services;
6. More effort is dedicated to reducing the current fragmentation of services that exists. Different government departments should offer a coordinated service to ensure appropriate information sharing between one department to another. Networking/communication channels also need to be present between government departments and NGOs so that asylum seekers who have been identified as victims of torture and violence do not risk having their needs missed or being reassessed unnecessarily.

## 4.7 Main research findings in Portugal<sup>86</sup>

### Síntese da Pesquisa Bibliográfica

#### **1) Necessidades Especiais – Enquadramento jurídico – Estatísticas**

A Lei n° 27/2008, de 30 de Junho (Lei do Asilo) foi alterada e republicada pela Lei n° 26/2014, de 5 de Maio, transpondo para o ordenamento jurídico nacional as Directivas n° 2011/95/EU (Qualificação), 2013/32/EU (Procedimentos) e 2013/33/EU (Acolhimento).

A Lei do Asilo define “requerente com necessidade de garantias processuais especiais” em função da limitação da capacidade para exercer os direitos e cumprir as obrigações decorrentes da Lei do Asilo em razão de circunstâncias pessoais. Apesar de não incluir uma lista exaustiva de requerentes de asilo que presumidamente têm necessidade de garantias processuais especiais, a norma menciona a idade, o género, a identidade de género, a orientação sexual, a deficiência, a doença grave, a perturbação mental, a tortura, a violação ou outras formas graves de violência psicológica, física ou sexual como factores conexos a circunstâncias pessoais que podem originar a necessidade de garantias processuais especiais.

Entre estes requerentes, a Lei do Asilo identifica uma subcategoria de indivíduos cujas necessidades especiais resultam de tortura, violação ou outras formas graves de violência psicológica, física ou sexual, e que, por esse motivo, podem ser isentos do regime especial dos pedidos apresentados em postos de fronteira.

No que respeita a condições especiais de acolhimento, a Lei do Asilo também define “requerente com necessidades de acolhimento especiais” por referência à capacidade reduzida para usufruir de direitos e cumprir as obrigações decorrentes da Lei do Asilo devido à vulnerabilidade. A Lei do Asilo consagra uma lista não exaustiva de requerentes com necessidades de acolhimento especiais que inclui menores, menores não acompanhados, pessoas com deficiência, idosos, grávidas, famílias monoparentais com filhos menores, vítimas de tráfico de seres humanos, pessoas com doenças graves, pessoas com perturbações mentais e pessoas que tenham sido sujeitas a actos de tortura, violação ou outras formas graves de violência psicológica, física ou sexual, tais como vítimas de violência doméstica e de mutilação genital feminina. Apesar de a Lei do Asilo também fazer referência a garantias para pessoas particularmente vulneráveis, os dois conceitos são, aparentemente, usados de forma indiferenciada, o que significa que uma pessoa com necessidades de acolhimento especiais é, *a priori*, uma pessoa vulnerável para os efeitos da Lei do Asilo.

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<sup>86</sup> Written by the Portuguese Council for Refugees.



A Lei do Asilo prevê a necessidade de identificar pessoas com necessidades especiais e a natureza dessas necessidades aquando da apresentação do pedido ou em qualquer fase do procedimento de asilo. Ao invés das necessidades processuais especiais, cuja natureza deve ser determinada antes da decisão sobre a admissibilidade do pedido, as necessidades especiais de acolhimento devem ser determinadas num prazo razoável após a apresentação do mesmo. Após a identificação, os requerentes com necessidade de garantias processuais especiais podem beneficiar do adiamento da entrevista de determinação de estatuto de refugiado e da dilação dos prazos para apresentação de elementos de prova ou para a realização de entrevistas com o apoio de peritos, bem como da dispensa de aplicação de medidas de detenção/regime especial dos pedidos apresentados em posto de fronteira. A prestação de condições especiais de acolhimento compreende a ponderação das necessidades materiais de acolhimento de pessoas particularmente vulneráveis, nomeadamente no que concerne a apoio social, cuidados de saúde e assistência psicológica de sobreviventes de tortura e violência grave. Embora a implementação de certas garantias processuais especiais requiera necessariamente uma decisão da autoridade responsável pela apreciação do pedido de asilo, a responsabilidade pela implementação dessas medidas é do Instituto da Segurança Social. A responsabilidade do Instituto da Segurança Social inclui também o tratamento especial assegurado a sobreviventes de tortura e/ou de violência grave.

Não obstante a obrigação de identificação de necessidades especiais vertida na lei, as estatísticas publicamente disponíveis sobre requerentes de asilo vulneráveis são escassas e referem-se maioritariamente a menores não acompanhados e a famílias com crianças. O Conselho Português para os Refugiados (CPR) recolhe informação estatística (parcial) sobre requerentes de asilo que se auto-identificam ou que são identificados como vulneráveis com base na informação recebida do Serviço de Estrangeiros e Fronteiras (SEF) nos termos da lei, recolhida directamente dos utentes ou fornecida por outros prestadores de serviços. Em 2016, dos 694 pedidos de asilo comunicados pelo SEF ao CPR, 19 requerentes foram identificados como sobreviventes de tortura e 37 como sobreviventes de violência grave.

## **2) Procedimento de Asilo**

O procedimento de asilo em Portugal caracteriza-se por apreciar os pressupostos de reconhecimento do estatuto de refugiado e, subsidiariamente, os de concessão de protecção subsidiária. O regime jurídico aplicável consagra diferentes regras procedimentais em função de vários critérios que incluem o local da apresentação do pedido de asilo (i.e. em território nacional ou num posto de fronteira); a natureza subsequente do pedido; a apresentação do pedido na sequência de

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uma decisão de afastamento do território nacional; ou a natureza manifestamente infundada do pedido. O Serviço de Estrangeiros e Fronteiras está obrigado a informar o Alto Comissariado das Nações Unidas para os Refugiados (ACNUR) e o Conselho Português para os Refugiados (CPR), enquanto organização não governamental que actue em seu nome, de todos os pedidos de protecção internacional apresentados em Portugal. O CPR presta informação e apoio jurídico em todas as fases do procedimento de asilo, incluindo em detenção e nos postos de fronteira. O requerente de asilo goza, igualmente, do direito ao apoio judiciário para efeitos de impugnação jurisdicional de decisões relativas à admissibilidade e/ou ao mérito do respectivo pedido de protecção internacional perante a jurisdição administrativa, condicionado, contudo, a uma avaliação da insuficiência económica pela Segurança Social.

### **Fase de Admissibilidade**

#### **Pedidos em território nacional**

A integralidade dos requerentes de protecção internacional é sujeita a uma entrevista Dublin ou relativa às demais cláusulas de inadmissibilidade e/ou os pressupostos do reconhecimento do estatuto de refugiado e de concessão de protecção subsidiária, com excepção de casos particulares (e.g. requerentes incapazes). Na sequência da entrevista, o SEF disponibiliza ao requerente um relatório escrito do qual constam as informações essenciais relativas ao pedido. O requerente dispõe de cinco dias para se pronunciar sobre o conteúdo do relatório. A directora nacional do SEF dispõe de 30 dias para proferir uma decisão sobre a admissibilidade ou a natureza manifestamente infunda do pedido, neste caso concluindo a apreciação do mérito. Na eventualidade de a directora considerar o pedido inadmissível ou manifestamente infundado o requerente dispõe de oito dias para impugnar jurisdicionalmente a decisão, com efeito suspensivo, ou, na ausência de impugnação jurisdicional, vinte dias para abandonar o país.

#### **Pedidos nos postos de fronteira - detenção**

Os pedidos de protecção internacional apresentados nos postos de fronteira estão sujeitos a um procedimento acelerado. O requerente não dispõe da faculdade de se pronunciar sobre o relatório escrito da entrevista de determinação do estatuto de refugiado no prazo de cinco dias e a directora nacional do SEF dispõe de sete dias para proferir uma decisão sobre a admissibilidade ou a natureza manifestamente infundada do pedido, neste caso concluindo a apreciação do mérito. Na eventualidade do indeferimento do pedido, o requerente dispõe de quatro dias para impugnar jurisdicionalmente a decisão, com efeito suspensivo. O regime legal aplicável determina a detenção dos requerentes que pedem asilo nos postos de fronteira durante a avaliação do seu pedido, em função das circunstâncias pesso-

ais do requerente e na ausência de medidas alternativas eficazes menos gravosas. Na prática, e não obstante a garantia de sindicância jurisdicional da detenção, os requerentes de asilo são sistematicamente detidos nos postos de fronteira com excepção de certas categorias de requerentes vulneráveis tais como menores não acompanhados, grávidas, famílias com crianças e requerentes gravemente doentes. As crianças separadas e não acompanhadas são encaminhadas para a Casa de Acolhimento de Crianças Refugiadas (CACR) do CPR, situado em Lisboa. Na eventualidade da impugnação jurisdicional, o SEF pode deter os requerentes de asilo por um período máximo de sessenta dias.

### **Fase de Concessão**

Na eventualidade da admissão no quadro de uma das modalidades do procedimento de asilo inicia-se a avaliação do mérito do pedido de protecção internacional. A fase de concessão do procedimento de asilo demora, de uma forma geral, entre seis e nove meses. Ao requerente é emitida uma autorização de residência provisória válida pro seis meses, e renovável por idênticos períodos, que o habilita a aceder à educação e ao emprego. Durante esta fase o SEF aprecia o mérito do pedido, avaliando todos os factos relevantes à preparação de uma decisão fundamentada. Uma vez notificado, o requerente dispõe de dez dias para rever a fundamentação da proposta de decisão e apresentar alegações. Em seguida, o SEF envia a sua recomendação final de decisão à directora nacional que dispõe de dez dias para a apresentar à Ministra da Administração Interna que, por sua vez, dispõe de oito dias para proferir uma decisão final. Na eventualidade de uma decisão desfavorável o requerente pode impugnar jurisdicionalmente o indeferimento do pedido, com efeito suspensivo, perante a jurisdição administrativa, no prazo de quinze dias, ou abandonar o território nacional no prazo de trinta dias.

### **3) Acolhimento**

A forma como são actualmente operacionalizados o acolhimento e a integração de requerentes e beneficiários de protecção internacional em Portugal decorre de um protocolo de cooperação entre actores-chave que consagra uma Comissão de Acompanhamento presidida pelo Instituto da Segurança Social (ISS). A Comissão de Acompanhamento é assistida por um Grupo Técnico Operativo a quem incumbe, nomeadamente, assegurar a orientação operacional e a coordenação dos serviços de acolhimento e integração prestados a requerentes de protecção internacional e refugiados reinstalados ao nível central e local.

Durante a fase de admissibilidade do procedimento a maioria dos requerentes de asilo são alojados em centros de acolhimento (CAR - Centro de Acolhimento para Refugiados e CACR - Casa de Acolhimento para Crianças Refugiadas) e/ou alojamento particular disponibilizado pelo CPR. As demais soluções de alojamento

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mento nesta fase, embora menos representativas, incluem alojamento particular obtido pelos próprios requerentes (e.g. junto de familiares, no mercado de arrendamento privado) ou alojamento colectivo disponibilizado por outras instituições (e.g. JRS Portugal). Na eventualidade de o pedido de protecção internacional ser apresentado em detenção, na sequência de uma decisão de afastamento do território nacional, de uma forma geral o requerente permanece em detenção no Centro de Instalação Temporária (CIT) na pendência do procedimento de asilo (no máximo até 60 dias). O único centro de acolhimento especializado para requerentes de asilo vulneráveis consiste no CACR do CPR para crianças não acompanhadas, situado em Lisboa, sem prejuízo de eventuais encaminhamentos de requerentes vulneráveis para centros de acolhimento especializados para vítimas de tráfico de seres humanos.

Na sequência da admissão do pedido, ou caso o pedido seja considerado inadmissível/manifestamente infundado, os requerentes de protecção internacional são encaminhados pelas instituições de acolhimento de primeira linha (e.g. CPR) para o Grupo Técnico Operativo. Para o efeito é utilizado um relatório padrão individual de monitorização que inclui, igualmente, informação sobre vulnerabilidades. Incumbe ao Grupo Técnico Operativo tomar uma decisão sobre o local de acolhimento do requerente durante o período restante do procedimento de asilo, em função da capacidade de acolhimento disponível a nível nacional. O acolhimento poderá consistir na deslocalização dos requerentes assegurada pelos serviços locais de acção social da Segurança Social no que respeita aos requerentes admitidos; ou o acolhimento pela Santa Casa da Misericórdia em Lisboa para os requerentes que impugnaram jurisdicionalmente o indeferimento do respectivo pedido de protecção internacional.

No que respeita à recolocação, foi criada uma estrutura especial de coordenação, em 2015, designada Grupo de Trabalho (GT) para a Agenda Europeia para as Migrações. O GT tem por objectivo aferir a capacidade instalada e preparar um plano de acção e resposta em matéria de recolocação. O GT é composto por vários actores-chave públicos e privados e instituições de acolhimento. O Alto Comissariado para as Migrações (ACM) dispõe de uma base de dados de potenciais entidades de acolhimento que se candidatam a receber requerentes de asilo recolocados através desta base de dados. De uma forma geral os requerentes de asilo recolocados beneficiam de um programa de apoio de dezoito meses e as principais instituições de acolhimento incluem a Plataforma de Apoio aos Refugiados (PAR), seguida do CPR (em parceria com municípios) e, em menor medida, outras instituições de acolhimento como a União de Misericórdias, a Cruz Vermelha Portuguesa, o Município de Lisboa e outros municípios a título individual. As instituições de acolhimento são obrigadas a apresentar relatórios individuais quadrimestrais de integração em áreas-chave de apoio. As institui-

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ções de acolhimento eo ACM realizam entrevistas individuais com os requerentes no final do programa para facilitar a transição para o sistema geral de apoio disponível para requerentes e beneficiários de protecção internacional.

### **Síntese da Pesquisa de Campo**

A pesquisa de campo assentou no conhecimento e na experiência profissional de actores-chave, técnicos de primeira linha e na experiência pessoal dos beneficiários finais do projecto. O objectivo da pesquisa consistiu em alcançar um conhecimento mais aprofundado sobre a natureza das necessidades especiais dos sobreviventes de tortura e/ou violência grave e a forma como essas necessidades são acauteladas na prática. No decorrer da pesquisa de campo a equipa do projecto realizou dezasseis entrevistas com actores-chave e técnicos de primeira, e sete *focus groups* com beneficiários finais. Em linha com as preocupações manifestadas por alguns actores-chave, relativas à natureza qualitativa e subjectiva dos *focus group*, e a não replicação dos mesmos no projecto, cumpre notar que a realização dos *focus groups* não visou generalizar resultados mas antes identificar temas e ideias surgidas durante a discussão tal como subjectivamente percebidos pelos participantes. Para o efeito, os *focus groups* envolveram 26 participantes reunidos em pequenos grupos, tal como exigido por esta metodologia qualitativa de investigação e pelas orientações metodológicas da organização coordenadora do projecto.

#### **1) Entrevistas com actores-chave**

De acordo com os entrevistados, não existem mecanismos específicos nem procedimentos operacionais padronizados para a **identificação precoce de sobreviventes de tortura e/ou violência grave** em Portugal.

Não obstante, de acordo com o SEF, essa identificação é conduzida de forma ad hoc durante o registo do pedido de asilo, com base no relatório preliminar que inclui informação sobre os motivos do pedido, ou nas entrevistas de determinação do estatuto de refugiado que são conduzidas algumas semanas após o registo. Esta informação foi também transmitida pelo Departamento Jurídico do CPR, que presta assistência jurídica ao longo do procedimento e “adopta uma metodologia muito empírica, baseada nos factos reunidos durante esta entrevista” [conduzida pelo CPR] que visa assistir o requerente na revisão do auto de declarações elaborado pelo SEF relativo aos factos essenciais do seu pedido de asilo. Relativamente a procedimentos de fronteira no aeroporto de Lisboa, o SEF afirma que é difícil identificar tais casos devido aos constrangimentos temporais dos controlos de primeira e de segunda linha e à falta de formação.

De acordo com o Departamento Social do CPR, são utilizadas diferentes ferramentas para aferir vulnerabilidades durante a fase de admissibilidade do proce-

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dimento de asilo, tais como o intercâmbio de informação com outros prestadores de serviços e uma entrevista pessoal inicial no CAR/CACR. A entrevista é conduzida por um/a assistente social e, em regra, inclui a verificação de eventuais circunstâncias pessoais relacionadas com violência. Todavia, é raro que, aquando da entrevista, o/a assistente social tenha recebido informação de outros prestadores de serviços sobre uma identificação prévia.

No CIT Porto – UHSA é aplicada uma metodologia semelhante a requerentes de asilo detidos, segundo a qual um/a assistente social do JRS Portugal conduz entrevistas pessoais das quais pode eventualmente resultar uma identificação embora, na prática, tal nunca aconteceu. Segundo a DGS, apesar de não existir um mecanismo especial de identificação, os requerentes de asilo têm acesso gratuito ao Sistema Nacional de Saúde (SNS) através dos centros de saúde locais e este contacto inicial com o sistema de saúde pode, eventualmente, contribuir para a identificação atempada de sobreviventes de tortura e/ou de violência grave. O Centro Hospitalar Psiquiátrico de Lisboa (CHPL) disponibiliza acompanhamento especializado de saúde mental gratuito a sobreviventes de tortura e/ou de violência grave pelo que procede a identificações esporádicas na sequência de referenciações feitas em diferentes fases do procedimento de asilo por serviços de primeira linha como o CPR e o JRS Portugal.

*À excepção dos prestadores de cuidados de saúde, os prestadores de serviços de primeira linha baseiam-se essencialmente na auto-identificação ou em indicadores visíveis (físicos ou comportamentais) para realizar identificações ad hoc de sobreviventes de tortura e/ou de violência grave.*

Esta metodologia de identificação é, segundo consta, prejudicada por vários factores, entre os quais a inexistência de uma ferramenta ou procedimento específico para a identificação; a falta de formação para a identificação de sobreviventes, suas necessidades e inerentes riscos de retraumatização; a indisponibilidade do beneficiário final para colaborar com os prestadores de serviços como mecanismo de autoprotecção agravada por factores como os limites temporais em procedimentos acelerados ou a detenção; bem como as barreiras linguísticas e culturais.

As entrevistas conduzidas com actores-chave contribuíram para a compreensão da implementação prática de **garantias processuais especiais**. No que concerne à **possibilidade de adiamento da entrevista de determinação de estatuto de refugiado**, esta garantia processual especial é condicionada pela ausência de uma identificação precoce e sistemática de sobreviventes de tortura e/ou de violência grave e da limitação da sua capacidade para exercer os direitos e cumprir as obrigações decorrentes da Lei do Asilo devido à ausência de uma ferramenta ou mecanismo para o efeito. Como referido pela Ordem dos Psicólogos Portugueses, o equilíbrio entre a necessidade de recolher informação e a prevenção de sofrimento psicológico adicional é muito delicado. De acordo com o SEF, se a

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pessoa ainda não tiver sido identificada como sendo um caso vulnerável mas esteja extremamente debilitada pela recordação dos eventos, a entrevista é suspensa e o caso é imediatamente referenciado para os serviços competentes, nomeadamente a instituição de acolhimento e/o o centro de saúde. A autoridade responsável pela apreciação do pedido de asilo pode adiar a entrevista por mais de dois anos, se necessário, mas não omitirá a realização desta diligência. Uma garantia adicional suscitada pelo SEF foi a escolha de entrevistadores e intérpretes de forma sensível ao género. Segundo o Departamento Jurídico do CPR e o SEF, a identificação de um sobrevivente de tortura e/ou violência grave pode afectar a **avaliação da credibilidade** e a **aplicação do princípio do benefício da dúvida**.

A **possibilidade de apresentar antecipadamente relatórios médicos** para adiar a entrevista de determinação é bastante limitada devido à inexistência de um mecanismo eficaz de identificação precoce e ao reduzido hiato temporal entre o pedido de asilo e a entrevista. Contudo, o Departamento Jurídico do CPR partilha relatórios médicos relevantes disponíveis com as autoridades mediante consentimento do requerente de asilo. A emissão destes relatórios médicos não é uma prática rotineira do CHPL, mas pode ser feita mediante pedido. O CHPL refere que não recebe informação das autoridades acerca do impacto na prática de tais documentos. O Departamento Jurídico do CPR nota que, em alguns casos, apesar de pessoas vulneráveis terem sido identificadas e ter sido emitido relatório médico atestando a sua condição por psiquiatras, a autoridade responsável pela apreciação do pedido de asilo decidiu realizar a entrevista. Acerca deste assunto, o SEF afirmou que *“a pessoa será sujeita a entrevista caso não exista a certeza de que a sua saúde mental prejudica o exercício dos seus direitos e cumprimentos dos seus deveres.”* Ainda segundo o SEF, o adiamento da entrevista pressupõe que o relatório médico confirme claramente a limitação da capacidade para exercer os direitos e cumprir as obrigações decorrentes da Lei do Asilo, a necessidade de apoio médico, bem como uma previsão de quando o requerente estará capaz de realizar a entrevista, se necessário acompanhado por um especialista de saúde mental, por forma a evitar atrasos excessivos no procedimento.

Uma das queixas mais frequentes de requerentes de asilo vulneráveis acompanhados pelo CHPL é a **duração do procedimento de asilo**, que é geradora de incerteza.

De acordo com os entrevistados (CPR, SEF Aeroporto de Lisboa e SEF-GAR), a aplicação de garantias a **requerentes de asilo no contexto de procedimento Dublin** não apresenta diferenças por relação com os demais procedimentos. Adicionalmente, o SEF refere que *“quando é um caso de especial vulnerabilidade, o SEF pode decidir não aplicar Dublin”*, embora tal constitua uma mera pos-

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sibilidade cuja concretização é dificultada pela inexistência de uma ferramenta ou mecanismo de identificação precoce. No caso específico da **detenção** na fronteira, não existem orientações operacionais para a libertação de sobreviventes de tortura e/ou violência grave na fronteira. Segundo o SEF, os requerentes particularmente vulneráveis, incluindo os sobreviventes de tortura e/ou violência grave, podem ser libertados e encaminhados da fronteira para o Centro de Acolhimento do CPR na presença de indicadores relevantes. Segundo o CPR, contudo, tal não é implementado de forma sistemática no caso dos sobreviventes de tortura e/ou violência grave. No caso de indivíduos detidos no CIT Porto – UHSA, o processo de afastamento coercivo/expulsão é suspenso após a identificação como sobrevivente de tortura e/ou vítima de violência grave e o requerente é sinalizado ao SEF - GAR para efeitos de procedimento de asilo. Neste caso o tribunal competente é informado do pedido de asilo, para efeito de suspensão do processo de afastamento, bem como de possíveis vulnerabilidades/trauma que possam ser relevantes no contexto da revisão da detenção. Contudo, na prática, o requerente de asilo permanece detido pois a decisão judicial raramente determina a respectiva libertação. Relativamente ao **programa de recolocação**, aplicam-se as mesmas garantias com a diferença de se receber informação dos hotspots na Grécia e em Itália antes da chegada dos requerentes de asilo; todavia, essa informação não abrange necessariamente as necessidades processuais especiais dos cidadãos recolocados. As entidades que acolhem requerentes de asilo recolocados declararam não ter sido questionadas pelo SEF acerca da saúde mental dos seus utentes e da sua capacidade para serem sujeitos a uma entrevista. De acordo com o SEF, caso estas entidades assinalem a existência de um problema de saúde mental que requeira cuidados médidos adequados a situação será sinalizada ao centro de saúde local. O centro de saúde deverá, nesse caso, proceder a uma avaliação do caso individual que guiará as decisões a adoptar sobre a necessidade de eventuais garantias processuais e/ou condições de acolhimento.

O Departamento Jurídico do CPR considera que a **informação e assistência jurídicas** prestadas a sobreviventes de tortura e/ou de violência grave “devem ser equivalentes às prestadas a outros requerentes de asilo” apesar de poder existir necessidade de diferenciação tendo em conta a capacidade do utente para assimilar a informação prestada.

De maneira geral, a informação recolhida junto dos prestadores de serviços durante a fase de investigação evidenciou a **existência de lacunas na prestação de garantias processuais especiais a sobreviventes de tortura e/ou violência grave**, nomeadamente:

- a) A inexistência de procedimentos operacionais padronizados e de ferramen-
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tas para identificar e monitorizar de forma precoce e eficiente as necessidades processuais especiais de sobreviventes de tortura e/ou de violência grave e para aplicar garantias processuais especiais de forma consistente, nomeadamente o adiamento de entrevistas de determinação de estatuto de refugiado;

**b)** A inexistência de procedimentos operacionais padronizados relativos à emissão, conteúdo e relevância de relatórios médicos relativos a sobreviventes de tortura e/ou violência grave no contexto do procedimento de asilo;

**c)** A inexistência de procedimentos operacionais padronizados para a libertação de requerentes de asilo sobreviventes de tortura e/ou violência grave;

**d)** A falta de conhecimento especializado e de formação entre os prestadores de serviços, dos quais decorre o risco de retraumatização, identificação inadequada de sobreviventes de tortura e/ou violência grave e das suas necessidades especiais e a reduzida qualidade dos procedimentos de determinação do estatuto de refugiado.

De acordo com os entrevistados, as **condições especiais de acolhimento** incluem necessidades específicas e necessidades que, sendo comuns a outros requerentes de asilo, têm um impacto particularmente grave em sobreviventes de tortura e/ou violência grave devido à sua especial vulnerabilidade. As **necessidades especiais de acolhimento identificadas como sendo específicas**, incluem: alojamento seguro e privado, incluindo, em casos de violência doméstica e/ou sexual, soluções de alojamento separado e sensível ao género; a identificação de eventuais vulnerabilidades de saúde mental; cuidados de saúde mental, incluindo cuidados de emergência, especializados e culturalmente sensíveis; cuidados médicos diferenciados (e.g. ginecologia, urologia, fisioterapia). As **necessidades de acolhimento que não são específicas mas que têm um impacto agravado em sobreviventes de tortura e/ou violência grave** incluem: o acesso a apoio psicossocial; acesso a medicação e transporte para consultas médicas; análise prioritária de pedidos de asilo e acesso a informação para reduzir os períodos de espera e a incerteza; acesso a interpretação e mediação cultural no contexto dos cuidados médicos; actividades recreativas em contexto de detenção que auxiliem a gestão da ansiedade e do *stress*.

**A identificação e acompanhamento de necessidades especiais de acolhimento** de requerentes de asilo em **território nacional** na prática inicia-se com uma entrevista psicossocial individual conduzida por um/a assistente social nos centros de acolhimento do CPR, à chegada e periodicamente durante a fase de admissibilidade do procedimento de asilo. De acordo com o Departamento Social do CPR, a entrevista semiestruturada visa identificar a condição física, social e psicológica do requerente e qualquer necessidade especial que a pessoa possa ter, incluindo as necessidades relacionadas com o acesso ao ensino no caso das crianças. No caso de sobreviventes de tortura e/ou violência grave, a avaliação

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pode conduzir à referenciação para o centro de saúde local do SNS para posterior encaminhamento para cuidados diferenciados, tais como o acompanhamento nas áreas de ginecologia e urologia. De acordo com a DGS, os centros de saúde locais são a porta de acesso a cuidados especializados de saúde mental e dispõem de equipas multidisciplinares (Equipas para a Prevenção da Violência entre Adultos) que são responsáveis pela identificação e acompanhamento de casos vulneráveis de vítimas de violência.

Todavia, de acordo com outras entidades (Departamento Social do CPR, SCML), à exceção dos cuidados de saúde mental para crianças no SNS, que são facilmente acessíveis, até à data, os cuidados de saúde mental ambulatoriais são prestados, maioritariamente, através de organizações voluntárias como o Centro de Apoio às Vítimas de Tortura em Portugal (CAVITOP)/CHPL, cujas equipas multidisciplinares prestam apoio psiquiátrico e psicológico especializado e gratuito mediante referenciação pelos prestadores de serviços de primeira linha como o CPR, a SCML e o JRS Portugal. A informação recolhida acerca das necessidades especiais de acolhimento dos requerentes de asilo durante a fase de admissibilidade é transmitida ao Grupo Técnico Operativo pela organização responsável pela referenciação através de um relatório individual de acompanhamento padrão. A informação será utilizada como referência para a prestação de condições de acolhimento durante o procedimento de asilo, incluindo para decidir o local onde o requerente é acolhido de acordo com a capacidade local existente e a possível isenção da aplicação da política de descentralização se o requerente já beneficiar de cuidados de saúde mental especializados (SPR, SCML, ISS). Segundo a informação recolhida, a prestação de condições de acolhimento pela Segurança Social na sequência da referenciação do Grupo Técnico Operativo é feita de acordo com os padrões acordados. Em cada distrito, há um técnico responsável pelas condições de acolhimento que reporta directamente aos serviços centrais mas os serviços da Segurança Social não dispõem de uma equipa especializada dedicada às necessidades especiais dos sobreviventes de tortura e/ou de violência grave. No caso específico da **detenção**, de acordo com a informação recolhida, parecem existir níveis variados de prestação de serviços dependendo do local de detenção. No caso de detenção no principal ponto de entrada, os detidos no aeroporto de Lisboa têm acesso a uma triagem médica básica conduzida por enfermeiros/as da CVP. Em caso de necessidade, os requerentes de asilo são encaminhados para os serviços de urgência, incluindo cuidados de saúde mental de emergência em hospitais. De acordo com a DGS, a não ser que a pessoa seja libertada do posto de fronteira e até que tal aconteça, pode sair sempre que necessário para receber cuidados de emergência ou medicação, mas não terá acesso a acompanhamento médico regular. No caso de requerentes de asilo detidos no CIT Porto – UHSA na sequência de processos de afastamento coercivo, o JRS

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Portugal nota que, apesar de não existir identificação de sobreviventes de tortura e/ou violência grave, o departamento médico é composto por médicos, enfermeiras e psiquiatras que podem identificar as necessidades e fazer encaminhamentos para o SNS. Esporadicamente, voluntários prestam também apoio aos rastreios médicos (e.g. Médicos do Mundo) e ensino.

Não obstante, a informação recolhida junto dos prestadores de serviços durante a fase de investigação revelou, igualmente, **lacunas na prestação de condições especiais de acolhimento a sobreviventes de tortura e/ou violência grave**, entre as quais se incluem:

a) A necessidade de procedimentos operacionais padronizados e ferramentas para a identificação e monitorização de necessidades especiais de acolhimento de sobreviventes de tortura e/ou violência grave;

b) A falta de conhecimento especializado e de formação entre os prestadores de serviços, das quais decorre um risco de retraumatização; identificação inadequada de sobreviventes de tortura e/ou violência grave e as suas necessidades especiais; e insuficientes serviços especializados;

c) O acesso limitado na prática a serviços de apoio multidisciplinares para vítimas de violência no SNS (Equipas para a Prevenção de Violência entre Adultos) e, de uma forma geral, a cuidados de saúde mental especializados por requerentes de asilo sobreviventes de tortura e/ou violência grave;

d) A inexistência de alternativas à detenção no âmbito do procedimento de asilo para sobreviventes de tortura e/ou violência grave, atendendo a que a detenção exacerba as vulnerabilidades, nomeadamente as respeitantes à saúde mental e a resistência a revelar eventos traumáticos transactos, o que dificulta a identificação;

e) A falta de cuidados de saúde mental, assistência psicossocial, actividades recreativas e de socialização para sobreviventes de tortura e/ou violência grave detidos na fronteira;

f) Barreiras linguísticas e culturais na prestação de cuidados de saúde (sentimentos de vergonha e relutância dos beneficiários em discutir eventos traumáticos e problemas de saúde mental; falta de intérpretes de certas línguas; relutância dos profissionais de saúde em recorrer ao serviço de tradução telefónica).

## **2) Focus Groups com os Beneficiários Finais**

Os *focus groups* (ou grupos de discussão) permitiram explorar a **percepção subjectiva dos beneficiários finais** relativamente às suas necessidades e à relação com os prestadores de serviços. Relativamente às **necessidades processuais especiais**, muitos participantes indicaram terem tido problemas de comunicação com o SEF e terem recebido informação insuficiente ao longo do procedimento de asilo. No que respeita à detenção, em particular, os beneficiários queixaram-se de negligência devido à falta de informação clara sobre as razões da detenção, os direitos individuais e os procedimentos, bem como de dificuldades de acesso a

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um advogado na fase inicial do procedimento. Os requerentes de asilo alojados em centros de acolhimento durante a fase de admissibilidade do procedimento de asilo, e aqueles que foram descentralizados por decisão do Grupo Técnico Operativo, também expressaram confusão acerca do papel e das responsabilidades do SEF, para além de revelarem um conhecimento limitado sobre as diferentes fases do procedimento. Além disso, a maioria dos participantes expressou frustração relativamente à duração do procedimento de asilo e à excessiva carga burocrática, percebidas como obstáculos à independência e integração social. Relativamente à entrevista de determinação com a autoridade decisora, alguns participantes experienciaram sentimentos de medo, desconfiança, insegurança e confusão mental devidos a problemas de comunicação, falta de informação, desconfiança em relação ao inspector do SEF e incerteza acerca do resultado da entrevista.

Os participantes dos diferentes *focus groups* identificaram necessidades de acolhimento que se revelaram idênticas independentemente da fase de permanência em Portugal. Estas incluíram, nomeadamente: o acesso a acompanhamento psicológico e social; aulas de língua portuguesa com carácter de regularidade, no sentido de promover a aprendizagem da língua e a integração sociocultural; apoio na procura de emprego; deslocações; medicação e acesso assistência diferenciada. Além disso, verificaram-se, igualmente, problemáticas distintas consoante as características dos grupos de discussão: número insuficiente de funcionários permanentes e de profissionais de saúde médica e psicológica no CAR do CPR que possam assegurar a prestação de cuidados de saúde primários (fase de admissibilidade); importância da manutenção do apoio do departamento jurídico e do departamento social do CPR (segunda fase do procedimento/requerentes descentralizados); condições de alojamento que não corresponderam às expectativas dos beneficiários devido a condições materiais inadequadas ou por falta de privacidade (recolocação); sentimentos de desespero e isolamento agravados pelas condições de detenção, comportando um risco acrescido para a saúde mental; e dificuldades adicionais na obtenção de apoio jurídico (CPR, advogado) e em contactar a família, tendo direito a apenas uma chamada telefónica de 5 minutos (detenção).

**A informação recolhida durante os *focus groups* permitiu colocar em destaque as seguintes lacunas no que concerne às necessidades de acolhimento especiais e às garantias processuais especiais:**

a) Ausência de um procedimento formal de identificação de sobreviventes de tortura e/ou de formas graves de violência, implementado de forma consistente e sistemática pelos actores-chave em Portugal, no sentido de fornecer uma base comum à avaliação de vulnerabilidades, ao seu reconhecimento e ao tratamento ou reabilitação subsequentes;

b) Carência de apoio de equipas multidisciplinares constituídas por profis-

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sionais especializados nas instituições de acolhimento, bem como problemas de articulação entre serviços, internos e externos, e nos encaminhamentos para serviços especializados;

c) Dificuldades no acesso a apoio psicológico de continuidade, de forma a promover o bem-estar emocional, a reabilitar e a tratar os problemas psicológicos dos beneficiários, nomeadamente associados ao trauma;

d) Dificuldades no agendamento de atendimentos sociais com técnicos de serviço social das entidades de acolhimento ou do ISS, não obstante a existência de pontos de contacto do ISS para o acolhimento ao nível local que, segundo este, tornam estas dificuldades esporádicas;

e) Lacunas no acesso a tradutores profissionais que possam ajudar os beneficiários a comunicarem com os serviços de apoio, tanto internos como externos (serviços sociais, jurídicos, médicos e psicológicos);

f) Apoio insuficiente das entidades de acolhimento no que concerne a deslocações e medicação (apoio prático e económico); acesso a serviços externos (jurídico, psicológico e médico), integração comunitária e procura de emprego (apoio prático e técnico);

g) Número insuficiente de aulas de língua Portuguesa e interrupção das aulas, conduzindo a uma aprendizagem deficiente e a dificuldades acrescidas de integração social;

h) No caso da recolocação, incapacidade de resposta dos funcionários e técnicos para resolver conflitos interpessoais que possam representar factores de re-traumatização para os beneficiários implicados, bem como falta de apoio generalizado por parte da entidade de acolhimento no sentido de dar resposta às necessidades e problemas que surgem;

relativamente ao procedimento de asilo, aos direitos dos requerentes e às responsabilidades das autoridades portuguesas;

j) Condições de detenção desadequadas no posto de fronteira, incluindo por razões de saúde pública associadas à sobrelotação do Centro de Instalação Temporária (CIT) do Aeroporto de Lisboa; número insuficiente de rastreios de saúde; dificuldades de comunicação com os inspectores do SEF e os funcionários do CIT; disponibilização limitada de informação por parte do SEF; falta de actividades ocupacionais (por exemplo: livros, jogos e espaços abertos no CIT); dificuldades no acesso a serviços de apoio jurídico, psicológico e médico.

### **Recomendações**

**1) Implementar procedimentos operacionais padronizados e ferramentas de avaliação com vista à identificação de sobreviventes de tortura e/ou de formas graves de violência e das suas necessidades especiais, no âmbito do procedimento de asilo e das condições de acolhimento, como requisito para uma**

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avaliação sistemática das necessidades especiais e disponibilização adequada de condições de acolhimento e garantias processuais especiais. Os procedimentos deverão assegurar de forma eficaz a troca de informação e a colaboração entre os atores-chave relevantes, quer ao nível local quer ao nível central. No caso da recolocação, poderá ser benéfico identificar os sobreviventes de tortura e/ou de formas de violência grave, bem como das suas necessidades especiais, previamente à chegada a Portugal.

**2) A formação na área do trauma e da comunicação intercultural deverá ser disponibilizada aos profissionais que trabalham no procedimento de asilo ou na prestação de condições de acolhimento a requerentes de asilo e beneficiários de proteção internacional**, de forma a promover a aquisição e o desenvolvimento de competências de avaliação e de redução do risco de re-traumatização dos beneficiários, capacitando os profissionais para a realização de primeiros socorros psicológicos e de encaminhamento dos sobreviventes de tortura e/ou de formas de violência grave para os serviços de apoio especializados.

**3) Aplicar procedimentos operacionais padronizados no âmbito das garantias processuais especiais** de sobreviventes de tortura e/ou formas graves de violência durante o procedimento de asilo, nomeadamente no que concerne ao adiamento das entrevistas de determinação de estatuto de refugiado, aos relatórios médicos de apoio e às alternativas à detenção.

**4) Os requerentes de asilo e os beneficiários de proteção internacional deverão ter acesso efectivo a equipas multidisciplinares especializadas na prestação de apoio personalizado a sobreviventes de tortura e/ou de formas graves de violência, ao longo de todo o procedimento de asilo.** A abordagem holística é fundamental na resposta às necessidades especiais dos beneficiários, sendo que as equipas multidisciplinares deverão ser compostas por profissionais qualificados, incluindo médicos, enfermeiros, psicólogos, psiquiatras, juristas, técnicos de serviço social e pessoal auxiliar como intérpretes e mediadores culturais com formação na área. Para este efeito, os prestadores de serviços públicos e privados relevantes deverão dispor da capacidade e financiamento adequados.

Neste âmbito, a prestação de serviços de psicologia especializados, disponibilizados por psicólogos capacitados para a intervenção na área do trauma psicológico, deverá ser assegurada nos centros e entidades de acolhimento e nos serviços públicos em todo o território nacional. Estes profissionais de saúde mental estão particularmente aptos a realizarem uma avaliação das necessidades específicas dos beneficiários e a delinear planos de reabilitação personalizados, podendo desempenhar um papel importante na preparação para a entrevista de determinação com as autoridades decisoras. Por último, dever-se-á promover o acesso dos sobreviventes de tortura e/ou de formas de violência grave às Equipas de Prevenção de Violência entre Adultos do SNS.

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**5) Ao longo do procedimento de asilo deverá ser disponibilizado aos sobreviventes de tortura e/ou de formas de violência grave alojamento com condições de privacidade e segurança, de forma a acautelar eventuais vulnerabilidades de saúde mental e riscos de segurança relacionados, entre outros, com a violência doméstica e o tráfico de seres humanos. As actividades de desenvolvimento pessoal (e.g. aprendizagem da língua, actividades socioculturais, actividades de expressão artística, etc.) desempenham um papel importante na reaquisição de uma sensação de controlo e promovem o bem-estar emocional dos beneficiários.**

6) No procedimento de asilo, deverão ser implementadas **alternativas à detenção para sobreviventes de tortura e/ou de formas de violência grave**, uma vez que a detenção exacerba as vulnerabilidades pré-existentes, incluindo as relativas à saúde mental do requerente e uma maior resistência à partilha de eventos traumáticos ransactos, dificultando desta forma o processo de identificação.

**7) Disponibilizar formação a intérpretes e mediadores culturais que actuam em contexto de intervenção psicossocial, apoio psicológico e apoio jurídico.** Devido à barreira linguística, estes são essenciais ao sucesso da comunicação entre os beneficiários e os prestadores de serviços. Neste sentido, será da maior importância que também sejam formados na área do trauma, inclusive no que diz respeito às questões e regras do *setting* terapêutico. Além disso, deverão beneficiar de supervisão e apoio especializado para a prevenção do *stress* e dos riscos psicossociais associados à exposição a estímulos sensíveis e agressivos durante a prestação de serviços aos beneficiários finais.

## Chapter 5

# Project Products

This chapter comprises those project products that were designed as operational tools for staff working with survivors and/or violence in different stages and field or context of procedure and reception (Common Basic Standards and Questionnaire for the Assessment of Special Needs of Survivors and/or Serious Violence) and an inspirational tool for state authorities and policy makers (ten Best Practices).

The project produced, as a part of the advocacy activities, a short film representing the experience of a torture victim since his tacking in charge by the legal, social, psychological and psychiatric services. His story is intended to represent how a multidisciplinary approach to the assistance may have successful impact on the protection, rehabilitation and integration of these vulnerable beneficiaries. The video is in English and the subtitles are translated in partners' national languages.

Six toolkits summing up the main results of the national research work and the final publication have been produced for advocacy activities in partner countries. The toolkit is produced in a format of a leaflet and in national languages.

### 5.1 Best practices

In this section 10 best practices concerning procedures and mechanisms to assess and meet the special needs of the target group are described. Member States may use these practices as a basis and an inspiration, and may adopt them to better assess and meet the special needs of survivors of torture and/or serious violence in their own territory.

In the selection of the practices, particular attention was given to cooperation among public institutions and civil society organisations, and on rehabilitation services. In addition, relevance was given to practices embracing a holistic approach.

During the previous phases of the project, each partner gathered a number of good practices from their national asylum systems. From these, the Lead agency, together with partners, selected the 10 best practices, on the basis of those that



were the most relevant and transferable to other European countries. In the description of each practice, its added value and innovative nature in relation to the special needs of survivors of torture and serious violence have been underlined.

The practices could either be de facto practices or practices stemming from the law, and relevant to the asylum procedure, reception conditions, and rehabilitation services. Some practices are cross-cutting since they are applicable throughout the whole asylum procedure.

Some of the best practices identified at national level have been recently applied. Although innovative and promising to address the special needs of survivors of torture and/or serious violence, they are not yet consolidated and tested.

One of the best practice (N.I.R.A.S.T.) is no more operational due to the lack of public resources. However in consideration of its potential in implementing safeguards for our target group and the efficacy of its method of assessment and treatment of survivors of torture and/or serious violence it is desirable that it is reactivated. For this reason it is included in this report.

It is underlined that, although the 10 selected practices cannot be considered the ‘best practices’ in absolute terms, including because of the gaps that exist in their implementation, they are nonetheless considered ‘best practices’ among those identified throughout the project activities. Any best practice included here is intended to inspire policy makers and legislative bodies.

1. Italy<sup>87</sup> – Counselling services at the borders

Thematic area	Procedure	Reception	Health	Social
	X			
Description of the national context where the good practice takes place	<p>The European Reception Conditions Directive (2013/33/EU) was implemented in Italy with Legislative Decree 142/15. Articles 17 and 21 specifically take into account the situation of vulnerable persons (including persons who have been subjected to torture, rape or other serious forms of psychological, physical and sexual violence) by setting up suitable dedicated and specific measures and procedures for their identification, treatment and reception. The Proposal for the Reception Directive [COM (2016) 465 final 2016/0222 (COD)] also provides for a duty of early identification and protection of persons with special reception needs (Articles 20 and 21).</p> <p>The Procedures Directive (2013/32/EU) states, in Article 8, that, “<i>where there are indications that third-country nationals or stateless persons held in detention facilities or present at border crossing points, including transit zones, at external borders, may wish to make an application for international protection, Member States shall provide them with information on the possibility to do so</i>”. The Directive states also that, “<i>in those detention facilities and crossing points, Member States shall make arrangements for interpretation to the extent necessary to facilitate access to the asylum procedure</i>”. The Commission’s proposal for an asylum procedure regulation COM (2016) 467, in Article 30, confirms the need for competent authorities to inform the persons who might need international protection of the possibility to apply for it, in particular in relation to unaccompanied minors, persons who, due to mental or other disorders, are unable to ascertain a need for international protection, or of persons arriving from specific countries of origin.</p> <p>Long before the EU introduced the rules on information at the border crossing points, the Italian Legislative Decree 286/1998 (Immigration Law) provided, in Article 11 subsection 6, that persons - present at border crossing points,</p>			

<sup>87</sup> Written by the Italian Council for Refugees

	<p>including transit zones – who want to apply for asylum, shall be guaranteed information on the procedure. The Decree of the Ministry of the Interior dated 2 May 2001 provides that <i>“asylum and - in general - support to aliens who <b>intend</b> to ask for protection is the main objective of the border service”</i>. The most vulnerable cases, such as unaccompanied minors, women victims of violence or persons who have suffered from torture and in general foreigners in need, are the main categories that shall be assisted at the border.</p> <p>With regard to the disembarkation areas for sea arrivals, following the European Agenda on Migration issued in May 2015, the Italian Ministry of Interior published the Italian Roadmap, a political document outlining the activities related to the implementation of the ‘EU hotspot approach’ in Italy.</p> <p>At the beginning of June 2016, the Italian Ministry of the Interior published the Standard Operating Procedures (SOPs) applicable to all the Italian hotspots and other disembarkation areas where the hotspot approach is applied. According to point B.2. (‘Access to Hotspots’) <i>“Authorised humanitarian organisations shall provide support to the Italian authorities for the timely identification of vulnerable persons who have special needs, and shall carry out information activities in accordance with their respective mandates.”</i> UNHCR and IOM have access to landing areas as well as to the hotspots to support the authorities in the timely identification of persons with special needs. EASO is also involved in the identification and referral of vulnerable persons.</p>
<p>Brief description of the Good Practice</p>	<p>According to Italian law, NGOs are allowed to provide counselling to asylum seekers arriving at airports/ports – transit area included – at official border points. This means that asylum seekers can have, under specific circumstances, direct access to the border services as soon as they arrive on Italian territory. This norm gave rise to a conflicting interpretation due to the fact that, for example, in seaports, a transit area is hard to identify and the law contains no indication on whether the service is to be established before entry point checks or not.</p> <p>In the above services, NGOs should ensure legal and social</p>

	<p>counselling, interpretation service, search for accommodation, contact local authorities/services, and produce and distribute information documents on specific asylum issues directed to both asylum seekers and border police. To ensure a service managed by expert and experienced organisations, the Prefecture generally launches a call for proposals and the service is run by the NGO awarded the contract.</p> <p>Generally, NGOs have more experience in identifying torture survivors and their needs; their presence allows easier recognition of special needs and the referral to the services on the territory. Furthermore, NGOs staff are often in a better position than immigration authorities to establish a relation based on trust and understanding with protection seekers, who arrive in stressful condition.</p> <p>Although these services need to be improved in terms of funds, staff and the possibility to have a full access to transit areas and to all asylum seekers, the presence of NGOs at the border crossing points should be considered as a good practice. Border services should be provided for by national law. Member States should be required to organise services for legal counselling and first reception of asylum seekers arriving at borders.</p>
<p>Main target group(s)</p>	<ul style="list-style-type: none"> <li>– Member States;</li> <li>– NGOs;</li> <li>– Legal services;</li> <li>– Asylum seekers, refugees, survivors of torture and/or serious violence.</li> </ul>
<p>Description of the relevance/added value/innovative nature of the practice for the identification, assessment and/or response to the special needs of survivors of torture and serious violence</p>	<p>As far as service at borders is concerned, the presence of NGOs allows direct contact with asylum seekers and Dublin cases, which may in turn facilitate the identification of torture survivors and the assessment of their special needs. At the borders, special needs are still difficult to meet: nonetheless a referral mechanism can refer the person to tailored services on the territory. Such a referral is pivotal for avoiding inadequate reception conditions for the persons identified as a vulnerable.</p> <p>Qualified multi-agency presence in disembarkation areas enables exchange of experiences and fosters synergies among all the actors involved. Also, having staff from different entities – including from the body managing the hotspot –</p>

	<p>working in synergy and specialized in identification of special needs, is a deserving attempt to fill the gap caused by the emergency situation and the massive presence of persons under distress from the journey.</p>
<p>Give reasons why you consider the practice as having concrete impact (on refugees, public opinion, stakeholders)</p>	<p>Monitoring and referral of vulnerable cases to the Prefecture in order to provide accommodation in appropriate reception centres.</p> <p>Reduced risk of refoulement for asylum seekers, who benefit from the possibility of being heard by independent and qualified staff who may be trained on the identification and or referral to competent authorities in order to find reception centres with adequate services to meet his/her specific needs.</p> <p>The Dublin Regulation provides for the duty of Member States to transmit any relevant information that is essential in order to safeguard the rights and immediate special needs of the person to be transferred (including regarding any immediate health care that may be required, contact details of family member and, in case of minors, information on their education together with an assessment of the applicant’s age). However, this may not happen in practice. In these cases the service providers at the border may identify survivors of torture and/or violence and contact the competent authorities to find a more adequate accommodation solution, instead of the one already planned on the basis of the wrong or lack of information.</p> <p>In the framework of the access to the asylum procedure at the disembarkation areas, it has been observed that early identification of special needs is hampered by the emergency situation and large scale of arrivals. However, a multi-agency presence with specific focus and expertise on identification of special needs and referral of vulnerable persons has to be considered as a good practice - at least in case of specific needs of visibly vulnerable persons.</p> <p>Directive 2013/32/EU Article 8 “<b>Information and counselling in detention facilities and at border crossing points</b>”. The Directive provides that:</p> <p><i>“1. Where there are indications that third-country nationals or stateless persons held in detention facilities or present at</i></p>

	<p><i>border crossing points, including transit zones, at external borders, <u>may wish to make an application for international protection, Member States shall provide them with information on the possibility to do so</u></i>".</p> <p><i>"2. Member States shall ensure that organizations and persons providing advice and counselling to applicants have effective access to applicants present at border crossing points, including transit zones, at external borders"</i>.</p> <p>The Commission's proposal for an asylum procedures Regulation COM (2016) 467 keeps the provision to inform third country-nationals and stateless persons on the possibility to ask for international protection. However, Article 30 also states that border guards at border crossing points shall inform third country-nationals and stateless persons who may need international protection. Although this provision relies excessively on subjective assessment of the officials regarding the need of international protection for the person concerned, possibly creating a high level of discretion, it is positive wherein it states that NGOs and persons <i>"providing advice and counselling shall have effective access to third-country nationals held in detention facilities or present at border crossing points, including transit zones, at external borders"</i> (Article 30 par. 3).</p> <p>In the long term, co-operation between NGO staff and competent authorities could lead to the empowerment of professionals of public and private institutions in the assessment and treatment of the target group (e.g. border police and/or NGOs and other stakeholders involved in the asylum process). In addition, field-based NGOs can provide professionals and trained staff.</p>
<p>Indicate similar experiences in other countries</p>	<p>Specialized services in airports are also present in <b>France</b> and <b>Portugal</b>.</p> <p>In <b>France</b>, any person working in waiting zones can report a vulnerable situation of an asylum seeker to the waiting zone director, who will then communicate this information to the OFPRA, if the applicant agrees thereto. However, the law does not completely prevent the examination of vulnerable asylum seekers' claims under border procedures. The NGOs Anafe and Croix-Rouge are physically present at the waiting</p>

	<p>zone of Roissy airport, where the physical presence of NGO case workers is permanently ensured.</p> <p>In <b>Portugal</b> the Aliens and Borders Service (SEF – Serviço de Estrangeiros e Fronteiras) is legally required to inform the UN High Commissioner for Refugees (UNHCR) and the Portuguese Refugee Council (CPR - Conselho Português para os Refugiados) as its representative of all asylum applications. The CPR provides legal information and assistance to asylum seekers throughout the asylum procedure including in detention centres and at border points and promotes the release and follow-up referrals of particularly vulnerable asylum seekers.</p>
<p>Explain, if applicable, how the practice involves beneficiaries and stakeholders in the design, planning, evaluation, review assessment and implementation of the practice.</p>	<p>Beneficiaries are the direct recipients of the service, without which no adequate assistance can be provided. Stakeholders are responsible to provide correct and tailored information to vulnerable persons in order to ensure a valid referral to proper services.</p>

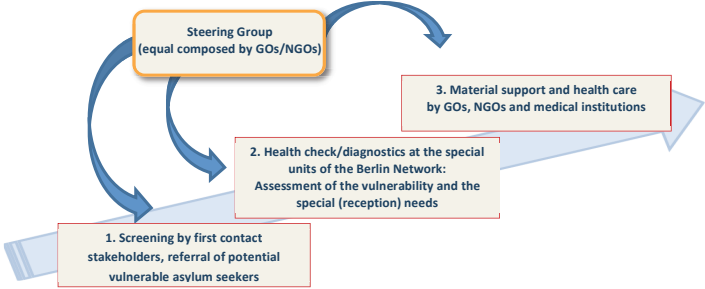
2. Germany<sup>88</sup> - **Berlin Network for particular vulnerable refugees (BNS). Mainstreaming approach to address special needs through Cooperation, Training and Counselling.**

Thematic area	Procedure	Reception	Health	Social
		X	X	x
Description of the national context where the good practice takes place	<p>Article 21 of the European Reception Conditions Directive 2013/33/EU recommends Member States to specifically take into consideration the situation of vulnerable groups, including people who have been subjected to torture, rape or other serious forms of psychological, physical and sexual violence. Attention is given also to those who have disabilities, pregnant women or are single parents with a minor child. Member States shall offer these persons the necessary health services including psychological treatment and counselling (Article 19 II of the Directive 2013/33/EU).</p> <p>Article 22 of the Reception Directive, provides that “<i>Member States shall assess whether the applicant is an applicant with special reception needs. Member States shall also indicate the nature of such needs.</i>” This identification or assessment “<i>shall be initiated within a reasonable period of time after an application for international protection is made</i>”, but it should also be possible at a later stage of the asylum procedure.</p> <p>In Germany, the Federal system allocates the responsibility of the asylum procedure to the Federal Ministry of the Interior (Federal Office for Migration and Refugees) and the responsibility of the reception of asylum seekers to the 16 States, which have 16 different Reception Systems. After distribution throughout the 16 States, asylum seekers are further distributed in the counties and local communities. In this context, the Network operates in the State of Berlin (local/regional) but it is recognized as a best practice example in other States in Germany.</p>			
Brief description of the Good Practice	<p>The good practice is implemented in one of these 16 States, the State of Berlin, where in 2015 about 57,000 persons and in 2016 about 27,000 persons applied for asylum.</p>			

<sup>88</sup> Written by Zentrum Überleben gGmbH.



	<p>In 2008, the Berlin Network (BNS) for particularly vulnerable refugees was founded. At present, BNS is composed of seven different non-governmental organisations. Every BNS-member focuses on a specific group of asylum seekers with special needs, such as persons with disabilities, minors or survivors of torture. The network benefits from the specialised and specific competence of each BNS member</p> <p>The BNS members, in cooperation with the Senate administration for social affairs, developed a procedure to identify vulnerable refugees in the State of Berlin. The procedure is based on the idea that dealing appropriately with asylum seekers with special needs should be a mainstream issue of the reception system in Berlin. The network therefore offers training regarding the legal context (EU Directives and national laws), and contributes to the identification of possible symptoms of psychological problems, like trauma or depression. Beneficiaries of these trainings are early-stage stakeholders working in governmental and non-governmental organisations or volunteers who come in contact with asylum seekers shortly after their arrival. These professionals and volunteers are then able to identify symptoms that <i>could</i> indicate special needs. Asylum seekers would then be referred to specialized organisations within the network. The task of identification is thus split up into the two parts ‘Identification of symptoms’ and ‘Identification of diseases through diagnostics’.</p> <p>The Berlin Network member organisations will perform a health check and further psychological diagnostics if necessary. In the course of 3 to 5 counselling meetings, the individual’s special needs will be evaluated. After that, the persons will receive further help in obtaining the material support and the health care they require. The organisations may refer to follow up treatments if possible offered by service providers that are not members of BNS.</p> <p>A central characteristic and basis of this procedure is the cooperation between governmental and non-governmental stakeholders to secure the implementation of Articles 19(1) and (2), 21 and 22 of the Reception Directive. However,</p>
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	<p>implementation will not be wholly fulfilled until the overall reception system of Berlin incorporates the concept of identification as a mainstream issue in every field and stage of reception.</p> <p>There are special units (organisations) for:</p> <ul style="list-style-type: none"> <li>• Traumatized persons and survivors of violence (two organisations, one is Center UEBERLEBEN)</li> <li>• Persons with disabilities and physical sickness</li> <li>• Pregnant and single women with minor children</li> <li>• (Unaccompanied) minors and children</li> <li>• LGBTI* refugees</li> </ul> <p><u>Berlin Procedure to Identify Vulnerable Refugees</u></p> 
<p>Main target group(s)</p>	<ul style="list-style-type: none"> <li>• Traumatized persons and survivors of violence (torture)</li> <li>• Persons with disabilities and physical sickness</li> <li>• Pregnant and single women with minor children</li> <li>• (Unaccompanied) minors</li> <li>• LGBTI* refugees</li> <li>• All other asylum seekers with special needs</li> </ul>
<p>Description of the relevance/added value/innovative nature of the practice for the identification, assessment and/or response to the special needs of survivors of torture and serious violence</p>	<p>Through the trainings and meetings of all network partners, the issue of vulnerability is become well-known among all stakeholders in the reception system and the identification of special needs is becoming a mainstream issue. The process of identification is split in two parts, ‘Identification of signs for possible special needs’ (symptoms, etc.) and ‘Identification itself’ through diagnostics and reports by professionals.</p> <p>The cooperation of governmental and non-governmental stakeholders is the basis for this.</p>

<p>Give reasons why you consider the practice as having concrete impact (on refugees, public opinion, stakeholders)</p>	<p>The Berlin Procedure provides capacity building and training to relevant stakeholders in the Berlin reception system. Through the cooperation between governmental and non-governmental stakeholders, different capacities and experiences are combined in a unique procedure. This reflects the fact that the reception and integration of refugees is a complex task the whole society is responsible for. This cooperation also resulted in an openness of the Berlin Senate to declare a further group (LGBTI*) as asylum seekers with special needs. As early as 2013, the first shelter for vulnerable groups was established.</p> <p>The Berlin Procedure had concrete impact on the early identification of vulnerable asylum seekers who had been victims of torture, and the provision of adequate treatment. In this respect, BNS strongly contributed to raising awareness on the needs and special situations of asylum seekers. On this basis, new concepts in the treatment of traumatized persons (following violent experiences, such as torture) were developed.</p> <p>The "Berlin Model" is applicable to other European areas, this requires the willingness of decision-makers to hand over key-responsibilities of the identification of vulnerable asylum seekers like survivors of torture through psychological counselling and the assessment of their special needs to specialised NGOs.</p>
<p>Indicate similar experiences in other countries</p>	<p><b>In Italy</b>, a qualified multi-agency presence in synergy with public health bodies (e.g. INMP – National Institute for the Promotion of the Health of Migrants, Local Health Units, etc.) is guaranteed at disembarkation areas. It allows direct contact with newly-disembarked migrants and potential asylum seekers and, in principle, it may facilitate the identification of torture survivors as well as the assessment of their special needs. Although special needs are difficult to be met at the border, referral mechanisms can address the person to tailored services in the territory. Such referrals may be pivotal for avoiding inadequate reception for the person identified as a vulnerable.</p> <p><b>In Portugal</b>, a partnership agreement was established among public and civil society stakeholders, which provides for a Steering Commission presided by the Institute of Social Security. The latter is assisted by a Technical Operative Group (TOG) tasked, among others, with insuring operational</p>

	<p>guidance and coordination of reception and integration services provided to spontaneous asylum seekers and resettled refugees at central and local levels. Within the framework of this partnership agreement (Memorandum of Understanding), there is a collaborative work in facilitating access of survivors of torture and violence to specialised mental health care, operated by some of its partners and the Centre for the Support of Torture Victims in Portugal.</p> <p>The medical team of the rehabilitation service is composed of a multidisciplinary team that includes psychiatrists, psychologists, social workers and nurses. It provides free and specialised psychiatric and psychological care upon referral from frontline service providers, such as the Portuguese Refugee Council (CPR), Santa Casa da Misericórdia de Lisboa or JRS Portugal. Group therapy and follow-up individual consultations currently take place at Lisbon’s Psychiatric Central Hospital (CHPL). The timing of these sessions and consultations varies, depending on the clients’ individual needs. Furthermore, the information collected by the referring organizations regarding the special needs of survivors of torture and violence, together with the follow-up mental health care provided by the rehabilitation service, is duly reflected in the individual monitoring report used by the TOG to assess and devise individual integration plans.</p>
<p>Explain, if applicable, how the practice involves beneficiaries and stakeholders in the design, planning, evaluation, review assessment and implementation of the practice.</p>	<p>N/A</p>

3 - Germany<sup>89</sup> - **TAFF project – Therapeutic Support for Asylum Seekers in Rural areas**

Thematic area	Procedure	Reception	Health	Social
		X	X	
Description of the national context where the good practice takes place	<p>Article 21 of the EU Reception Conditions Directive 2013/33/EU recommends Member States to specifically take into consideration the situation of vulnerable groups, including people who have been subjected to torture, rape or other serious forms of psychological, physical and sexual violence. Attention is given also to those who have disabilities, pregnant women or are single parents with a minor child. Member States shall offer these persons the necessary health services including psychological treatment and counselling (Article 19 II of the Directive 2013/33/EU).</p> <p>Article 22 of the Reception Directive, provides that <i>“Member States shall assess whether the applicant is an applicant with special reception needs. Member States shall also indicate the nature of such needs.”</i> This identification or assessment <i>“shall be initiated within a reasonable period of time after an application for international protection is made”</i>, but it should also be possible at a later stage of the asylum procedure.</p> <p>In Germany, the Federal system allocates the responsibility of the asylum procedure to the Federal Ministry of the Interior (Federal Office for Migration and Refugees) and the responsibility of the reception of asylum seekers to the 16 States, which have 16 different Reception Systems. After distribution throughout the 16 States, asylum seekers are further distributed in the counties and local communities.</p>			
Brief description of the Good Practice	<p>The situation in other States is different from the situation in Berlin. In rural areas treatment of traumatized persons, such as survivors of torture, is more difficult to secure than</p>			

<sup>89</sup> Written by Zentrum Überleben gGmbH.

	<p>in urban areas such as the City State Berlin.</p> <p>The ‘TAFF Project – Therapeutic Support for Asylum Seekers’ started in 2014 to set-up structures to support, care and treat traumatized asylum seekers in the rural areas of Bavaria. After a research phase, two Bavarian rural counties were chosen, in which the given structures and services were selected to find those services among them that could be used as resources in the treatment of traumatised asylum seekers and torture survivors.</p> <p>The aim was to secure therapeutic support, including adequate translation, in these areas and to keep travelling distances short for the persons of concern. Therefore, in each of the two counties coordinating contact offices were established. The employees were responsible for local networking with potential therapists and translators, and to pool as many experts as possible. The contact offices offered information and legal support to these experts, through training in work with asylum seekers. They also offered training to the translators.</p> <p>Furthermore, round-tables were organised with the pooled networks and the local administration to close gaps in information and to develop a common strategy.</p> <p>Finally, the contact offices are also responsible for contact with the beneficiaries. Through the contact offices they are able to arrange appointments with therapists who are close to them.</p>
Main target group(s)	<ul style="list-style-type: none"> <li>• Traumatized persons (survivors of violence torture)</li> </ul>
Description of the relevance/added value/innovative nature of the practice for the identification, assessment and/or response to the special needs of survivors of torture and serious violence	<p>This is an example of how a good practice can also be developed in rural areas.</p>
Give reasons why you consider the practice as having concrete impact (on	<p>The crucial problems in rural areas are the difficulty in securing sufficient quantity of adequate therapeutic support, including qualified translation, and the consequent long distances the beneficiaries need to travel to receive</p>

<p>refugees, public opinion, stakeholders)</p>	<p>such support.. The TAFF project focuses on all crucial aspects of this problem. It contributes in building a structure to shorten the ways and lower the burdens for the beneficiaries to get treatment.</p> <p>The practice is transferrable to other rural areas of Germany and Europe that present a similar problem. Existing therapeutic structures in such areas might be used also for vulnerable asylum seekers like survivors of torture and/or other serious violence, provided that appropriate and specific training is provided to staff and the service network is adequately implemented and local contact offices be installed to facilitate the process.</p>
<p>Explain, if applicable, how the practice involves beneficiaries and stakeholders in the design, planning, evaluation, review assessment and implementation of the practice.</p>	<p>Beneficiaries were not directly involved. However, therapists, local decision makers, administration officers, coordinators discussed the situation and the needs of beneficiaries within roundtables held on a regular basis. In such discussions mostly therapists formulated the needs they identified during the direct contact with the beneficiaries, on the basis of which structural issues were also raised and addressed.</p>

4. Greece<sup>90</sup> - **Prometheus II project. Holistic, multidisciplinary, networking and public awareness for the Survivors of Torture**

Thematic area	Procedure	Reception	Health	Social
	X	X		X
Description of the national context where the good practice takes place	<p>The Reception Conditions Directive (2013/33/EU), implemented in Greece with the Law 4375/2016, recommends Member States, in Articles 17 and 21, to specifically take into account the situation of vulnerable persons (including persons who have been subjected to torture, rape or other serious forms of psychological, physical and sexual violence) by setting up suitable dedicated and specific measures and procedures for the identification, treatment and for the reception of such persons. The Proposal for the Reception Conditions Directive (Recast) also provides for a duty of early identification and protection of persons with special reception needs.</p> <p>In Greece, the identification of torture victims is still a challenge for the Greek authorities. Nevertheless, in Athens the Project Prometheus II ‘Strengthening the Rehabilitation of Victims of Torture in Greece Home/2014/Part/6542’ by the NGO Greek Council for Refugees, the Organization Syneirmos/Babel with the cooperation of Medecins sans Frontieres managed to support and assist a considerable number of survivors of torture.</p>			
Brief description of the Good Practice	<p>The project provided socio-legal and psychological support through a holistic inter- and multidisciplinary approach. All professionals organized weekly mentoring and specialized seminars and meetings in order to work for the best interests of the survivors based on their needs. The social workers, psychologists and psychiatrics prepared for the determining authorities individual reports on each individual. Two seminars were organised for the determining authorities of first and second instances. As a result, in some instances, the determining authorities became more sensitive to the special needs of victims of torture.</p> <p>Besides the holistic and inter and multidisciplinary approach,</p>			

<sup>90</sup> Written by the Greek Council for Refugees



	mentoring by Professor Renos Papadopoulos played a key role in the project's success and the professional team's unity. A documentary film " <i>Those who survived – Stories of Dignity</i> " played a crucial role to raise awareness for victims of torture: <a href="http://thosewhosurvived.smallplanet.gr/">http://thosewhosurvived.smallplanet.gr/</a>
Main target group(s)	<ul style="list-style-type: none"> <li>- Determining authorities of the first and second instances;</li> <li>- The general public;</li> <li>- Asylum seekers; refugees; torture survivors</li> </ul>
Description of the relevance/added value/innovative nature of the practice for the identification, assessment and/or response to the special needs of survivors of torture and serious violence	<p>All professionals, including lawyers, may play a therapeutic role for a survivor of torture. Through the weekly meetings of all professionals the 'puzzle' of the torture victim's story could get completed as possible as it could be. Thanks to a multidisciplinary methodology, a new culture of approach to the survivor of torture was established, based on her/his special needs and her/his priorities.. Furthermore, this kind of approach enriched the abilities of all professionals. The best interests of the victims of torture, a principle borrowed from the UN Convention on the Rights of the Child, was discussed by the entire team for every case on a weekly basis.</p> <p>In addition to what described, the interdisciplinary équipe could benefit from a common "recognized" supervision, which facilitates the developing of a common/shared language and practise within all the équipe members.</p>
Give reasons why you consider the practice as having concrete impact (on refugees, public opinion, stakeholders)	<p>The project provided capacity-building to determining authorities, based on the holistic multi- and inter-disciplinary approach.</p> <p>This had a concrete impact on the early identification of vulnerable asylum seekers who had been victims of torture and, as a consequence, allowed – in some cases – a high-quality procedure and a more effective treatment.</p>
Indicate similar experiences in other countries	<p>In <b>Italy</b>, CIR conducted projects with a similar approach, such as 'Together with Vi.to' and 'Maieutics', in which the multidisciplinary methodology was the most important element.</p>
Explain, if applicable, how the practice involves beneficiaries and stakeholders in the	<p>The practice involves stakeholders through the multi–inter-disciplinary approach. In this regard, the 'QASN' questionnaire elaborated in the frame of "Time for Needs Project" could be an important tool to promote such</p>

design, planning, evaluation, review assessment and implementation of the practice.	approach and for the evaluation of the service providers
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5. France<sup>91</sup> - **Involvement of a mental health professional during the interview before the determining authority**

Thematic area	Procedure	Reception	Health	Social
	X		X	
Description of the national context where the good practice takes place	<p>Implementing Article 15 of the Procedures Directive (2013/32/EU), the 2015 French reform of the law on asylum introduces a new procedural guarantee. With this reform, a third person (lawyer or a member of an authorized NGO) can accompany an asylum seeker during his or her interview. This professional may not intervene, but may formulate remarks at the end of the interview.</p> <p>Simultaneously, Ofpra (the French determining authority) has introduced a good practice that consist of permitting the presence of a mental health professional during the interview.</p>			
Brief description of the Good Practice	<p>In 2016, Ofpra developed a new practice (not required by law) whereby it authorised the presence of a mental health professional during the interview. A particularly vulnerable person followed by a mental health professional can request the assistance of a psychiatrist, a psychologist or psychotherapist during his/her interview, according to his/her needs.</p> <p>The request must be addressed to Ofpra, both by the asylum seeker and the professional, stating the grounds for claiming the presence of a mental health professional. This request will be considered legitimate if it ensures a more secure interview and prevents behavioural disorders from disturbing its successful conduct.</p> <p>The professional may not intervene during the interview. Before or after the interview, the Ofpra officer and the professional may discuss the asylum seeker’s migration pathway and his/her medical condition.</p>			

<sup>91</sup> Written by France Terre d’Asile

	<p>Summarily, this practice allows the applicant to be accompanied by other professionals during the interview, provides a safer and easier interview, informs the Ofpra officer about the medical condition of the asylum seeker and warns him/her about a particular vulnerability.</p> <p>“Procedures guidelines of Ofpra”, Ofpra, December 2015, p.26. Reference: procedures guidelines of Ofpra, p.26, <a href="https://www.ofpra.gouv.fr/sites/default/files/atoms/files/guide_des_procedures_a_lofpra.pdf">https://www.ofpra.gouv.fr/sites/default/files/atoms/files/guide_des_procedures_a_lofpra.pdf</a></p>
<p>Main target group(s)</p>	<ul style="list-style-type: none"> <li>- Determining authorities;</li> <li>- Psychological services;</li> <li>- Asylum seekers</li> </ul>
<p>Description of the relevance/added value/innovative nature of the practice for the identification, assessment and/or response to the special needs of survivors of torture and serious violence</p>	<p>Victims of torture and/or serious violence may suffer from psychological trauma that may have an impact on their behaviour during the interview. This practice can help the person be more stable and talk more openly, as he/she will be accompanied by a supporting person.</p>
<p>Give reasons why you consider the practice as having concrete impact (on refugees, public opinion, stakeholders)</p>	<p>The interview can be a difficult and destabilizing moment for a victim of torture and serious violence. Therefore, the presence of a mental health professional can have a concrete impact on the asylum seeker’s procedure, and it is a reassuring element for him/her. Furthermore, this presence ensures that the determining authority is fully aware of the asylum seeker’s situation and his/her medical condition.</p>
<p>Indicate similar experiences in other countries</p>	<p>In <b>Greece</b> and <b>Italy</b> national legislation already provides for and welcomes the presence of mental health professionals during the interview. On 19 May 2017, the Italian National Commission for the Right of Asylum issued a circular providing for the application of guidelines on the treatment and rehabilitation of torture survivors and serious violence, and providing them with operational effectiveness with regard to the work of the determining authorities. The guidelines are available at: <a href="http://www.quotidianosanita.it/allegati/allegato463992.pdf">http://www.quotidianosanita.it/allegati/allegato463992.pdf</a></p>

Explain, if applicable, how the practice involves beneficiaries and stakeholders in the design, planning, evaluation, review assessment and implementation of the practice.	N/A
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6. France<sup>92</sup> – Report on vulnerability to the determining authority

Thematic area	Procedure	Reception	Health	Social
	X			
Description of the national context where the good practice takes place	According to the French asylum reform of 2015, the determining authority can define specific procedural guarantees for vulnerable persons. In order to adapt its examination of an asylum application, Ofpra must be informed of a vulnerable situation through a dedicated mailbox intended for case workers and asylum seekers.			
Brief description of the Good Practice	<p>In 2016 Ofpra developed a new practice, not required by law, by creating a mailbox dedicated to the reporting a vulnerable situation to Ofpra. A case worker can send an email to Ofpra in order to report the vulnerable situation of an asylum seeker and request to take into consideration the specific situation of the person concerned, and consequently adopt decisions deemed more appropriate for the case. Ofpra can, for instance, decide to postpone the interview, plan a longer time slot for the interview, allow frequent breaks during the interview, etc.</p> <p>Summarily, this practice gives the opportunity to adjust the examination of the asylum application by providing a safer and more accessible interview, and allowing the case worker to warn the Ofpra officer about the medical condition of the asylum seeker or about a particular vulnerability.</p>			
Main target group(s)	<ul style="list-style-type: none"> <li>- Determining authorities;</li> <li>- Case worker;</li> <li>- Asylum seekers.</li> </ul>			
Description of the relevance/added value/innovative nature of the practice for the identification, assessment and/or response to the special needs of	<p>In the absence of a mandatory identification of victims of torture and serious violence, this practice makes it possible to report a vulnerability to the determining authority, whether linked or not to the grounds for requesting asylum, and at any time. The mailbox is open to any professional.</p> <p>Furthermore, a postponement decision will give the person time to undergo psychological follow-up before the</p>			

<sup>92</sup> Written by France Terre d’Asile

<p>survivors of torture and serious violence</p>	<p>interview. Ofpra can also decide to speed up the procedure and prioritize the case. In this respect, while some asylum applicants may need additional time to face the personal interview, others will need a faster procedure to prevent additional stress (clearly, when it is possible and compatible with the person’s capacity to explain the reason for claiming protection).</p>
<p>Give reasons why you consider the practice as having concrete impact (on refugees, public opinion, stakeholders)</p>	<p>The asylum interview can be a difficult and destabilizing moment for a victim of torture and violence. Therefore, the opportunity to easily report a vulnerable situation has a concrete impact on the asylum procedure since it can lead to an adjustment of the examination of the application. Also, this report ensures that the determining authority is fully aware of the asylum seeker’s situation and his/her medical condition.</p>
<p>Explain, if applicable, how the practice involves beneficiaries and stakeholders in the design, planning, evaluation, review assessment and implementation of the practice.</p>	<p>N/A</p>

7. Italy<sup>93</sup> - **Official Guidelines for planning assistance, rehabilitation and treatment of survivors of torture and/or serious violence**

Thematic area	Procedure	Reception	Health	Social
	X	X	X	
Description of the national context where the good practice takes place	<p>The Reception Conditions Directive 2013/33/EU was implemented in Italy with Legislative Decree 142/15. Articles 17 and 21, specifically take into account the situation of vulnerable persons (including persons who have been subjected to torture, rape or other serious forms of psychological, physical and sexual violence) by setting up suitable dedicated and specific measures and procedures for the identification, treatment and for the reception of such persons. The Proposal for the Reception Conditions Directive (Recast) also provides for a duty of early identification and protection of persons with special reception needs as indicated in Article 21.</p> <p>The Qualification Directive 2011/95/EU recommends Member States, in Article 30, to provide adequate medical care – including, if necessary, treatment of mental disorders – to beneficiaries of international protection who have special needs. The Directive lists pregnant women, disabled persons, persons subjected to torture, rape or other serious forms of psychological, physical and sexual violence, minors who suffered from any form of abuse, neglect, exploitation, torture, cruel, inhuman and degrading treatment or who have suffered from armed conflict.</p> <p>The Italian Legislative Decree 18/2014 implemented the above-mentioned Directive by modifying the Legislative Decree 251/2007, in subparagraph 1 <i>bis</i> of Article 27. This article provides that the Ministry of Health shall adopt guidelines to plan assistance/rehabilitation activities and treatment of mental disorders for the benefit of beneficiaries of international protection who have been subjected to torture, rape or other serious forms of psychological, physical and sexual violence. The guidelines shall also involve training programmes for health professionals who work with persons with special needs.</p>			

<sup>93</sup> Written by Italian Council for Refugees



	<p>A technical board appointed by the Ministry of Health with the task of drafting the above-mentioned guidelines was established in 2014.</p> <p>Civil society representatives, NGOs – including CIR – Universities, professionals and Government representatives took part in the drafting of the guidelines that were published in the Italian Official Journal on 3 April, 2017. The circular of the National Commission for the Right of Asylum of 19 May 2017 sets rules for applying the guidelines on the treatment and rehabilitation of survivors of torture and serious violence, providing them with operational effectiveness with regard to the work of the determining authorities. The guidelines are available at <a href="http://www.quotidianosanita.it/allegati/allegato463992.pdf">http://www.quotidianosanita.it/allegati/allegato463992.pdf</a>. The co-operation among the public institutions and civil society organisations is considered a good practice.</p>
<p>Brief description of the Good Practice</p>	<p>Due to the large influx of asylum-seekers, restructuring the Italian health-care system became a priority. Health professionals needed new tools to respond to the special needs of traumatized persons, who are at high risk of social isolation.</p> <p>Firstly, the technical board appointed by the Ministry of Health decided to include in the guidelines not only beneficiaries of international protection, but also asylum seekers. This was motivated by the fact that the determining authorities' decision has a <i>declaratory</i> and not constitutive nature. Considering that any asylum seeker is a potential beneficiary of international protection, the board preferred to also include asylum seekers within the scope of the guidelines.</p> <p>To ensure the early identification of torture survivors, a scheme of symptoms for early identification is developed: the most commons symptoms of extreme violence are identified, as well as the most common syndromes. A special paragraph is dedicated to the identification of traumatized minors, and consequential treatment.</p> <p>The board also identified medico-legal certification techniques: the certification does not only aim at attesting the 'torture survivor status'. On the contrary, professionals are</p>

	<p>asked to specify any medical and/or psychological problem related to the patient (such as extreme shyness or shame in revealing what they suffered), determine if any other sickness may increase vulnerability, inform the determining authorities if the patient is unable to undergo the interview due to their psychological and medical state, or if they need assistance during the interview. The aim is to create a referral mechanism during all the steps of the procedure, living context or medical examination, where it is assumed that torture survivor is more vulnerable and needs more assistance.</p> <p>To guarantee the holistic approach in the evaluation of the condition of torture survivors, any certification must consider all medical/psychological elements. A scheme of certification is attached to the guidelines to assist any actor involved in the procedure (psychologists, determining authorities, lawyers, etc.), particularly in the drafting of the certification itself.</p> <p>The guidelines underline the importance of cultural mediation to ensure effective assistance to the beneficiaries.</p> <p>Finally, the last part of the guidelines deals with training of professionals working with torture survivors. Sensitisation, a multidisciplinary approach and skilled specialists/staff are the key words.</p>
<p>Main target group(s)</p>	<ul style="list-style-type: none"> <li>- NGOs;</li> <li>- Health professionals;</li> <li>- Medical/psychological services;</li> <li>- Legal services;</li> <li>- Asylum seekers, refugees, torture survivors</li> </ul>
<p>Description of the relevance/added value/innovative nature of the practice for the identification, assessment and/or response to the special needs of survivors of torture and serious violence</p>	<p>The Italian Qualification Decree n. 251/2007, as modified by the Decree 18/2014, provides for the drafting of guidelines on the treatment and rehabilitation of victims of torture and serious violence implementing <i>in melius</i> the EU Directive. These guidelines are considered a good step forward in clarifying responsibilities and roles of all the actors involved in the assistance and treatment of torture survivors.</p>

<p>Give reasons why you consider the practice as having concrete impact (on refugees, public opinion, stakeholders)</p>	<p>Traumatized persons need particular attention, whether they are aware of it or otherwise: in fact, they are often not aware that they require psychological assistance. In particular, people from countries without psychological assistance tradition might also consider mental treatment as madness recognition. Due to this prejudice, they might not seek help. Health professionals need to be trained on how to interact with people from other cultures, to assist them in understanding and accepting that psychological support may help them to overcome their traumas and integrate into their new society.</p> <p>The guidelines allow professionals who interact with asylum seekers to identify torture survivors as soon as possible: this enables the meeting and resolution of their special needs, thereby facilitating their social integration.</p> <p>The guidelines envisage start and structuring suitable interventions, and provide operational tools in order to assist asylum seekers and refugees that have suffered serious traumas. The possibility, through these guidelines, of structuring such interventions and the offering of operational tools have a direct impact on the professionals who work in the reception stage, health care services, determining authorities and in the various steps of the procedure. There is also a direct impact on beneficiaries.</p>
<p>Explain, if applicable, how the practice involves beneficiaries and stakeholders in the design, planning, evaluation, review assessment and implementation of the practice.</p>	<p>NGOs participated in drafting these guidelines and they can assess if they are applied in practice. Dissemination of the guidelines through an <i>ad hoc</i> seminar or through the Circular of the National Commission for the Right of Asylum is seen as a first link in the chain that creates a system of assessment of the implementation of the practice.</p>

8. Italy<sup>94</sup> - **Italian Network for Asylum Seekers Torture Survivors (NIRAST)**

Thematic area	Procedure	Reception	Health	Social
	X		X	
Description of the national context where the good practice takes place	<p>The European Reception Conditions Directive (2013/33/EU) was implemented in Italy with Legislative Decree 142/15. Articles 17 and 21 specifically take into account the situation of vulnerable persons (including persons who have been subjected to torture, rape or other serious forms of psychological, physical and sexual violence) by setting up suitable dedicated and specific measures and procedures for the identification, treatment and for the reception of such persons. The Proposal for the Reception Conditions Directive (Recast) also provides for a duty of early identification and protection of persons with special reception needs.</p> <p>In 2005, the decentralization of the determining authority, by means of the creation of several Territorial Commissions for the recognition of International Protection, led to a substantial improvement in the recognition process but also gave rise to the need to provide specific tools and expertise, in particular with regard to the identification, certification and treatment of asylum seekers torture survivors and their condition.</p> <p>At the moment, there are almost 50 Territorial Commissions.</p>			
Brief description of the Good Practice	<p>In 2006, N.I.R.A.S.T., a network of health services of the National Health System and Territorial Commissions, was created with the cooperation of the Ministry of Interior, the Service for Post-Traumatic Stress Pathologies (based in the San Giovanni – Addolorata Hospital in Rome), and CIR.</p> <p>This service was a highly-specialized outpatient service, equipped with medical and psychological staff, which had worked for years with Vi.To. (‘victims of torture’), the CIR section specifically oriented to torture survivors’ hospitality and care. For this reason, the personnel had consolidated experience in the identification, assessment and treatment of</p>			

<sup>94</sup> Written by Italian Council for Refugees

	<p>survivors of torture. The aim of the creation of such a network was to facilitate the transfer of the consolidated expertise on the identification and care of victims of torture to other public health units based near the Territorial Commissions, spread across the national territory.</p> <p>This was to enhance the capacity of: 1) providing certification of the consequences of torture in support of asylum claims; 2) making appropriate diagnoses; 3) treating victims of torture from a medical and psychological point of view, in the regions where asylum seekers were hosted and their asylum requests were being processed; and 4) attending work duties with the awareness of transcultural differences that can be mitigated by the presence of a cultural mediator. Moreover, the founder partner of the network provided: 1) periodical training and supervision on clinical issues to the medical and psychological staff of local health units; and 2) training to the members of Territorial Commissions about the consequences and the impact of torture on the survivors' ability to disclose in a coherent and comprehensive way some aspects of their personal story during the interview before the determining authorities.</p> <p>Summarily, this system ensured the availability of proper care and certification for all the asylum seekers survivors of torture, capacity-building, training and networking among public servants (local health units, determining authorities, reception centres) and public health centres. The Network is no more operational due to the lack of public resources, but it is desirable that it is reactivated.</p>
<p>Main target group(s)</p>	<ul style="list-style-type: none"> <li>- Determining authorities (Territorial Commissions);</li> <li>- Medical/psychological services;</li> <li>- Legal services;</li> <li>- Asylum seekers, refugees, torture survivors</li> </ul>
<p>Description of the relevance/added value/innovative nature of the practice for the identification, assessment and/or response to the</p>	<p>N.I.R.A.S.T was intended to render more effective and efficient the asylum system and general protection measures for survivors of torture and violence, both in terms of accommodation and procedure,. An added value of the practice was the building of a national database collecting anonymous clinical data on physical and psychological conditions for research purposes.</p>

<p>special needs of survivors of torture and serious violence</p>	<p>Although the number of the territorial commissions increased significantly, the practice is considered as a good example of how a coordinated and well-designed network of health services, accommodation centres and local authorities might become a tailored service for survivors, able to respond to their special needs.</p> <p>Such a good practice tends to establish a more standardised procedure, allowing the professionals to refer torture survivors to appropriate services. It also allows members of the Territorial Commissions to examine the cases with the support of qualified documents and certification resulting from expert professional consultations.</p>
<p>Give reasons why you consider the practice as having concrete impact (on refugees, public opinion, stakeholders)</p>	<p>N.I.R.A.S.T provided capacity building and effective training to medical/psychological staff, legal services and staff of the Territorial Commissions on the consequences of torture, and created a network among the service-providers. This had a concrete impact on the early identification of vulnerable asylum seekers who had been victims of torture and, as a consequence, allowed a quicker procedure and a more effective treatment.</p>
<p>Explain, if applicable, how the practice involves beneficiaries and stakeholders in the design, planning, evaluation, review assessment and implementation of the practice.</p>	<p>N/A</p>

9. Malta<sup>95</sup> – Flexible approach to the asylum determination interview timing, on the basis of personal circumstances

Thematic area	Procedure	Reception	Health	Social
	X			
Description of the national context where the good practice takes place	<p>The Office of the Refugee Commissioner is responsible for examining and determining applications for international protection at first instance. The initial stages of the procedure require the filling in of a form known as the Preliminary Questionnaire (PQ) that serves to register the asylum seeker’s desire to seek international protection. Following the initial collection of information in the PQ, an appointment is scheduled for an interview with the applicant. Once the applicant is called for the interview, s/he is first asked to fill in an Application Form that contains questions similar to those previously answered in the PQ. This application form is considered to be the official application for international protection. Then the recorded interview takes place and the applicant is informed at the end of the interview that he or she will be notified of the decision in due course.</p>			
Brief description of the Good Practice	<p>Regulation 10 of the <i>Procedural Standards for granting and Withdrawing International Protection Regulations</i> (Subsidiary Legislation 420.07 of 2015, available at <a href="http://www.justiceservices.gov.mt/DownloadDocument.aspx?app=lom&amp;itemid=10663&amp;l=1">http://www.justiceservices.gov.mt/DownloadDocument.aspx?app=lom&amp;itemid=10663&amp;l=1</a>) governs the personal interview process and it grants the national authority – the Office of the Refugee Commissioner – the discretion to decide not to hold a personal interview where the applicant is “<i>unfit or unable</i>” to be interviewed, including where the applicant is deemed to be vulnerable. The possibility to postpone the interview, for these same reasons, is not envisaged in the regulations.</p> <p>However, the Office of the Refugee Commissioner has introduced a practice whereby the asylum interview may be indefinitely postponed if asylum seeker is deemed temporarily unable to conduct interview. In this context, ‘indefinite’ really means that there is no set timeframe, but</p>			

<sup>95</sup> Written by aditus foundation, Malta

	<p>the postponement depends on the situation of the individual. This is allowed by the Office of the Refugee Commissioner mainly for physical or mental health reasons. In such cases the Office of the Refugee Commissioner would wait for a report from the professionals treating the asylum seeker confirming that his/her health has stabilised/improved before proceeding with the interview.</p> <p>This particularly includes situations where NGOs make the request for postponement upon their professional assessment of the individual's condition.</p>
Main target group(s)	Asylum seekers (including torture survivors)
Description of the relevance/added value/innovative nature of the practice for the identification, assessment and/or response to the special needs of survivors of torture and serious violence	This practice is not obligatory under national asylum legislation, but emerges from an understanding by the national authority (Office of the Refugee Commissioner) of individual circumstances. It allows individual applicants to benefit from an asylum process that is more tailored to their needs and it ensures that the process is implemented in a way that takes account of specific obstacles or challenges being faced by the applicant. In this way, victims of torture are able to more effectively engage with the asylum procedure.
Give reasons why you consider the practice as having concrete impact (on refugees, public opinion, stakeholders)	This practice has a concrete impact on asylum seekers, who due to physical and/or mental health difficulties, would not be able to cope with the psychological demands of an asylum determination interview and thus risk not being assessed fairly. This practice, thus, ensures access to protection for vulnerable asylum seekers and is especially relevant for torture survivors who upon arrival might be suffering from severe physical and mental health problems.
Indicate similar experiences in other countries	In <b>Italy</b> , Article 12 of Legislative Decree n. 25/2008 regulating the asylum procedure states that the determining authorities can postpone the personal interview if the certified health condition of the applicant prevent him/her from sustaining the interview. The law does not provide for a time limit for the postponement and the determining authorities <i>de facto</i> tend to interpret this provision in a favourable way for the vulnerable person so to give them enough time to be ready for the interview. The condition of the individual and his/her inability or impossibility to face the personal interview must be certified by Public Health Services or by a doctor registered with the National Health System.



Explain, if applicable, how the practice involves beneficiaries and stakeholders in the design, planning, evaluation, review assessment and implementation of the practice.	N/A
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10. Portugal<sup>96</sup> - Trauma training for first line staff in the framework of a Protocol agreement between public and private bodies

Thematic area	Procedure	Reception	Health	Social
		X	X	X
<p>Description of the national context where the good practice takes place</p>	<p>Asylum Act 27/2008 of 30 June (recast), that transposed into national law the Reception Conditions Directive (2013/33/EU) and the Qualification Directive (2011/95/UE) provides for the need to identify particularly vulnerable asylum seekers and their special needs within a reasonable timeframe following registration (Article 77). Regarding special procedural guarantees for particularly vulnerable asylum seekers, including survivors of torture and serious violence, the Asylum Act provides for the postponement of refugee status determination interviews; extended deadlines for presenting evidence or carrying out interviews with the assistance of experts [Article 17-A (3)] and exemption from detention/border procedures [Article 17-A (4)]. As for reception conditions, the Asylum Act provides for the necessity to take into consideration the material reception needs of particularly vulnerable cases [Article 77 (1)], including survivors of torture and serious violence (Article 281 (y)), in particular regarding health care and mental care (Articles 52 (5), Article 73(2), Article 78 (3 and 4) and Article 80).</p> <p>In September 2012, six stakeholders signed a partnership agreement to promote cooperation, coordination and better communication with the aim to improve the reception and integration of asylum seekers and refugees in Portugal. The initial signatories included the Immigration and Borders Service (SEF – Serviço de Estrangeiros e Fronteiras), Institute of Social Security (ISS - Instituto da Segurança Social), Santa Casa da Misericórdia de Lisboa, Portuguese Council for Refugees (CPR – Conselho Português para os Refugiados), High Commission for Migration (ACM – Alto Comissariado para as Migrações) and the Employment and Professional Training Institute (IEFP – Instituto do Emprego</p>			

<sup>96</sup> Written by the Portuguese Council for Refugees

	<p>e Formação Profissional). In 2014, the partnership was extended to include the Directorate General for Health (DGS – Direcção Geral da Saúde), the Central Administration of the Health System (ACSS – Administração Central do Sistema de Saúde), the Directorate General of Education (DGE – Direcção Geral da Educação), the Directorate General of Education Institutions (Direcção – Geral dos Estabelecimentos Escolares), the National Association of Municipalities (ANM - Associação Nacional de Municípios) and JRS Portugal.</p> <p>The partnership agreement provides for a Steering Commission (Comissão de Acompanhamento) presided by the Institute of Social Security that is responsible for general guidance, oversight and evaluation, including the approval of the annual work plan and activities report. The Commission is assisted by a Technical Operative Group (Grupo Técnico Operativo) tasked with preparing the annual work plan and activities report as well as ensure operational guidance and coordination of reception and integration activities.</p>
<p>Brief description of the Good Practice</p>	<p>The 2017 work plan of the Technical Operative Group provides for the training of staff of member organisations regarding relevant issues of trauma, religion and culture related to asylum seekers and beneficiaries of international protection. The training cycle comprises five training sessions of fourteen hours each (2 days). These sessions are held in different locations covering the national territory.</p> <p>The first day of the training comprises a first module on the general cooperation framework of the partnership agreement and a second module by the High Commission for Migration on religious and cultural issues. The second day of the training focuses on trauma and is coordinated by the Directorate General of Health in collaboration with the Agency for the Prevention of Trauma and Humans Rights Violation – Central University Hospital of Coimbra (APTVDH - CHUC).</p> <p>The training aims, among others, to increase the capacity of the staff of partner organizations to understand and recognize trauma in asylum seekers and beneficiaries of international protection. The objectives of the training also</p>

	<p>include raising awareness of trauma among professionals, and improving their ability to handle trauma-related issues, and therefore to intervene more efficiently with this particularly vulnerable group.</p> <p>The training on trauma is conducted by professionals who are highly-specialized in the subject, including researchers, psychiatrists and psychologists. The first part of the session is dedicated to the national mental health model, intervention strategies regarding psychotraumatology, comprehensive neuroscience model, network intervention model, transcultural approach, assessment tools and Portuguese legislation. The second part of the session is meant to involve the trainees in practical exercises, such as Reflecting Teams composed of one interviewer, one professional presenting the case study, and three observers. One person is in charge of keeping track of time to improve efficiency and time management throughout the presentation, discussion of individual case studies and analysis of possible strategies. Participants are invited to evaluate the training and its learning outcomes.</p>
<p>Main target group(s)</p>	<p>Front-line staff from partner organizations of the Technical Operative Group, who work with applicants and beneficiaries of international protection.</p>
<p>Description of the relevance/added value/innovative nature of the practice for the identification, assessment and/or response to the special needs of survivors of torture and serious violence</p>	<p>The current practice is innovative in that trauma training is being provided to front-line staff of the different civil society and public stakeholders involved in the reception and integration of asylum seekers and refugees at national level. This is the first of its kind in Portugal and is not a regular feature in many asylum systems across the EU (see <a href="http://www.asylumineurope.org/comparator/reception-health">http://www.asylumineurope.org/comparator/reception-health</a> section). The training constitutes a promising practice for the identification, assessment and response to the special needs of survivors of torture and/or serious violence with a clear added value in raising awareness among front-line staff of service-providers on possible signs of trauma, and the need for adequate follow-up and referrals to specialised service-providers. The training is currently being implemented at national level and provides for an evaluation at the end of the training cycle that could result in adjustments to its structure and content.</p>

	<p>The training is conducted in the framework of a cooperation protocol between public and private stakeholders and is funded by the resources of public institutions bound by the cooperation protocol (e.g. DGS, etc.). It is not legally required, but the fact that it is being organised by government stakeholders means that civil servants and private stakeholders dealing with asylum seekers and refugees are expected to attend.</p>
<p>Give reasons why you consider the practice as having concrete impact (on refugees, public opinion, stakeholders)</p>	<p>While the concrete impact of this practice is not yet measurable, as only one of five training sessions has taken place, the training on trauma for public and civil society stakeholders is expected to provide useful information and increased capacity to front-line staff who are directly involved in the assistance provided to applicants and beneficiaries of international protection suffering from trauma, including survivors of torture and/or serious violence.</p> <p>It is also expected that the training will raise awareness and improve identification and follow-up of trauma-related situations, including the special needs of survivors of torture and/or serious violence, by staff with different backgrounds (e.g., social workers, legal officers, immigration officers, health professionals, psychologists, educators).</p>
<p>Explain, if applicable, how the practice involves beneficiaries and stakeholders in the design, planning, evaluation, review assessment and implementation of the practice.</p>	<p>As described above, this practice is implemented within a cooperation framework that provides for the involvement of relevant stakeholders (who are also beneficiaries in this case) in the design, planning, evaluation, review and implementation of all activities of the Technical Operative Group, including the training on trauma.</p> <p>Regarding the evaluation of this specific activity, trainees are invited to express their opinions and evaluate the training and its learning outcomes at the end of each training session.</p>

## Chapter 5.2 Common Basic Standards

**The thirty Common Basic Standards (CBS)**<sup>97</sup> have been identified throughout the implementation of the project, to be ideally applied by professionals in order to guarantee adequate assistance and protection to survivors of torture and/or serious violence among asylum-seekers and beneficiaries of international protection (*hereinafter also referred to as “beneficiaries”*).

They are meant to be an **operational tool** to support the work of such professionals in order to respond to the special needs of beneficiaries and to ensure proper protection in different contexts and work conditions.

The CBS are pivotal criteria for a proper protection of survivors of torture and/or serious violence.

In this section, the CBS are presented with explanatory notes. The list of CBSs can be found in Annex 1.

The CBS are based on the QASN<sup>98</sup> (see paragraph 5.3) which aims at identifying the special needs of asylum-seekers and beneficiaries of international protection who are survivors of torture and/or serious violence. The questionnaire was elaborated on the basis of a list of special needs resulting from the partners’ national field research and their multidisciplinary work experience in assisting survivors.

### I. SPECIAL PROCEDURAL NEEDS

#### **1. The beneficiary must receive clear and comprehensive information about the asylum procedure.**

Information about the asylum procedure, including legal safeguards, and in particular that relevant to survivors of torture and/or serious violence, shall be always provided to each applicant in a clear and comprehensive manner. Specifically, providers of information should take into account that, together with the experiences suffered in their own countries, very often asylum-seekers reach the European Union traumatized by the journey and the various abuses suffered in transit countries. Particular attention needs to be paid to survivors of torture and/or serious violence because of their specific situation.

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<sup>97</sup> See also chapter 2 “Description, aims and beneficiaries of the project”

<sup>98</sup> The Questionnaire for the Assessment of Special Needs of Survivors of Torture and/or Serious Violence Among Asylum-seekers and Beneficiaries of International Protection

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Information regarding the asylum procedure is often either not provided by the competent authorities throughout the procedure or not adequately understood by the asylum-seeker because of various reasons (e.g. asylum-seekers are recovering from the journey, lack of interpreters, poor quality of interpretation, etc.). The information must be provided at arrival, but should be regularly repeated throughout the various stages of the asylum procedure.

Our experience shows that, after reaching the European Union, in particular following a difficult journey by sea or through the desert, traumatized people face difficulties in absorbing information, also when it is provided by qualified staff. Asylum-seekers must be allowed to recover and stabilize after their journey: they must be permitted to rest and to adapt to the new context, so to be in better condition to absorb and process the information provided.

Experience also shows that together with group information sessions, asylum-seekers should be allowed to benefit from information on an individual basis.

In addition to leaflets, information should be supplied orally with the help of a qualified interpreter. Oral information has the potential of securing a higher level of understanding than the written information, including when the latter is translated in asylum-seekers' native language, as asylum-seekers generally tend to pay more attention to spoken information, preferring the personal contact: asylum applicants feel reassured when they meet someone who speaks the same language and knows the context they come from.

## **2. Services providers must ensure and regularly verify that asylum-seekers correctly understand the role of each actor, both institutional and non-governmental, providing services.**

Asylum-seekers need to receive clear and simple information about the asylum procedures, about their duties and rights, and the role of the different stakeholders involved during the different stages of the asylum procedure and reception. They must be briefed on which stakeholder provides each service: such as the asylum determining authorities, and providers of counselling, assistance, care, rehabilitation, legal support, health assistance, etc.).

Information on available services should be provided at the border crossing points, as well as in the reception centres. The role of NGOs is particularly important in the event asylum-seekers cannot count on the support of staff working in the reception centre due to issues such as homelessness.

Professionals should regularly verify, during meetings, if the asylum-seekers have effectively understood the role of each service-provider. The presence of an interpreter at all stages of the procedures is of utmost importance.

Advisors must take into consideration the asylum-seeker's cultural background when they suggest any kind of treatment pathway. For example, when recommending psychological advice, the stakeholder must evaluate issues such as appropriate timing and expressions: indeed, some persons may refuse to seek assistance for fear of being labelled as having mental health problems. Experience shows that, after a first rejection of psychological assistance, non-medical staff (with the support of cultural mediators) is often able to lead the beneficiaries to change their minds by providing additional information about the function of the psychologist.

Cross-cultural communication principles should be taught to personnel working with asylum-seekers.

**3. Beneficiaries must be informed about the importance of telling the determining authorities their full story, especially with regard to any form of serious violence suffered before arriving in the country of asylum.**

All asylum-seekers should receive clear information – as soon as possible – about the asylum procedure, including the implication of not revealing their personal stories.

Service-providers (police officers, NGO representatives, staff working in the reception centres, etc.) have an important role in ensuring that this information is received.

Legal professionals, in particular, play a fundamental role in illustrating all phases of the procedure and in underlining the importance of revealing or presenting evidence on their personal stories before the determining authorities.

Survivors of torture and/or serious violence need to feel they can trust the legal advisor in order to establish confidence and disclose their personal stories. Social workers can play a key role in liaising with legal professional when they establish a trust relationship with the beneficiary.

Reception facilities should provide, or ensure referral to, legal professionals who can explain appropriately to asylum-seekers the importance of revealing or presenting evidence on their personal stories. They should support them in disclosing their personal stories and be trained to do so. The legal advisor should also take into account the right time to bring up this issue, on the basis of a case-by case evaluation.

To prevent any asylum-seeker's reticence, service-providers should use a multi-disciplinary approach: co-operation among the legal advisor, the social worker, the psychologist and the medical-psychiatric staff is recommended. The multidisciplinary approach (medical/psychological/psychiatric staff, legal and social services) is recommended in supporting survivors of torture and/or serious



violence also because it enables them to be better prepared for the asylum procedure and to count on an effective safety-net.

When survivors of torture and/or serious violence do not want or need psychological assistance, the legal advisor should still be in the position to consult a psychologist, for advice on how to properly handle the case.

Sometimes, survivors of torture and/or serious violence are known to suffer from complex post-traumatic syndromes or to present other symptoms that need time to be stabilized: in these cases, the medical-psychiatric and psychological support should advise the legal advisors to request the competent authorities to postpone the interview.

**4. Service-providers and the determining authorities must ensure the implementation of those conditions and measures that allow, as far as is possible, asylum-seekers to feel at ease in telling their personal stories and traumatic events. The right to omission, postponement or suspension of the interview in the cases provided by law or deemed appropriate by the determining authorities should also be secured.**

All actors involved in the asylum procedure should also be trained to interact with torture survivors and traumatized persons, in order to understand their special needs and to minimize the risk of an unfair decision.

Depending on the specific case, time is needed to build a relationship based on mutual trust, essential for beneficiaries to share their personal traumatic experiences. Such trust is also of utmost importance during the interview preparation phase with the determining authority.

In particular, legal advisors should also inform beneficiaries about how the substantive interview is carried out in order to prevent misunderstandings, inconsistencies or reticence.

When survivors of torture and/or serious violence are unable or unfit to tell their personal story to the determining authorities, they should be supported by legal and health professionals.

The determining authorities should consult health professionals to assess the need to omit or postpone the interview, and legal advisors should inform the determining authorities in case there are medical indications for the omission or postponement of the interview. These recommendations should be duly taken into account by the determining authorities. As previously underlined, survivors of torture and/or serious violence need time to establish trust relationships and to open up about their experience. Due to this, late disclosure of traumatic experiences should not operate against applicants; neither should minor inconsistencies in the story told by the asylum-seeker. This mainly due to the fact that torture and

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trauma may affect memory and the ability to describe events in a coherent way.

In cases where survivors of torture and/or serious violence are willing to disclose their personal story, they may be severely impaired in those psychological functions that required to recount a coherent story due to, for example, memory alterations, concentration difficulties, hyperarousal, overwhelming traumatic emotions, etc.

It may also happen that traumatized persons would be eager to cooperate, and not want to delay the interview, explaining the decision to anyway go ahead with the interview. An appropriate timing for the interview should be negotiated with beneficiaries, letting them understand the importance of being prepared (in terms of legal and psychological aspects) for the interview with the determining authorities.

At the beginning of the interview, the determining authority should inform the asylum-seekers about its role, the purpose of the interview and the legal guarantees provided by law. Asylum-seekers should be informed that they can ask the determining authority to be assisted by a legal advisor, psychologist or other supporting personnel (e.g. social worker) during the substantive interview as provided for by domestic laws or practices.

Privacy and confidentiality shall be guaranteed and asylum-seekers shall be informed that any information they provide is strictly confidential and will not be disclosed. Ahead of the interview, asylum-seekers must be informed about the possibility to be interviewed without the presence of their family.

Determining authorities should create an open, friendly and reassuring environment, because it can encourage the survivors of torture and/or serious violence to disclose information about their traumatic experiences. Special consideration should be given to issues such as interview facilities (e.g. privacy, comfort, silence, sufficient space – including for support personnel), timing, duration and breaks during the interview.

The determining authority must ensure the presence of an interpreter and must inform the asylum-seeker that the interviewer and /or the interpreter may be of the gender chosen by the beneficiary.

The asylum-seeker must be informed that the interpreter is not permitted to disclose any information learnt during the interview; the interviewer should also make the asylum-seeker comfortable to express if there are any problems with the translation or with the individual interpreter.

In view of the importance of the role of interpreters in assisting such sensitive cases, it is imperative that interpreters are subjected to a code of conduct and are appropriately trained. Interviewers should also be aware of how the presence of interpreters from the same country of origin or community as the applicant can impact their declarations.

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When an asylum-seeker is unable to face or continue the interview before the determining authorities, the possibility to suspend the interview should be guaranteed. In the event the determining authorities decide to suspend the interview due to the distress of the asylum-seeker, they should, if appropriate, contact qualified organisations/NGOs/medical staff to be advised on possible medical certification or specialised opinion.

**5. Beneficiary's children shall not be present during any interview.**

In supporting the survivors of torture and/or serious violence, service-providers should keep in mind the priority of protecting the beneficiaries and their family members. Children are the most fragile members of the family and extremely exposed to the consequences of the trauma suffered by their parents. Regardless of their age, witnessing their parents' distress in disclosing the traumatic elements of their story is a highly distressful and traumatizing experience for children. For this reason, the presence of children during any interview is strongly discouraged.

**6. The beneficiary must be assisted by a legal advisor specifically trained or skilled in providing assistance to survivors of torture and/or serious violence.**

In order to prepare and assist asylum-seekers for the interview before the determining authorities, legal advisors should have appropriate expertise in dealing with survivors of torture and/or serious violence, as well as on how to obtain all relevant information and elements pertaining to the persecution. They should be able to draw out details that the asylum applicant may not share or develop because considered unimportant or irrelevant as well as pieces of information survivors of torture and/or serious violence may not disclose because of the impact of avoidance symptoms of PTSD.

Several factors may render challenging the legal work with survivors of torture and/or serious violence, in particular the duration of the process and the difficulties inherent in gathering an applicant's personal history when they are emotionally or psychologically unable to disclose it. For example, legal advisors may miss the meaning nuances of the silence of survivors of torture and/or serious violence. The assistance of specialized psychiatrists/psychologists can help advisors to overcome the obstacles that might arise in working with survivors of torture and/or serious violence.

Strong interpersonal and intercultural communication skills and the ability to establish a trust relationship are highly recommended for legal advisors working with traumatized persons, as well as specialized training on how torture is

perpetrated in countries of origin and its impact on victims and their claims for international protection.

**7. Legal and social services, as well as competent authorities must refer survivors of torture and/or serious violence to health units experienced in providing certification of consequences of torture and serious violence (based on the Istanbul Protocol).**

Survivors of torture and/or serious violence should be referred to public/private health services and professionals who are specialized in the treatment and rehabilitation of torture survivors, as well as in drafting a medical and psychological certification of consequences of torture and serious violence in support of the asylum request.

The certification should use the Istanbul Protocol as a reference, especially for cases of torture, but should not be limited to it. The outcome of physical and psychological examinations should also inform the determining authorities about how trauma affects the functioning of survivors of torture and/or serious violence, the reason why their responses or behaviour may seem unusual, strange or why they make inconsistent statements during the interview.

Indeed, medical and psychological certification of consequences of torture and/or serious violence may provide a valuable tool to be used during the administrative and judicial phases of the asylum procedure. Together with the applicant's declarations, country of origin information and any relevant documentation submitted, these certificates may help the determining authorities to take a decision on the asylum claim, by gaining a deeper understanding of the seeker's story and the development of the interview.

Health professionals may be asked to certify if the asylum-seekers physical condition and symptoms are consistent with their description of the event. In no way may health professionals give opinions on the truthfulness of the applicant's story.

Finally, the certification should include information about the applicants' needs for a longer time for the interview or for its postponement due to their mental or physical condition.

**8. When beneficiaries have experienced persecution and violence based on sexual orientation and gender identity, they must be referred to qualified and legal advisors experienced in LGBTI issues.**

The legal advisor should be competent in sexual orientation and gender identity issues.

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If the legal advisors do not have experience in substantiating asylum applications based on sexual orientation or gender identity discrimination and persecution, they should seek for peer assistance or refer to guidelines and manuals on the issue <sup>99</sup>.

A high level of sensitivity and specific skills should be ensured when survivors of torture and/or serious violence have faced sexual violence as a means of persecution aimed at offending sexual identity.

LGBTI persons, including those in migration and forced displacement, face a complex array of challenges and threats in both their countries of origin and countries of arrival. These challenges and threats include discrimination, prejudice, violence, difficulty accessing humanitarian services and barriers to articulating their protection needs during asylum procedures.

LGBTI beneficiaries may not disclose their sexual orientation or gender identity for a variety of reasons, including: fear of persecution and revictimisation; feelings of shame, guilt and self-deprecation connected to their orientation or identity; general mistrust in authorities or personnel perceived to have authority; lack of familiarity with language and concepts used to describe their status in “western settings” (they might not acknowledge the term LGBTI, for example); unawareness of the relevance in disclosing their LGBTI status.

The first step to interact with LGBTI persons is the creation of safe and welcoming spaces. It might take time before they feel comfortable to share this information. The UNHCR has issued manuals<sup>100</sup> on working with LGBTI persons, including tips for successful communication; appropriate and sensitive interviewing techniques and lines of questioning. Service-providers must be aware of biases created by stereotypes, and not assume someone is LGBTI.

## II. SPECIAL RECEPTION NEEDS

**9. Beneficiaries must be clearly informed about the functioning of the reception centres and the internal services provided. In case legal and health services are provided within the reception centre, and the beneficiary decides to seek their assistance, particular attention should be paid to the privacy and confidentiality of the sensitive information disclosed by survivors.**

Survivors of torture and/or serious violence often face difficulties to feel

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<sup>99</sup> <http://www.refworld.org/docid/50348afc2.html> - §60 iv.

See also: <https://www.ilga-europe.org/sites/default/files/practitioners-guide-series-2016-eng.pdf>

<sup>100</sup> <http://www.refworld.org/pdfid/4e6073972.pdf>

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safe, to trust their interlocutors and to disclose their personal history, due to their internal defence mechanisms and their sense of fear and shame.

From the first meeting, the service-providers, then, should try to establish a relation of trust in order to be perceived by the asylum-seeker as a person to rely on, someone who will try their best to assist him/her during the whole asylum procedure. Severely traumatized people may need a longer time and considerable attention to develop a trust relationship. Clear information about the functioning of the reception centres help them to develop a sense of control on the environment in which they live in. Privacy and confidentiality of services are key issues for the building of a trust relationship with the professionals, even more so within reception centres because of the importance of feeling safe and protected for survivors.

Traumatized persons often experience various memory difficulties in absorbing new information and they may need to be reminded about services guaranteed in the reception centre, that they can address for any issue, complain or request. In this regard, caseworkers play a key role. Caseworkers should also regularly and proactively check up on applicants, including the ones who do not ask for specific support.

Professionals working at reception centres should interact with colleagues who have complementary competencies: the interdisciplinary services may contribute at ensuring the health and well-being of survivors of torture and/or serious violence.

**10. The beneficiary must benefit from multidisciplinary approach and coordinated specialised services inside and outside the reception centres.**

A mechanism should be put in place to coordinate specialised services that assist the beneficiaries adopting a multidisciplinary approach. The importance of a multidisciplinary approach to the assistance of survivors of torture and/or serious violence is nowadays a given, and the reception centres have a key role in adopting such an approach. Torture experiences can influence the life of survivors in many different ways, therefore there is a need to address problems from different perspectives in particular through professionals with different specialisations (medical-psychiatric, psychological, legal and social services).

The coordination between different professionals also help raising the quality of the assistance during the asylum procedure.

Legal advisors who work with survivors of torture and/or serious violence may need the functional assistance of psychologists competent in working with asylum-seekers survivors torture and/or serious violence, who can support other professionals in dealing with the case and to assist the beneficiaries during the international protection procedure.

Indeed, specialized psychiatrists/psychologists can help the legal advisors overcome the obstacles that might arise from their own attitudes or approaches.

In addition to the establishment of a relationship with the asylum-seekers, co-operation between legal advisors and health professionals could help prepare the survivors of torture and/or serious violence to face the substantive interview and to check if they are actually ready for this.

Social workers and caseworkers can play a key role in ensuring coordination among services provided and that beneficiaries really benefit from a multidisciplinary approach.

**11. The beneficiary should be granted a peaceful comfortable and safe space to live in.**

**Any form of harassment, violence, threat such as teasing, bullying, intimidation, verbal attacks, sexual harassment, physical aggressions, should be banned from the places where survivors of torture and/or serious violence live.**

In line with EU law, State authorities shall ensure that material reception conditions grant an adequate standard of living for asylum-seekers, which guarantees their subsistence and protects their physical and mental health. All asylum-seekers should have access to the same standards of reception and equal opportunities for obtaining adequate assistance and proper protection.

However, proper support should be adapted to the specific needs of the survivors of torture and/or serious violence.

The reception systems must respect human dignity. In this regard, housing - even temporary shelters - must fulfil the demands for safety, health and hygiene.

The nature and the placement of the reception centres are important to promote the well-being of the survivors of torture and/or serious violence: they should be in areas that do not prevent the beneficiaries from accessing to appropriate health services and from integrating in the new environment. In this way, the risk of isolation is reduced (sense of exclusion is common in persons who have faced traumatic experiences). The facilities should also guarantee privacy and have adequate spaces to allow socialisation with other guests and with local inhabitants.

Asylum-seekers must be guaranteed with time to recover after their arrival; only after they have had time to adjust to the new context. Rest time is essential for both starting the therapeutic path and disclosing the personal story for the sake of asylum procedure.

Competent authorities and management bodies of the reception centres shall ensure security and safety to all guests, and in particular to the survivors of torture and/or serious violence.

Accommodating asylum-seekers of conflicted nationalities/ethnicities or affiliations should be avoided.

Adequate resources and facilities for vulnerable persons, in particular survivors of torture and/or serious violence, should be established to meet their special needs by, for example, ensuring privacy and socialization, and preventing isolation.

Reception centres should take measures to prevent and address violence, including sexual and gender based violence. A complaint system should also be set up to prevent assaults and assure the safety of the victim.

**12. In case of accommodation of families, the management of the reception centre must grant dedicated spaces for play, study and socialization to children.**

Part of the integration process passes through normalizing the asylum-seeker's life and in particular the beneficiaries' and their children's life. This means, asylum-seeker's children should be able to engage in ordinary activities such as studying, socializing with persons of their own age and play. It is very important that this happens in safe and protected spaces dedicated to children and that survivors' children have their own protected spaces in which they can express themselves and can develop some independence from their parents' needs.

**13. Service-providers (social workers, health professionals) must be equipped to deal with specific issues related to LGBTI persons, guaranteeing social integration at the facilities, response to bullying and sexual harassment, psychological support.**

LGBTI persons may experience discrimination and social stigma in reception centres due to homophobia and transphobia. This leads to LGBTI refugees continuing to experience disapproval and social exclusion, sometimes ending up to expose them to situations of abuse, violence and harassment in reception centres. For these reasons, service-providers should be equipped to address specific issues related to LGBTI persons taking into adequate consideration the personal special needs related to gender and sexual orientation (e.g. sleeping arrangements, the possibility to choose the living spaces according to gender, etc.). LGBTI persons should always be consulted about their needs and preferences, to avoid assumptions that might be well intended, but end up having detrimental impacts.

Reception centres should take measures to prevent and address violence, including sexual and gender based violence. A complaint system should also be set up to prevent assaults and assure the safety of the victim.



### **III(A). SPECIAL MEDICAL HEALTH NEEDS**

**14. Medical assistance must always be offered to survivors of torture and/or serious violence by a medical service able to provide continuous and appropriate treatment for the time needed.**

Medical assistance must be offered to all asylum seekers and beneficiaries of international protection, in particular to survivors of torture and/or serious violence in order to prevent any deterioration of the general health of the person.

**15. Medical service must verify if beneficiary requires specific treatments and refer her/him to hospital or other health specialized services.**

The severity and the traumatic nature of the physical consequences of torture and other serious violence require an integrated, specialized, appropriate and continuous medical assistance. The medical treatment should not be limited to basic care services and the service-provider should not consider that a single medical intervention can solve the complexity of the beneficiary health condition.

**16. The medical service offering the medical assistance to survivors of torture and/or serious violence must offer physicians of both genders, where possible, among which the beneficiary can choose.**

Due to the frequency of sexual violence endured by the beneficiaries and the highest percentage of male perpetrators, gender of physicians is not a neutral factor. This is often complicated by cultural issues implied in a medical visit. For these reasons, the beneficiary should have the possibility to choose the gender of his/her physicians. Where medical services are not in the position to offer physicians of both genders, they must refer the person concerned to other medical services accordingly.

**17. The medical staff must be experienced and/or trained in treating survivors of torture and/or serious violence.**

The physicians must be aware of the peculiarities of the consequences of torture and serious violence in order to properly evaluate the beneficiary's health conditions and make a therapeutic plan that might treat effectively such conditions. They should try to avoid over-medicalisation of the physical problems through a multidisciplinary understanding of the physical suffering of the person and adopt a holistic approach to therapy and care. The physicians should also be

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aware about the requirements of the asylum procedure in order to better understand the needs of their patients. In particular, physician can play an important role in providing certification of the consequences of torture and other serious violence to the determining authorities.

**18. Specialized medical assistance must be guaranteed to children, being them direct survivors or secondary victims.**

Children have specific ways to express their needs. They need specialized medical staff to treat their conditions. Physical syndromes may be for children also a way to express their psychological suffering of being primary or secondary victims of torture and violence. Their distress, physically expressed, may be easily neglected and not appropriately treated.

Where medical assistance is necessary, specialised medical staff must be also sensible to the psychological condition and the mental stress children may show in indirect ways.

**III(B). SPECIAL PSYCHOLOGICAL HEALTH NEEDS**

**19. Psychological assessment and treatment must be offered to survivors of torture and/or serious violence.**

Torture and/or serious violence may have a strong negative impact on psychological health and the most common consequences of torture and other serious violence are now well-known and established in scientific literature. Most common symptoms of Post traumatic Stress Disorder (PTSD) include the re-experiencing of traumatic events through intrusive distressing memories, flashbacks and nightmares, as well as sleep and concentration disturbances, emotional lability, distrust, isolation and avoidance of feelings, thoughts or memories associated with the traumatic experience or of external reminders (e.g. places, persons, objects, situations, activities). These after-effects can have a deep impact on the everyday life of survivors and on their possibility to conduct a satisfactory life and to integrate in society. Guaranteeing psychological support and treatment for a significant period of time is a crucial and essential part of an adequate assistance to survivors.

Considering that torture survivors react in different ways to the same traumatic experience, it is crucial that each case is assessed on individual basis to provide the best treatment for the person concerned.

**20. Psychological staff assessing and treating survivors of torture and/or serious violence must be trained and/or experienced in dealing with these specific issues.**

Psychological assessment and treatment of survivors of torture and/or other serious violence require a specific training and transfer of knowledge and skills through supervised practice. Such activities imply a solid body of knowledge of the specific issues related to torture and violence that are relevant to the clinical interview, the ability to use psycho-trauma techniques and the most common and relevant dynamics that need to be worked through, the characteristics of the relationship that tends to establish between the clinician and the patient, the technicalities of the clinical work conducted at the presence of cultural mediators, the cross-cultural themes that needs attention, etc. It is a highly specialised work that require specifically trained clinicians.

**21. Specialized psychological assistance must be guaranteed to the children of survivors.**

The children of survivors of torture and/or serious violence, both primary or secondary victims themselves, tend to express their distress in different and peculiar ways that are typical of their age and level of development. Such signs and symptoms may be very different from those of adults and they can be recognised only by a clinician, specialized in the care of traumatized children, who should have knowledge and clinical experience in the issues of the trans-generational transmission of trauma, the assessment and treatment of trauma in children and the peculiar issues of adolescent survivors.

**22. Psychological staff assisting LGBTI survivors of torture and/or serious violence must have experience in addressing trauma deriving from persecution or discrimination based on sexual orientation and gender identity/expression.**

Psychological staff taking care and providing assessment and treatment to survivors of torture and/or serious violence that was connected to the person's sexual orientation or gender identity/expression should have specific training and experience in this field, or seek peer support to provide effective care or referrals. The issue of gender and sexual orientation adds new and specific issues to the complexity of the clinical work with the beneficiaries. Such specific themes are related to: the social and internalized homophobia; cultural and religious issues that relate to gender and sexual orientation; political persecution; heightened risk of isolation with no support from family and friends (in fact, evidence shows

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those are often the perpetrators of violence); feelings of shame, guilt and self-deprecation, leading to higher rates of mental health issues, including heightened prevalence of self-harm and suicide.

Staff must be aware that LGBTI persons might not disclose their sexuality/identity due to not feeling in a safe environment or delay sharing this information until a high level of trust is achieved with service-providers. Staff should avoid from making assumptions about an LGBTI person's needs and preferences and refrain from pathologising their behaviours, experiences and sense of identity.

## IV. SPECIAL SOCIAL NEEDS

### **23. Beneficiaries must be granted access to social services and their participation in social activities must be supported.**

Social services help refugees/asylum-seekers to integrate in the new country in which they live. Survivors of torture and/or serious violence face even more difficulties in the integration in the new context and therefore social services play a key role in their path toward integration.

To guarantee the access to social services, beneficiaries must be informed adequately on their existence, the type of the services provided locally and how to accede to public and private social services. In this regard, it should be ensured that the beneficiary is informed inside the reception centre by a caseworker. Caseworkers should regularly check whether beneficiaries have had access to the necessary services and where necessary assist them when they encounter difficulties.

### **24. Caseworker and/or social worker must help beneficiaries to connect to (religious, national, ethnic etc.) communities that are meaningful to them as well as to the local community to avoid isolation and loneliness.**

Connection to meaningful and local communities may have an added value in providing social support, possible significant relationships, a social network in which beneficiaries can find social role models, recognition of one's own identity, the perspective of a feasible life project, etc.

This should be however avoided in the event that beneficiaries show reluctance in being connected with their own communities of origin. This reluctance does not exclude possible involvement in other more neutral activities. In addition, beneficiaries should not be forced to get involved in social activities if they do not want to, as this insistence can be perceived negatively by the beneficiaries. Beneficiaries should be provided with the opportunity to express their will and preferences regarding the activities they want to partake in.

**25. Social services must provide tailored made development opportunities or, if not possible, must adjust available services to the special needs of the survivors as much as possible.**

Considering that survivors of torture and/or serious violence face difficulties due to attention deficit, memory impairment and hyper-arousal, the social services should take into consideration these obstacles while carrying out their daily activities. For example, the case worker should help the beneficiary to get in contact with educational institutions/schools ensuring tailored education and vocational training, language courses for people with specific concentration difficulties.

Survivors of torture and/or serious violence should be also offered the opportunity to participate in development activities such as the psychosocial rehabilitation workshops (i.e. theatre, music therapy, video workshop and creative writing, etc.) with the aim of regaining self-esteem and trust in others; stimulating the sense of belonging to the group; enhancing the individual's role within a group; developing some of their potentials, improving interpersonal skills.

Caseworkers play a key role in liaising with such services and in providing staff with the necessary information on how to adapt the services to the needs of the beneficiaries.

**26. Social services must have special attention to the integration of LGBTI persons possibly providing information about LGBTI organizations, events, activities.**

While the importance of social integration is self-evident for all refugees, LGBTI survivors are exposed to specific distress due to homophobia and transphobia. For this reason, in addition to regular social integration efforts, service-providers should facilitate a connection to LGBTI organizations and communities, which may have an added value in providing social support, possible significant relationships, a social network in which they can find social role models, recognition of one's own identity, the perspective of a feasible life project, etc. It is important to note that not every LGBTI person is comfortable with or wants to establish relationships with LGBTI communities, for a variety of reasons. Although social integration with LGBTI networks should be encouraged, it is the beneficiary's choice whether to engage with them or not.

**27. Social services shall provide a dedicated caseworker for the care of the children of the survivors of torture and/or serious violence.**

The beneficiaries' children need specific and dedicated support in consid-

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eration of their parents' difficulties. In fact, survivors of torture and/or serious violence may experience distress in their role of caregivers and/or be simply so involved in their health problems and psychological distress (e.g. depression, aggressive behaviour, mood swings) that they might not be able to recognize signs and symptoms of suffering in their children. The presence of an additional caregiver can help to monitor and respond to their needs. This should be done in a sensitive way, so as to avoid implying risks to the custody of the child (if these risks are unwarranted). The idea is the opportunity to have an adult caregiver thinking of the child as someone separate to his/her parent, helping the parent to appreciate possible difficulties and providing suggestions, support, and workable solutions.

## V. CROSS-CUTTING COMMON BASIC STANDARDS

The following common basic standards are applicable to all the above fields of assistance.

**28. Each professional involved in the assistance to survivors of torture and/or serious violence should be provided with specialised training.**

Such training should deal with issues such as human rights and the legal protection of survivors of torture and/or serious violence, the physical and psychological consequences of torture, techniques of interview, appropriate legal health and social responses to torture survivors' needs, relevant trauma issues and their impact on relationship and communication, and vicarious traumatisation.

**29. Beneficiaries should be provided with the opportunity to choose a linguistic and cultural mediator with whom he/she feels at ease in terms of gender, ethnicity and nationality.**

The possibility to choose an interpreter or cultural mediator with whom the beneficiary feels at ease is a crucial aspect for establishing of a trust relationship between the service, whichever it may be, and the beneficiary. Gender, ethnicity and nationality are often key factors involved in experiences of violence and the possibility to avoid any aspect that may constitute an obstacle to communication of sensitive issues is a crucial condition that is cross-cutting for all the fields of assistance, as it increases the effectiveness of the assistance provided and the well-being of the beneficiaries.

**30. Staff working with survivors of torture and/or serious violence should receive periodic psychological supervision.**

Psychological supervision – which can take different forms but must always respect principles of support of professionals, confidentiality, and protection of the best interest of the beneficiary and service staff – constitutes a crucial factor for the efficiency and effectiveness of assistance while protecting the well-being of all subjects involved. It helps to identify risk factors and the extent to which personnel's mental health is affected by the survivors' situation. It is particularly important for staff protection, as well as for the quality of the service offered to the survivors of torture and/or other serious violence.

## **Chapter 5.3 - QASN Questionnaire for the Assessment of the Special Needs of Survivors of Torture and/or Serious Violence Among Asylum Seekers and Beneficiaries of International Protection**

### **AIM**

The questionnaire aims at identifying the special needs of asylum seekers and beneficiaries of international protection who are survivors of torture and/or serious violence (beneficiaries) and hosted in EU countries. The questionnaire also means to raise professionals' awareness about the special needs of survivors in their practice and to stimulate cooperation in different areas of assistance.

It is **not** an instrument to identify survivors of torture and/or serious violence, as the tool applies to beneficiaries already identified as such.

The questionnaire takes outset in the EU Reception Conditions Directive 2013/33/EU that provides special attention to vulnerable persons such as *inter alia* victims of torture.

### **USERS**

The questionnaire can be used by any professional who has an overall picture of the assistance provided to a survivor of torture and/or serious violence.

### **STRUCTURE AND CONTENT**

The questionnaire is divided into four sections:

- 1) Special Procedural Needs;
- 2) Special Reception Needs;
- 3) Special Health Needs - a) *Medical Section* and b) *Psychological Section*;
- 4) Special Social Needs.

Each section contains questions addressed to either the beneficiary or the professional (interviewer), as well as questions concerning accompanied minors and gender and sexual orientation issues, to be answered only if applicable.

Each question is provided with Yes/No (or Not applicable) answers, space for comments and, in certain cases, a recommendation to organise/secure the service mentioned in that question. The part on comments is very important, as this is where the special needs can be unfolded.

At the end of the questionnaire, space is provided for the professional to give important actionable recommendations useful for the future management of the case, (i.e. recommendations that can prove valuable for staff meetings, procedure, etc.).



**PRIVACY**

Professionals shall comply with rules, laws and ethical guidelines relevant when treating sensitive data as well as with privacy safeguards. The questionnaire can also be completed without stipulating the name and surname of the beneficiary. In such cases, please indicate the relevant reference number.

Date.....

**DATA OF PROFESSIONAL** (completing the form)

Professional's name and surname.....

Professional's role..... Institution/organization.....

Contact details.....

**PERSONAL DATA OF THE FINAL BENEFICIARY**

**Name**..... **Surname**.....

OR Reference No.....

**Gender:**  Female |  Male

**Date of birth**.....

**Country of origin**.....

**Mother tongue**.....

**Other languages spoken**.....

**Family Status:**

Single |  Single with children

Married/Cohabiting |  Married/Cohabiting with children

**Accompanied by family members:**  Yes |  No

If yes, who.....

**Contact number**.....

**Present accommodation**.....

**Caseworker**.....**Contact**

**details**.....

**Date of Departure from Country of Origin** .....

**Country crossed**                      **Duration of staying**                      **Means of transport**

.....  
.....  
.....  
.....  
.....

**Date of arrival in EU..... Date of arrival in the present Country.....**

**Dublin Case:**  Yes |  No

**Torture survivor**

Identified through.....Date.....Place.....

**Survivor of other serious violence**

Identified through.....Date.....Place.....

**Stage of asylum procedure:**

Before registration at any authority

Admissibility procedure

During the asylum procedure

Before lodging the asylum request (verbalization)

Before any interview

Before personal interview with the determining authority

After personal interview with the determining authority

Other .....

During Dublin Procedure

In the second Country, still under Dublin procedure

Returned to the first Country in compliance with the Dublin procedure still pending

Following the notification of decision issued by the determining authorities

During the appeal procedure

Status of international protection granted Asylum

Subsidiary protection

Other status granted

Humanitarian protection

Other .....

Negative appeal decision

Relocation

Applicant is waiting for the relocation decision

Relocation transfer decision is pending

Relocation transfer occurred (please, mark the stage of RSD procedure above)

### 1. Special Procedural Needs

**To beneficiary:**

1. In your opinion, was the information about the asylum procedure provided to you clearly and comprehensively?

- Yes**                    |                     **No**  
 (currently) not applicable/necessary  
 has to be organised/secured

Comments.....  
.....  
.....  
.....

2. Do you understand the role of the service providers involved in the asylum procedure (i.e. who does what)?

- Yes**                    |                     **No**  
 (currently) not applicable/necessary  
 has to be organised/secured

Comments.....  
.....  
.....

3. During the asylum procedure, were you informed about the importance of telling to the determining authorities your full story including any forms of serious violence suffered before arriving in the country of asylum?

- Yes**                    |                     **No**  
 (currently) not applicable/necessary  
 has to be organised /secured

Comments.....  
.....  
.....  
.....

4. Do you feel capable and comfortable enough to tell the determining authorities your personal story including the experience of violence suffered before arriving in the country of asylum?

- Yes** |  **No**  
 (currently) not applicable/necessary  
 has to be organised/secured

Comments.....  
.....  
.....  
.....

5. During the interview with the determining authorities, were your basic needs secured? (For example: more time to tell your story, breaks, postponing the interview, having a translator or interpreter, choosing the gender of the interviewers)

- Yes** |  **No**  
 (currently) not applicable/necessary  
 has to be communicated to the lawyer

Comments.....  
.....  
.....  
.....

6. Were your children present during any interview where you were asked to tell your story?

- Yes** |  **No**  
 Ensure children are not present |  (currently) not applicable/necessary

Comments.....  
.....  
.....  
.....

**To interviewer:**

7. According to your information, is the beneficiary assisted by a legal advisor trained/experienced in providing assistance to survivors of torture and serious violence?

- Yes** |  **No**
- (currently) not applicable/necessary
- has to be organised/secured

Comments.....  
.....  
.....

8. Has the beneficiary access to a health unit (medical and psychological) experienced in providing certification of consequences of torture (based on Istanbul Protocol) and serious violence?

- Yes** |  **No**
- (currently) not applicable/necessary
- has to be organised/secured

Comments.....  
.....  
.....

9. According to your information, is the legal advisor able to offer support in asylum cases based on sexual orientation and gender identity?

- Yes** |  **No**
- (currently) not applicable/necessary
- has to be organised/secured

Comments.....  
.....  
.....

## 2. Special Reception Needs

### *To beneficiary*

1. Do you feel safe and comfortable in the space you are living in at the moment?

**Yes** |  **No**

(currently) not applicable/necessary

has to be organised/secured

Comments.....  
.....  
.....  
.....

2. Are you able to rest and find moments of silence in the place you are living in at the moment?

**Yes** |  **No**

(currently) not applicable/necessary

has to be organised/secured

Comments.....  
.....  
.....  
.....

3. Have you experienced or witnessed any occurrence of harassment or violence at the facilities you are currently living in (for example: teasing, bullying, intimidation, verbal attacks, sexual harassment, physical aggressions)?

Yes |  No

Comments.....  
.....  
.....

4. When you visit the service-providers of your reception center/accomodation, do you feel that you are able to talk openly about your issues?

Yes |  No  
 (currently) not applicable/necessary  
 has to be organised/secured

Comments.....  
.....  
.....

5. Do you know where or who to go to if you need anything in particular (any kind of needs related to accomodation, health, bureaucracy, etc.) in the reception center/accomodation?

Yes |  No  
 (currently) not applicable/necessary  
 has to be organised/secured

Comments.....  
.....  
.....

6. Is it possible for your children to find a safe and dedicated area to play (e.g. safe, well-equipped, protected, clean, etc.) in the space you are living in at the moment or elsewhere?

Yes |  No



(currently) not applicable/necessary

has to be organised/secured

Comments.....  
.....  
.....

***To Interviewer***

7. Does the beneficiary receive support from specialised services (e.g. medical, psychological, legal, social support, educational, etc.)? Please, specify in the comments.

**Yes**

|

**No**

(currently) not applicable/necessary

has to be organised/secured

Comments.....  
.....  
.....

8. Are the services coordinated in providing assistance to the beneficiary?

**Yes**

|

**No**

(currently) not applicable/necessary

has to be organised/secured

Comments.....  
.....  
.....

9. According to your information, are service providers (social workers, health professionals) equipped to deal with specific issues related to LGBTI persons (e.g. social integration at the facilities, response to bullying and sexual harassment, psychological support)?

- Yes** |  **No**  
 (currently) not applicable/necessary  
 has to be organised/secured

Comments.....  
.....  
.....  
.....

**3a. Special Health Needs - Medical Section**

*To beneficiary:*

1. Do you suffer from any health condition or do you have any particular medical needs?

- Yes** |  **No**  
 (currently) not applicable/necessary

Comments.....  
.....  
.....

2. Have you been/are you being assisted by a medical service?

- Yes** |  **No**  
 (currently) not applicable/necessary  
 has to be organised/secured

Comments.....  
.....  
.....  
.....

3. Did/does this medical service provide effective treatment or other relevant support?

- Yes** |  **No**  (currently) not applicable/necessary  
 has to be organised/secured

Comments.....  
.....  
.....  
.....

4. Do you require further treatment?

- Yes** |  **No**  (currently) not applicable/necessary  
 has to be organised/secured

Comments.....  
.....  
.....

5. Has this further treatment already been offered to you?

- Yes** |  **No**  (currently) not applicable/necessary  
 has to be organised/secured

Comments.....  
.....  
.....

6. Have you been offered the possibility to choose the gender of your physician/s?

- Yes** |  **No**  (currently) not applicable/necessary  
 has to be organised/secured

Comments.....  
.....  
.....

---

**To interviewer:**

7. Has the medical staff expertise in treating survivors of torture and serious violence?

- Yes** |  **No**  
 (currently) not applicable/necessary  
 has to be organised/secured

Comments.....  
.....

8. In case the beneficiary's children are also survivors, have they access to specialised medical assistance?

- Yes** |  **No**  
 (currently) not applicable/necessary  
 has to be organised/secured

Comments.....  
.....  
.....

### 3b. Special Health Needs - Psychological Section

***To beneficiary:***

1. Are you currently experiencing any emotional distress or behavioural difficulties (e.g. sleeping difficulties, concentration problems, intense stress, mood swings, difficulties relating with people, etc.)?

**Yes**

|

**No**

(currently) not applicable/necessary

Comments.....  
.....  
.....

2. Did/do you receive any professional help for these difficulties from a psychologist or psychiatrist?

**Yes**

|

**No**

(currently) not applicable/necessary

has to be organised/secured

Comments.....  
.....

3. Did/do you receive regular treatment for these difficulties?

**Yes**

|

**No**

(currently) not applicable/necessary

has to be organised/secured

Comments.....  
.....  
.....

***To interviewer:***

4. Is the staff providing psychological support trained in treating survivors of torture and serious violence?

**Yes**

|

**No**

(currently) not applicable/necessary

has to be organised/secured

Comments.....  
.....  
.....

5. Have the beneficiary's children access to specialised psychological assistance?

**Yes**

|

**No**

(currently) not applicable/necessary

has to be organised/secured

Comments.....  
.....  
.....

6. Does the staff providing psychological support have expertise to address trauma deriving from persecution or discrimination based on sexual orientation and gender identity/expression (LGBTI issues)?

**Yes**

|

**No**

(currently) not applicable/necessary

has to be organised/secured

Comments.....  
.....  
.....

#### 4. Special Social Needs

**To beneficiary:**

1. Do you know who can help you to access social services and are you able to contact this person?

- Yes** |  **No**  
 (currently) not applicable/necessary  
 has to be organised/secured

Comments.....  
.....  
.....

2. Do you have any relationship in your/local community and did you engage in any social activity?

- Yes** |  **No**  
 (currently) not applicable/necessary  
 has to be organised/secured

Comments.....  
.....  
.....

3. Do you have access to development opportunities and activities (education, professional trainings and workshops, language classes)?

- Yes** |  **No**  
 (currently) not applicable/necessary  
 has to be organised/secured

Comments.....  
.....  
.....

**To interviewer:**

4. Has the beneficiary access to tailored made development opportunities (for example, language, education, specific psycho-social workshops for psychological support and socialization, tailored professional/vocational training, activities that enhance self-esteem and sense of control on one's life, in case of children and adolescents enrollment in general education system, etc.)?

- Yes** |  **No**  
 (currently) not applicable/necessary  
 has to be organised/secured

Comments.....  
.....  
.....

5. Is there any special attention given to the social integration of beneficiaries who might experience difficulties or discrimination based on their perceived sexual orientation or gender identity/expression (LGBTI issues)? (e.g., information about LGBTI organisations, events, activities)?

- Yes** |  **No**  
 (currently) not applicable/necessary  
 has to be organised/secured

Comments.....  
.....  
.....

6. Have the beneficiary's children access to a social caseworker that can function as an additional caregiver to monitor their needs?

- Yes** |  **No**  
 (currently) not applicable/necessary  
 has to be organised/secured

Comments.....  
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.....



***What other needs or problems have been mentioned by the person?***

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***What general or structural changes could be implemented to address the needs expressed by the beneficiaries?***

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**NEXT STEPS / TO-DO LIST** (e.g. referrals, recommendations for the management of the case, priorities for 'high risk' cases, etc.)

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## Recommendations

- ▶ At the core of the ongoing EU asylum law reform process, and taking the proposals forwarded by the European Commission into account, specific obligations owed to survivors of torture and/or serious violence must be provided, in order to guarantee tailored support and more protective safeguards to really meet their special needs;
- ▶ Coherence and consistency of the EU asylum *acquis* must be ensured to avoid fragmentation of both legislations and practices at MS level;
- ▶ A EU Statistical framework providing a systematic and detailed data collection should be put in place to understand the scale of vulnerabilities, and in particular of survivors of torture and/or serious violence in EU asylum systems to cater for the special needs of these individuals;
- ▶ Prioritised asylum procedures must be always ensured for survivors of torture and/or serious violence with special needs;
- ▶ Survivors of torture and/or serious violence should always be exempted from border and accelerated procedures both in law and practice, independently of more principled concerns regarding these restrictive measure;
- ▶ An adequate system of identification and assessment of the special needs of survivors of torture and/or serious violence should be set-up and be conducted in a timely and effective manner. Such identification should initiate as soon as the asylum application is made;
- ▶ State authorities must establish formal mechanisms in their domestic law for identification of both special reception needs and the needs for special procedural safeguards ensuring these assessments as a *continuum*;
- ▶ State authorities must clearly define the special safeguards to be applied by authorities entrusted in registration and identification of asylum applications and by determining authorities during the personal interview;
- ▶ Guidelines for planning assistance, rehabilitation and treatment of survivors of torture and/or serious violence should be adopted by Member States;

- ▶ Memorandum of Understanding or Protocols among health services and the asylum procedure should be established with a view to regulating referrals from one service to another. These MOU should be based on the Istanbul Protocol;
- ▶ EASO should reinforce its role in supporting national authorities' efforts to identify vulnerable asylum seekers. Targeted identification tools should be systematically used at the moment of arrival, registration and identification process;
- ▶ Asylum authorities must ensure specific training to their personnel involved in dealing with vulnerable asylum seekers making systematic use of the existing EASO e-learning training modules like a quality Tool on Identification of Persons with Special Needs (IPSN);
- ▶ Rehabilitation services should be ensured by States. Health care services should not be restricted to emergency treatments but fully covered;
- ▶ Specialised NGOs should be involved in identification and rehabilitation of survivors of torture and/or serious violence as well as in training activities. In this respect, a legal frame and financial sustainability for NGOs' involvement in these processes should be ensured;
- ▶ All actors involved in the asylum procedures, reception facilities and services providers must be specifically trained to deal with survivors of torture and/or serious violence. Multidisciplinary and holistic approach should be always applied by all professionals who should work in a coordinated manner;
- ▶ Small specialised contact points for survivors of torture and/or serious violence should be put in place to better and efficiently meet their special needs;
- ▶ Trained interpreters should be made available to the asylum seeker at every stage of the asylum procedure;
- ▶ Asylum seekers and beneficiaries of international protection must never be detained for administrative reasons.

## **ANNEX 1 List of Common Basic Standards**

### **I. Special Procedural Needs**

1. The beneficiary must receive clear and comprehensive information about the asylum procedure.
2. Services providers must ensure and regularly verify that asylum-seekers correctly understand the role of each actor, both Institutional and non-governmental, providing services.
3. Beneficiaries must be informed about the importance of telling the determining authorities their full story, especially with regard to any form of serious violence suffered before arriving in the country of asylum.
4. Service-providers and the determining authorities must ensure the implementation of those conditions and measures that allow, as far as is possible, asylum-seekers to feel at ease in telling their personal stories and traumatic events. The right to omission, postponement or suspension of the interview in the cases provided by law or deemed appropriate by the determining authorities should also be secured.
5. Beneficiary's children shall not be present during any interview.
6. The beneficiary must be assisted by a legal advisor specifically trained or skilled in providing assistance to survivors of torture and/or serious violence.
7. Legal and social services, as well as competent authorities, must refer survivors of torture and/or serious violence to health units experienced in providing certification of consequences of torture and/or serious violence (based on the Istanbul Protocol).
8. When beneficiaries have experienced persecution and violence based on sexual orientation and gender identity, they must be referred to qualified and legal advisors experienced in LGBTI issues.

## **II. Special Reception Needs**

9. Beneficiaries must be clearly informed about the functioning of the reception centres and the internal services provided. In case legal and health services are provided within the reception centre, and the beneficiary decides to seek their assistance, particular attention should be paid to the privacy and confidentiality of the sensitive information disclosed by survivors.
10. The beneficiary must benefit from multidisciplinary approach and coordinated specialised services inside and outside the reception centres.
11. The beneficiary should be granted a peaceful comfortable and safe space to live in.  
Any form of harassment, violence, threat such as teasing, bullying, intimidation, verbal attacks, sexual harassment, physical aggressions, should be banned from the places where survivors of torture and/or serious violence live.
12. In case of accommodation of families, the management of the reception centre must grant dedicated spaces for play, study and socialization to children.
13. Service-providers (social workers, health professionals) must be equipped to deal with specific issues related to LGBTI persons, guaranteeing social integration at the facilities, response to bullying and sexual harassment, psychological support.

### **III(a). Special Medical Health Needs**

14. Medical assistance must always be offered to survivors of torture and/or serious violence by a medical service able to provide continuous and appropriate treatment for the time needed.
-

15. Medical service must verify if beneficiary requires specific treatments and refer her/him to hospital or other health specialized services.
16. The medical service offering the medical assistance to survivors of torture and/or serious violence must offer physicians of both genders, where possible, among which the beneficiary can choose.
17. The medical staff must be experienced and/or trained in treating survivors of torture and/or serious violence.
18. Specialized medical assistance must be guaranteed to children, being them direct survivors or secondary victims.

### **III(b). Special Psychological Health Needs**

19. Psychological assessment and treatment must be offered to survivors of torture and/or serious violence.
20. Psychological staff assessing and treating survivors of torture and/or serious violence must be trained and/or experienced in dealing with these specific issues.
21. Specialized psychological assistance must be guaranteed to the children of survivors.
22. Psychological staff assisting LGBTI survivors of torture and/or serious violence must have experience in addressing trauma deriving from persecution or discrimination based on sexual orientation and gender identity/expression.

### **IV. Special Social Needs**

23. Beneficiaries must be granted access to social services and their participation in social activities must be supported.
  24. Caseworker and/or social worker must help beneficiaries to connect
-

- to (religious, national, ethnic etc.) communities that are meaningful to them as well as to the local community to avoid isolation and loneliness.
25. Social services must provide tailored made development opportunities or, if not possible, must adjust available services to the special needs of the survivors as much as possible.
  26. Social services must have special attention to the integration of LGBTI persons possibly providing information about LGBTI organizations, events, activities.
  27. The social services shall provide a dedicated caseworker for the care of the children of the survivors of torture and/or serious violence.

#### **V. Cross-cutting Common Basic Standards**

28. Each professional involved in the assistance to survivors of torture and/or serious violence should be provided with specialised training.
29. Beneficiaries should be provided with the opportunity to choose a linguistic and cultural mediator with whom he/she feels at ease in terms of gender, ethnicity and nationality.
30. Staff working with survivors of torture and/or serious violence should receive periodic psychological supervision.

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