

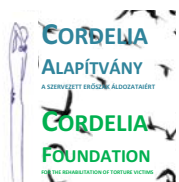
From TORTURE to DETENTION

Access of Torture Survivor and
Traumatised Asylum-Seekers
to Rights and Care in Detention



HUNGARY AND BULGARIA, 2015

A publication by the Cordelia Foundation, with contributions from HHC, FAR and ACET



Фондация за
достъп до права
Foundation for
Access to Rights



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Project partners wish to express their gratitude to the authorities, as well as the management and staff of the detention sites, for their valuable cooperation during project implementation.



Co-funded by the European Union

This project has been funded with support from the European Commission. This publication reflects the views only of the authors, and the European Commission cannot be held responsible for any use which may be made of the information contained therein.

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Executive summary

A significant part of asylum-seekers arriving in the EU are torture victims. Their proportion is particularly high among asylum-seekers fleeing on-going armed conflicts and failed states, such as Syria, Afghanistan or Somalia. Torture victims in Europe are in urgent need of assistance: from early identification, through professional medical treatment, psycho-social and legal support, to full rehabilitation. The Supporting Torture Survivors: Rehabilitation and Empowerment – a Need and Goal for Treatment and Help (STRENGTH) project was implemented in Bulgaria and Hungary through a joint partnership of two organisations providing psychotherapeutic support and rehabilitation to torture victims – the Cordelia Foundation in Hungary and the Assistance Centre for Torture Survivors (ACET) in Bulgaria – and two organisations engaged in legal support – the Hungarian Helsinki Committee and the Foundation for Access to Rights in Bulgaria, between July 2014 and January 2016. The project’s aim was to provide access to complex assistance to torture victims in these two countries, in order to ease their continued suffering, facilitate their access to international protection, and challenge their often unlawful and unnecessary detention.

As part of the complex assistance, the project entailed regular monitoring of detention centres where torture victims are held. During the monitoring visits, monitoring teams consisting of legal and mental health professionals identified torture victims and assessed the impact of detention on their mental health, trying to document and challenge the presence of this particularly vulnerable group in detention. This report presents the main findings that monitoring visits in Bulgaria and Hungary uncovered, along with tailor-made recommendations for each of them. The research has revealed grave and systemic shortcomings in both states, in some cases in direct contradiction with Member States’ obligations under EU law. Major shortcomings include:

- The lack of systematic identification mechanisms in both countries which leads to the frequent detention of torture victims and other traumatised asylum-seekers, as well as it makes existing legal safeguards ineffective;
- Numerous factors that lead to re-traumatisation in detention, such as the lack of proper, understandable information; no access to interpretation in crucial situations; unnecessary limitations on the contact with the outside world and on internal freedom of movement; as well as
- The lack of specialised medical, psychological and psycho-social care.

As an introduction and a background to the findings, the legal framework and policies governing the detention of asylum-seekers are outlined, followed by an introduction into the impact of detention on the mental health of asylum seekers, with particular attention to victims of severe trauma and torture.

I. Background

I.1 Legal framework of the detention of asylum-seekers in Hungary and Bulgaria

I.1.1 Hungary

Until the end of 2012, many asylum-seekers were held in so-called **immigration detention** (*idegenrendészeti őrizet*) in Hungary. The HHC, the UNHCR, the European Court of Human Rights and the European Commission strongly criticised this practice;¹ in 2013, it was stopped and following a six-month interim period and law reform, a new detention regime specific to asylum-seekers was introduced, called “**asylum detention**” (*menekültügyi őrizet*).²

The Office of Immigration and Nationality (OIN) can order the detention of an asylum-seeker on any of the following grounds:

- 1) To establish his or her **identity or nationality**;
- 2) In case the person seeking recognition is under an **expulsion procedure** and it can be proven on the basis of objective criteria (e.g. the applicant has had the opportunity beforehand to submit an asylum claim), or there are good grounds to presume that the person seeking recognition is applying for asylum exclusively to delay or frustrate the expulsion;
- 3) In order to establish the **relevant facts and circumstances** on which the asylum claim is based, if these facts and circumstances cannot be established without the applicant’s detention (in particular, if there is a risk of absconding);
- 4) To protect **national security or public order**;
- 5) Where the application has been submitted in an **airport procedure**;
- 6) Where it is necessary in order to carry out a **Dublin transfer** and there is a serious risk of absconding;
- 7) In order to carry out a **Dublin transfer**, even if the person did not submit an asylum claim in Hungary.³

1. See more information at: <http://helsinki.hu/wp-content/uploads/HHC-update-hungary-asylum-1-July-2013.pdf>

2. The domestic legal framework of asylum detention is based on Sections 31/A–31/I of Act LXXX of 2007 on Asylum, Sections 36/A–36/F of Government Decree 301/2007 (XI. 9.) on the implementation of Act LXXX of 2007 on asylum and Decree No. 9/2013 (VI.28.) of the Minister of the Interior on the rules of the execution of asylum detention and the bail in asylum detention.

3. Sections 31/A (1)–(1a) of the Asylum Act.

Unaccompanied minor asylum-seekers cannot be detained.⁴ The maximum **time limit** of asylum detention is 12 months (30 days, in case of families with minor children), with a **periodic judicial review** every 60 days.

There is no safeguard in Hungarian law which would exclude the detention of torture victim asylum-seekers, or other vulnerable asylum-seekers with special needs. However, the Asylum Act stipulates that

*In case of asylum-seekers with special needs asylum detention shall be executed with attention to the asylum-seekers' special needs, in particular their age and health status (including mental health).*⁵

This legal safeguard is **ineffective in practice**, for a number of reasons:

- The law stipulates that the asylum authority shall examine whether asylum-seekers have special needs.⁶ Yet there is **no official protocol and effective identification mechanism** in place to systematically identify torture victims and other vulnerable asylum-seekers in the framework of the asylum procedure or when ordering or upholding detention, in breach of the Recast Reception Conditions Directive.⁷
- Hungarian law **fails to provide a timeframe** within which the asylum authority shall carry out this assessment, nor does it clarify in which phase of the proceedings this shall take place.
- In breach of the Recast Reception Conditions Directive, there is **no systematic training** for those who order, uphold or carry out the detention of asylum-seekers regarding the needs of victims of torture, rape or other serious acts of violence.⁸ It is therefore questionable to what extent the authority is capable to carry out the assessment of vulnerabilities and special needs in the framework of detention, given that **no expert psychologists and doctors** are employed to this end. The asylum authority *may* decide to use the assistance of external medical or psychological specialists; however, this is not a common or frequent practice.
- In breach of the Recast Reception Conditions Directive,⁹ Hungarian law does not explicitly include **victims of human trafficking, persons suffering of serious illnesses and persons with mental disorders** in the definition of vulnerable asylum-seekers.¹⁰ This may contribute to the exclusion of certain vulnerable asylum-seekers from the favourable treatment they are entitled to under EU law.

At the time of writing, the OIN operates **three permanent asylum detention centres** in Békéscsaba, Nyírbátor and Kiskunhalas. The latter one was opened in November 2015, following the closure of the country's largest open reception facility and an asylum detention centre in Debrecen in the same month.

4. Section 31/B (2) of the Asylum Act.

5. Section 31/F (2) of the Asylum Act.

6. Section 3 (1) of Government Decree 301/2007 (XI. 9.) on the implementation of Act LXXX of 2007 on asylum.

7. Directive 2013/33/EU of the European Parliament and of the Council of 26 June 2013 laying down standards for the reception of applicants for international protection (recast), hereinafter Recast Reception Conditions Directive, Art. 22.

8. Recast Reception Conditions Directive, Art. 25 (2).

9. Recast Reception Conditions Directive, Art. 21.

10. Section 2 (k) of the Asylum Act.

Capacity of asylum detention centres in Hungary

Kiskunhalas	170 (planned to be increased to 500)
Békéscsaba	185
Nyírbátor	105

MAP 1 – Where are the asylum-seekers?



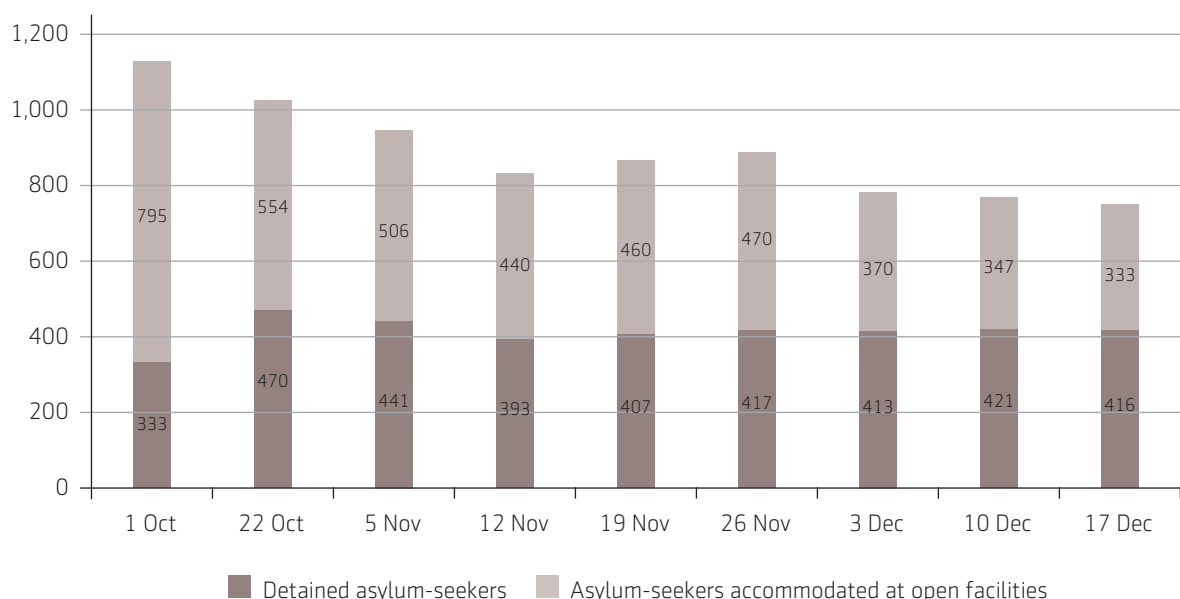
Source: HHC.

Hungary has been **systematically detaining first-time asylum-seekers** for several years, representing a rather unique practice in the EU. In 2014, 4 829 asylum-seekers were placed in asylum detention, while 2051 of them were detained between 1 January and 31 October 2015 – among whom were 464 Afghan, 228 Syrian and 107 Iraqi nationals.¹¹ There is no available information about the average length of detention.

Radically tightening asylum rules and widely criticised new policies led to an unprecedented situation by the autumn of 2015, when **more first-time asylum-seekers were detained than those accommodated at open facilities:**

11. Source: OIN.

Figure 1 – Detention becoming a majority practice in Hungary



Source: Data collected by the HHC from the field.

The police operate **four immigration detention centres**, which are located in Győr, Kiskunhalas, Nyírbátor and the Liszt Ferenc International Airport in Budapest, with a capacity of approximately 350–400 persons altogether. As statistics show, immigration detention has been **massively used** in recent years:¹²

	2009	2010	2011	2012	2013
Number of third-country nationals in immigration detention	1,989	3,509	5,715	5,434	6,496

Asylum-seekers have not been placed in immigration detention since 2013. However, refugee-assisting organisations witnessed an increasing pattern of undocumented migrants not asking for asylum in Hungary in 2015, even with clear or presumably genuine protection needs (e.g. fleeing from Syria, Iraq or Afghanistan). The analysis of this tendency – related to the collapse of the Hungarian asylum system in 2015 – falls beyond the scope of this paper, and at the same time, it explains why refugee-assisting NGOs pay **growing attention to immigration detention centres** as well.

1.1.2 Bulgaria

The legal framework of immigration detention in Bulgaria is based on **two different branches of law**: immigration law for irregular migrants and refugee law for asylum-seekers. Although Bulgaria formally introduced the specific detention regime for asylum-seekers as late as in October 2015 (with entry into force on 01 January 2016), in practice asylum-seekers have been frequently detained in

12. European Migration Network, *The use of detention and alternatives to detention in the context of immigration policies – EMN Focussed Study 2014*, HU EMN NCP, 2014, data collected from Annex I.

recent years **as irregular migrants in a return procedure**, before their registration as asylum-seekers and admission to the ordinary asylum procedure.¹³

The administrative authority that issued the expulsion order of a third-country national irregularly entering or staying in Bulgaria has the power to also issue an immigration detention order with the aim of “preparing the return”, provided that the required conditions of necessity and proportionality are met.¹⁴ In practice, however, this test is hardly ever employed, and **detention is often ordered as an automatism**, with no individualised justification. This form of detention is carried out in so-called special centres for the temporary accommodation of foreigners. Currently, there are immigration detention centres in Bousmantsi (near the capital Sofia, with a capacity of approximately 400 persons) and Lyubimets (near the border with Turkey, with a capacity of approximately 300 persons). In the city of Elhovo, close to the border with Turkey, there is a special so-called redistribution centre (short-term detention facility) where irregular migrants can be detained for a few days before their transfer to Bousmantsi or Lyubimets.

MAP2 – Where are the asylum-seekers?



Source: HHC.

The maximum time limit of detention is **18 months**.

On 16 October 2015, Bulgaria transposed into national law Article 8 of the EU Recast Reception Conditions Directive, thus **introducing a specific detention regime for asylum-seekers**. This

13. As in the Hungarian practice before 2013.

14. Law on Foreign Nationals in the Republic of Bulgaria, Section 44 (6).

allows the State Agency for Refugees to establish “closed reception centres”, as well as to issue detention orders. No such centre has been opened at the time of writing.

The detention of irregular migrants and asylum-seekers is referred to in Bulgarian law as “**coercive accommodation**”.

Bulgarian authorities **do not publish statistics** on the detention of asylum-seekers or on immigration detention in general. A 2014 study of the European Migration Network provides valuable – but outdated – data in this respect:¹⁵

	2009	2010	2011	2012	2013
Number of third-country nationals in immigration detention	832	973	1,048	2,047	6,303
...out of whom vulnerable	N/A	N/A	155	395	806
Average length of detention in Bousmantsi (Sofia)	N/A	N/A	77	61	58
Average length of detention in Lyubimets	N/A	N/A	59	31	30

1.2 Trauma and detention

Asylum-seekers and irregular migrants often arrive from countries where arbitrary detention, torture and other inhuman treatment are used by the state apparatus, or where civil war or armed conflicts have impacted heavily on the lives of inhabitants – exposing them to torture and death as a part of everyday life. Studies examining the impact that detention can have on the mental health of these persons thus depart from the commonly accepted fact that **higher rates of trauma are reported among asylum-seekers as compared to the average**, so trauma-related mental health disorders are also more frequent among them.¹⁶

In addition to the well-documented vulnerability of asylum-seekers as a result of experience of trauma prior to arrival, so-called **post-migratory stress factors** characterising the experiences of asylum-seekers, including stressful legal processes of asylum determination, are also among the risk factors. For instance, some studies documented that longer asylum processes result in increased risks of psychiatric disorders,¹⁷ even if they are not coupled with the extreme uncertainty characterising the experiences of those who are detained while waiting for their asylum claim to be examined.

Asylum-seekers who are detained in the host country experience additional, severely aggravating and more specific set of stressors directly linked to detention: the detention process itself, the detention centre environment, the loss of liberty and of contact with their loved ones, social isolation, the

15. European Migration Network, *The use of detention and alternatives to detention in the context of immigration policies – EMN Focussed Study 2014*, BG EMN NCP, 2014, data collected from Annex I.

16. Sinnerbrink I, Silove D, Field A, Steel Z, Manicavasagar V. Compounding of premigration trauma and postmigration stress in asylum seekers. *J Psychol* 1997; 131: 463–70.

17. Laban CJ, Gernaat H, Komproe IH, Schreuders BA, De Jong J. Impact of a long asylum procedure on the prevalence of psychiatric disorders in Iraqi asylum seekers in the Netherlands. *J Nerv Ment Dis* 2004; 192: 843–51.

possibility of abuse from staff or fellow detainees, riots, hunger strikes, self-harm and many more.¹⁸ This is why the overwhelming majority of studies on the topic found that **a high level of emotional distress can be linked to detention**, independently from the country where detention takes place, the age, origin or even the mental health status of the person prior to detention.¹⁹

As the DEVAS: Project on the Detention of Vulnerable Asylum-Seekers in the European Union, aimed at investigating and analysing vulnerability in detained asylum seekers and irregular migrants in 23 EU Member States, observed: “detention harms otherwise healthy people”,²⁰ as it is an ongoing trauma in itself. In detention, hopelessness, depression and despair are normal reactions to an abnormal situation.²¹ In the DEVAS project, 50–70% of asylum-seekers reported poor mental health in detention. Percentages vary from study to study, but they always remain no less than 50%. It is not surprising that **detention causes extreme stress to torture victims with experience of imprisonment in their country of origin** or those who have undergone other forms of severe trauma such as combat, forced isolation, forced separation from family, being close to death, murder of loved ones, witnessing the murder of strangers, or a serious injury. Nonetheless, no comprehensive study of the specific experiences of torture victims in the European asylum detention systems has been carried out so far.

The triad of psychiatric disorders most common among asylum-seekers in detention is that of **depression, anxiety and post-traumatic stress disorder (PTSD)**, a condition that develops as a result of exposure to traumatic events, whose symptoms include disturbing recurring flashbacks, avoidance or numbing of memories of the event, hyperarousal and changes in the overall patterns of the person’s cognitive and emotional responses.²² Many of these symptoms, besides causing deep suffering to those affected, have an adverse effect on the person’s ability to respond flexibly to the stressful situations arising in detention: the constant presence of armed guards, the loss of liberty and the forced cohabitation with many other detainees. Thus, the symptoms perpetuate and become more severe: **detention fuels re-traumatisation**.

The experience of detention is unique, as it does not allow detainees suffering from the consequences of previously occurred traumatic experiences to use their usual coping skills. Instead, in the mundane, frustrating and meaningless environment of the detention centre, traumas reactivate.²³ Besides the above mentioned triad, studies carried out in the UK, the US and Australia reported **suicidal ideations, self-harm and even psychotic symptoms** to be common among victims of trauma in detention.²⁴ Among children, mental health problems were often coupled with developmental and

18. Fazel M, Silove D. Detention of refugees. *BMJ* 2006; 332: 251–2.

19. Robjant K, Hassan R and Katona C. Mental health implications of detaining asylum seekers: systematic review. *Br J Psychiatry* 2009; 194: 306–312.

20. Jesuit Refugee Service Europe. **Becoming vulnerable in detention. Civil Society Report on the Detention of Vulnerable Asylum Seekers and Irregular Migrants in the European Union (The DEVAS Project)**.

21. Robjant K, Hassan R and Katona C. Mental health implications of detaining asylum seekers: systematic review. *Br J Psychiatry* 2009; 194: 306–312.

22. American Psychiatric Association (2013). *Diagnostic and Statistical Manual of Mental Disorders* (5th ed.). Arlington, VA: American Psychiatric Publishing. pp. 271–280.

23. Pourgourides CK, Sashidharan SP, Bracken PJ. *A Second Exile: The Mental Health Implications of Detention of Asylum Seekers in the United Kingdom*. North Birmingham NHS Trust, 1996.

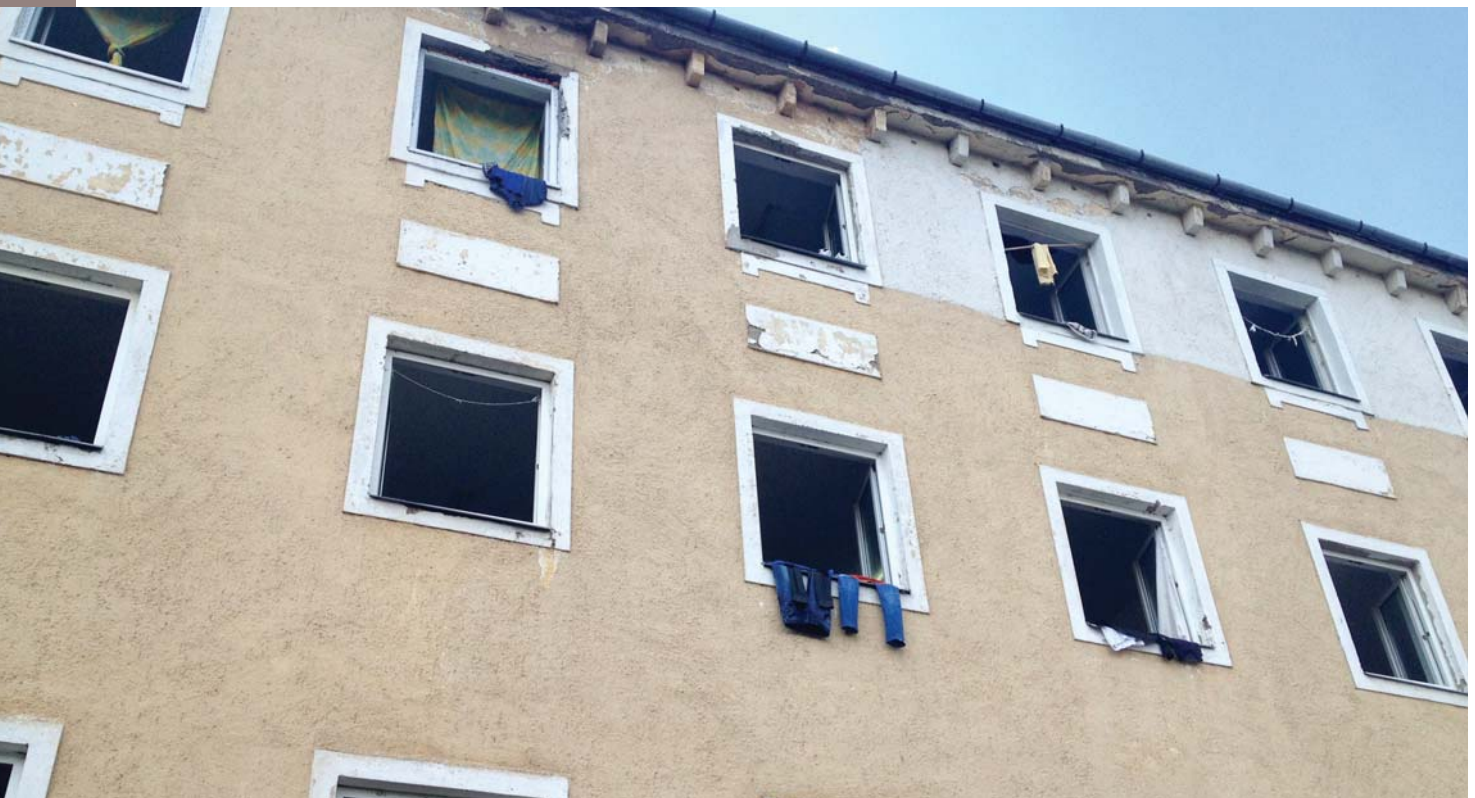
24. Robjant K, Hassan R and Katona C., p. 306.

behavioural problems, including impaired cognitive development, disruptive and oppositional conduct, enuresis, sleep disorders and many more.²⁵

Not only is **time in detention associated with the severity of distress**, but the distress caused has been found to **persist for years** after release. Even if there is evidence for an initial improvement occurring as an immediate effect of the freedom gained back, longitudinal results have shown that the negative impact of detention remains.²⁶ This reinforces the fact that **detention is a trauma in itself**. Studies that have assessed mental health conditions of ex-detainees reported of respondents having flashbacks and intrusive thoughts – “sudden and upsetting memories of the time in detention” and “images of threatening or humiliating events in detention” – very similar to the ones caused by traumatic events from their pre-migration experiences.²⁷

Generally speaking, detention increases mental health difficulties in a population which is, by default, a highly traumatised one. Thus, **from the perspective of mental health professionals, detention is per se a harmful practice**. Given the extremely negative effects of detention on the psychological wellbeing of those detained, international law (including EU law) includes a number of specific safeguards to be applied whenever the detention of torture victims and other vulnerable asylum-seekers is inevitable.

One of the buildings in the Debrecen reception centre, closed down in November 2015



25. Sultan A, O'Sullivan K. Psychological disturbances in asylum seekers held in long term detention: a participant-observer account. *Med J Austr* 2001; 175:593–6.
26. Steel Z, Silove D, Brooks R, Momartin S, Alzuhairi B, Susljik I. Impact of immigration detention and temporary protection on the mental health of refugees. *Br J Psychiatry* 2006; 188: 58–64.
27. Steel Z, Momartin S, Bateman C, Hafshejani A, Silove D. Psychiatric status of asylum seeker families held for a protracted period in a remote detention centre in Australia. *Aust N Z J Public Health* 2004; 28: 527–36.

1.3 Specific legal obligations with regard to the detention of torture victim or traumatised asylum-seekers

Hungary and Bulgaria must observe a number of legal safeguards concerning the detention of vulnerable asylum-seekers (and torture victims among them), embedded in international and EU law:

- UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment;²⁸
- EU Charter of Fundamental Rights;²⁹
- EU Recast Asylum Procedures Directive;³⁰
- EU Recast Reception Conditions Directive;
- EU Returns Directive;³¹
- European Convention on Human Rights,³² as interpreted by the jurisprudence of the European Court of Human Rights.

The relevant obligations stemming from these instruments can be briefly summarised as follows:³³

1. **Prevention of torture and inhuman treatment:** Hungary and Bulgaria shall prevent any form of torture, inhuman or degrading treatment and punishment in detention. This includes both the obligation of refraining from such practices and the effective prevention of such treatment being committed by non-state actors (e.g. fellow detainees). When interpreting what would constitute torture, inhuman or degrading treatment or punishment, the individual circumstances of the victim (particularly factors of vulnerability) shall be duly considered. The failure to provide the necessary medical attention and treatment to a detainee in need can also result in inhuman treatment.³⁴
2. **Special reception safeguards:** When ordering, upholding and carrying out the detention of asylum-seekers, Hungary and Bulgaria shall take into account the specific situation of vulnerable persons, the latter group including disabled people, elderly people, pregnant women, single parents with minor children, victims of human trafficking, persons with serious illnesses, persons with mental disorders and persons who have been subjected to torture, rape or other serious forms

28. Hereinafter UN CAT.

29. Charter of Fundamental Rights of the European Union, 2012/C 326/02.

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

31. Directive 2008/115/EC of the European Parliament and of the Council of 16 December 2008 on common standards and procedures in Member States for returning illegally staying third-country nationals.

32. Convention for the Protection of Human Rights and Fundamental Freedoms, hereinafter ECHR.

33. Note that the list is limited to *specific* standards that apply to the group in focus (torture victim and traumatised asylum-seekers in detention). It does not include general standards applicable in all cases of detention, nor does it contain procedural safeguards to be observed in the asylum proceedings.

34. UN CAT, Art. 2 (1) and 16 (1); ECHR, Art. 3 (as interpreted by the consequent jurisprudence of the European Court of Human Rights); EU Charter of Fundamental Rights, Art. 4.

of psychological, physical or sexual violence, such as victims of female genital mutilation.³⁵ The health, including mental health, of applicants in detention who are vulnerable persons shall be of primary concern to national authorities.³⁶

3. **Appropriate medical and psychological care:** Hungary and Bulgaria shall ensure that detained asylum-seekers who have been subjected to torture, rape or other serious acts of violence receive the necessary treatment for the damage caused by such acts – in particular, access to appropriate medical and psychological treatment or care, including the regular monitoring of their situation.³⁷
4. **Early identification:** In order to be able to properly apply the previous standards, Hungary and Bulgaria shall apply effective mechanisms for the identification of vulnerable asylum-seekers with special reception needs, such as minors, unaccompanied minors, disabled people, elderly people, pregnant women, single parents with minor children, victims of human trafficking, persons with serious illnesses, persons with mental disorders and persons who have been subjected to torture, rape or other serious forms of psychological, physical or sexual violence, such as victims of female genital mutilation. This identification shall take place “within a reasonable period of time”.³⁸
5. **Training:** Hungary and Bulgaria shall ensure that those working with victims of torture, rape or other serious acts of violence shall have had and shall continue to receive appropriate training concerning their needs.³⁹ Hungary and Bulgaria shall ensure that education and information regarding the prohibition against torture are fully included in the training of law enforcement personnel, civil or military, medical personnel, public officials and other persons who may be involved in the custody, interrogation or treatment of any individual subjected to any form of arrest, detention or imprisonment.⁴⁰

1.4 Objectives, limits and methodology

The objective of the research has been to assess, through collecting first-hand information, to what extent the above legal standards are applied in practice in Hungary and Bulgaria, in the case of torture victim and other traumatised asylum-seekers in detention. Monitoring visits were thus aimed at detecting torture victims in detention, and provide for them legal support and representation in order to challenge their unreasonable detention. Medical and psychological examinations were provided not only to ease detainees’ suffering, but also in order to support legal procedures with relevant information and medical expert opinions regarding the detainees’ mental health conditions.

35. Recast Reception Conditions Directive, Art. 21.

36. Recast Reception Conditions Directive, Art. 11 (1).

37. Recast Reception Conditions Directive, Art. 11 (1), 19 (2) and 25 (1).

38. Recast Reception Conditions Directive, Art. 21 and 22 (1).

39. Recast Reception Conditions Directive, Art. 25 (2).

40. UN CAT, Art. 10 (1).

In both countries, **multifunctional research teams** visited relevant detention sites between November 2014 and December 2015. All teams included **professionals of different background**, usually including a psychologist, a psychiatrist, a lawyer and a professional, specifically trained interpreter – thus, ensuring the **interdisciplinary preparedness** and approach of the group, as well as effective communication with detainees. Visits lasted **one or two working days** and followed this scenario:

- Official announcement of the visit to the authority managing the detention site seven days before the visit;
- Introductory discussion with the chief officer in charge, collecting information about detainees in general and about possible torture victims or vulnerable persons in detention and the procedures regarding them;
- Group discussion with detainees – including identification of potential torture victims and traumatised persons;
- Individual therapeutic sessions and legal counselling (in parallel);
- Discussion with medical staff and referral of concrete persons in need of medication or follow-up, specific medical recommendations;
- Closing feedback to the chief officer in charge;
- Preparation of internal report and summary of findings.

Monitors used varied methodological tools for the identification of torture victims and traumatised persons. These included referral from staff and fellow detainees, first instance group therapy sessions and structured assessment of torture prevalence with Part 1 of the **Harvard Trauma Questionnaire**⁴¹, the **PROTECT Questionnaire**⁴² and semi-structured interviews based on the **Istanbul Protocol**.⁴³ The Harvard Questionnaire serves to evaluate torture and the scale of psychological impact of trauma in intercultural contexts, while the PROTECT Questionnaire is a tool that facilitates the early recognition of asylum-seekers having suffered traumatic experiences (e.g. victims of torture, psychological, physical or sexual violence), developed in the framework of an international, EU-funded project where Cordelia was one of the six partners involved in implementation. The Istanbul Protocol's Manual on Effective Investigation and Documentation of Torture and other Cruel, Inhuman, or Degrading Treatment or Punishment is the first and most important set of international guidelines for documentation of torture and its consequences. Both ACET and the Cordelia Foundation are members of the International Rehabilitation Council for Torture Victims (IRCT), a health-based umbrella organisation that supports the rehabilitation of torture victims and the prevention of torture worldwide. **Follow-up** to the visits included:

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41. Mollica, R. F., Caspi-Yavin, Y., Bollini, P., Truong, T., et al. (1992). The Harvard Trauma Questionnaire: Validating a cross-cultural instrument for measuring torture, trauma, and posttraumatic stress disorder in Indochinese refugees. *Journal of Nervous & Mental Disease*, 180, 111–116.
 42. **PROTECT – Questionnaire and observations for early identification of asylum seekers having suffered traumatic experiences.**
 43. Office of the United Nations High Commissioner for Human Rights. **Istanbul Protocol. Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.** United Nations New York and Geneva, 2004.

- Provision of legal representation in administrative asylum procedures, appeal procedures and procedures challenging detention orders;
- Preparation of medical and psychological expert opinions used as evidence;
- Continued psychotherapy in particularly grave cases.

The following visits took place during the research process:

HUNGARY	BULGARIA
Nyírbátor detention centre, 20–12 November 2014	Lyubimets detention centre, 6 October 2014
Szeged-Röszke border police facilities, 9–10 April 2015	Bousmantsi detention centre, 4 November 2014
Debrecen detention centre, 13–14 May 2015	Bousmantsi detention centre, 10 December 2014
Békéscsaba detention centre, 18–19 June 2015	Bousmantsi detention centre, 17 March 2015
Debrecen detention centre, 23–24 July 2015	Lyubimets detention centre, 23–24 March 2015
Debrecen detention centre, 3–4 September 2015	Bousmantsi detention centre, 21 April 2015
Békéscsaba detention centre and Röszke border police collection point, 23–24 September 2015	Lyubimets detention centre, 5 May 2015
Debrecen detention centre, 21–22 October 2015	Bousmantsi detention centre, 7 July, 2015
Nyírbátor detention centre, 11–12 November 2015	Bousmantsi detention centre, 11 September 2015
Szeged-Nagyfa prison, 25–26 November 2015	Bousmantsi detention centre, 30 October 2015

	Hungary	Bulgaria
Number of detainees interviewed	157	96
Number of torture survivor asylum-seekers in detention identified in the project	45	50
Number of torture survivor asylum-seekers in detention receiving legal representation to challenge detention	40	28

Cooperation took different forms depending on the organisations and the countries. While the HHC has a cooperation agreement with the Hungarian Office of Immigration and Nationality granting its lawyers and legal officers regular access to reception and detention facilities, the Cordelia Foundation's therapists were required to ask one-off permissions for single visits – which they were granted in all instances. At the same time, partners in Bulgaria, while being provided access to facilities, were not allowed to enter the living area of detainees, and could only meet with persons who pre-arranged an appointment with them or were singled out by staff as in need of legal and/or psychological support.

II. Findings and Recommendations

II.1 The lack of systematic identification makes legal safeguards ineffective

A cumulative observation of the monitoring teams in Hungary and Bulgaria is that persons suffering from post-traumatic stress disorder (PTSD), including primary torture victims, can be found in detention **in the same proportions as in open facilities**. This is primarily due to the fact that **both countries lack a standardised, generally-applied protocol for the identification of vulnerable asylum-seekers** (and torture victims and traumatised persons among them) with special reception or procedural needs. In addition, monitors did not encounter any effective ad hoc mechanisms applied in individual facilities either.

Even in cases of clearly visible physical disabilities (which can derive from torture or other forms of violence) authorities do not sometimes see a reason to refrain from ordering detention. Probably the most egregious case witnessed in the project was that of a young Syrian man, encountered in September 2015 in Békéscsaba, who was missing the lower half of one of his legs. As the Békéscsaba centre, similarly to other detention facilities, is not equipped to accommodate persons with physical disabilities, the man had to climb a floor in order to reach his room. Even in case of such a grave disability, the Office of Immigration and Nationality considered that detention was appropriate. The detention centre's staff, in agreement with the decision, told the monitoring team that the asylum-seeker "had no problems coming all the way from Syria with only one leg".

The lack of standard identification procedures is further confirmed by the fact that **no properly trained mental health personnel is available** in any of the detention centres visited in the project.

Staircase in the Békéscsaba centre



Authorities in charge, however, claim that the detention of torture victims is avoided as much as possible. But in the practice witnessed by the monitoring teams, authorities – in lack of formal procedures – tend to rely on **mere visual observations and subjective opinions**. In Bousmantsi, for instance, ACET’s mental health professionals noticed that those who tend to be socially inhibited and depressed are not being identified by the police as people who need assistance because “they are not trouble-makers” or because “they look fine”.

The monitoring teams witnessed a clear and general lack of any effective mechanism for the identification of torture victims, traumatised persons or other vulnerable asylum-seekers in detention. This *per se* constitutes **a violation of the two countries’ obligations under EU law**.⁴⁴ In addition, it **renders ineffective all other safeguards** aiming at exempting such asylum-seekers from detention or providing them with favourable conditions and proper treatment,⁴⁵ leaving those in need unidentified. Many of those traumatised asylum-seekers who had to endure arbitrary detention or serve a prison sentence in the past were found by the monitoring teams to encounter severe difficulties during their detention in Bulgaria or Hungary. The lack of proper identification of such persons leads to their **unnecessary re-traumatisation**, as in the circumstances of detention they have to struggle with the intrusive memories evoked by the similarity of their present and past situations.

RECOMMENDATION

Standard identification procedures to be led by an expert psychologist or psychiatrist should be introduced and carried out upon registration or placement in a detention centre. Authorities should take into account the opinion of the medical/psychological professional responsible for the identification and either find another way to guarantee the person’s availability during the asylum procedure, or, if detention is deemed inevitable, ensure regular monitoring and adequate psychological and medical support to vulnerable asylum-seekers in detention.

II.2 Scarce and confusing information contributes to re-traumatisation in detention

Upon arrival, asylum-seekers often have difficulties **understanding the legal framework** governing asylum issues as well as the procedures, which in themselves are often arbitrary. Most of those arriving at the Hungarian border are stopped by the police and have to decide whether to ask for asylum or subject themselves to an expulsion procedure. Some do not file an asylum claim in the hope of not being fingerprinted; others believe that since fingerprinting takes place in all cases, asking for asylum is the only viable option. In Bulgaria, upon an irregular entry, asylum-seekers are usually detained on the basis of a removal order, as irregular migrants. Since this immigration detention serves the purpose of

44. Recast Reception Conditions Directive, Art. 21 and 22 (1).

45. See Chapter I.2.

return and can last for up to 18 months, asylum-seekers usually make asylum applications in detention. In many cases, **interpreters** are a primary and sometimes the only source of information for the newly arrived. For example, a Syrian person among those being registered at the Szeged-Röszke border area in April 2015 told the monitoring team that after informing the interpreter that he did not want to ask for asylum, the interpreter accused him of being a terrorist.

As a general pattern witnessed at all visits, the monitoring teams observed that asylum-seekers in detention have **limited information about the state and deadlines of their asylum process**, as they have difficulties getting in touch with their asylum officer. Besides this, a common problematic issue in both Bulgaria and Hungary is the **uncertainty about the reasons and length of detention**: many do not understand where they are and why, and refer to their situation as being “in prison”. Many detained asylum-seekers interviewed by the monitoring teams had **no information about whom to address** with enquiries. An asylum-seeker detained in Bulgaria’s Lyubimets centre summed up the overwhelming uncertainty of their situation as follows:

“We do not know what to expect. People are moved to another building and then back with no explanation. Upon arrival at the border we are often given documents to sign with no translation. We are not sure what we are signing.”⁴⁶

But even in cases where detained asylum-seekers were provided with information in a language they understand, monitoring teams experienced a grave lack of understanding. Detainees with a diverse cultural, educational, linguistic, etc. background very often had **no capacity to understand documents drafted in complicated legal language** – even if translated by an interpreter. None of the two countries use cultural mediators and any other form of intercultural mediation in order to bridge this gap. Also, while criminal or pre-deportation detention is usually easier and generally more logical to understand, explaining the legal ground for the detention of asylum-seekers (e.g. “you are detained in order to allow the asylum authority to establish the relevant facts and circumstances of your case”) represents a multiplied challenge in this respect. The **specific consequences of torture and trauma** (inability to concentrate and focus attention, sleeping disorders, constant hyperarousal, loss of trust, etc.) were found in many cases to aggravate this communication gap.

Detained asylum-seekers are thus kept in an informational vacuum and constant uncertainty, which was observed to cause a high level of **frustration and anxiety** among many of those interviewed by the monitoring teams. Such symptoms are especially common among the asylum-seekers who had been previously detained, ill-treated or tortured.⁴⁷

46. Visit at the Lyubimets centre, March 2015

47. See previous finding

Empty folders supposed to contain information leaflets regarding asylum in Hungary. Békéscsaba asylum detention centre



RECOMMENDATION

Information about the asylum procedure and the detention should be provided to asylum-seekers verbally by a competent and specifically trained asylum officer, with the help of an interpreter whom the asylum-seeker can properly understand. A summary of the same information should be handed out in writing, in the language of the applicant. State officers, police staff, guards, social workers and interpreters should receive training on intercultural communication and on how to communicate complicated legal information to persons without legal and/or higher educational background. Asylum authorities should make use of the expertise of intercultural mediators and communication experts in this process, as well as the good practices in other European states. Asylum authorities should ensure regular and frequent consultation services within detention facilities, using professional interpreters and providing information about these services (time, place, etc.) in an effective manner to detainees.

II.3 The lack of training and sensitisation of staff contributes to conflicts

Monitoring teams found divergent information with regard to the attitude of detention staff towards detainees and eventual conflicts. **Verbal abuse** was witnessed as a widespread problem, while **physical abuse** was reported much less frequently, limited to one occasion in the Bousmantsi detention centre in Bulgaria⁴⁸, and one in Nyírbátor, Hungary. During a monitoring visit on November 2015 in Nyírbátor, several detainees complained that even ordinary conflicts between two persons are resolved by collective punishment, in which guards use truncheons, tear gas and verbal threats. The head of the centre denied any such incident.⁴⁹ Excessive use of handcuffs (for example, when being taken to for medical check-ups) was also frequently mentioned in Nyírbátor.

48. Visit at the Bousmantsi centre, July 2015.

49. Visit at the Nyírbátor detention centre, November 2015.

A statement of a detainee in Bulgaria sums up the general picture:

“Some policemen are nice and kind. It highly depends on who is on shift. Some treat us as if we were animals. Some even hit us with no explanation. Generally, people are not treated with respect.”⁵⁰

Guards and social workers have, in some cases, made **overtly degrading comments about detainees** in the presence of the monitoring team. As, for example, one of the guards told the monitoring team in Debrecen:

“I know that many come from war-torn countries. But still, there must be a reason why they are in prison! And if you see how they behave, it is clear that gentle words, decent behaviour and rule of law are nothing in the countries where they come from. What they understand is aggression and oppression.”⁵¹

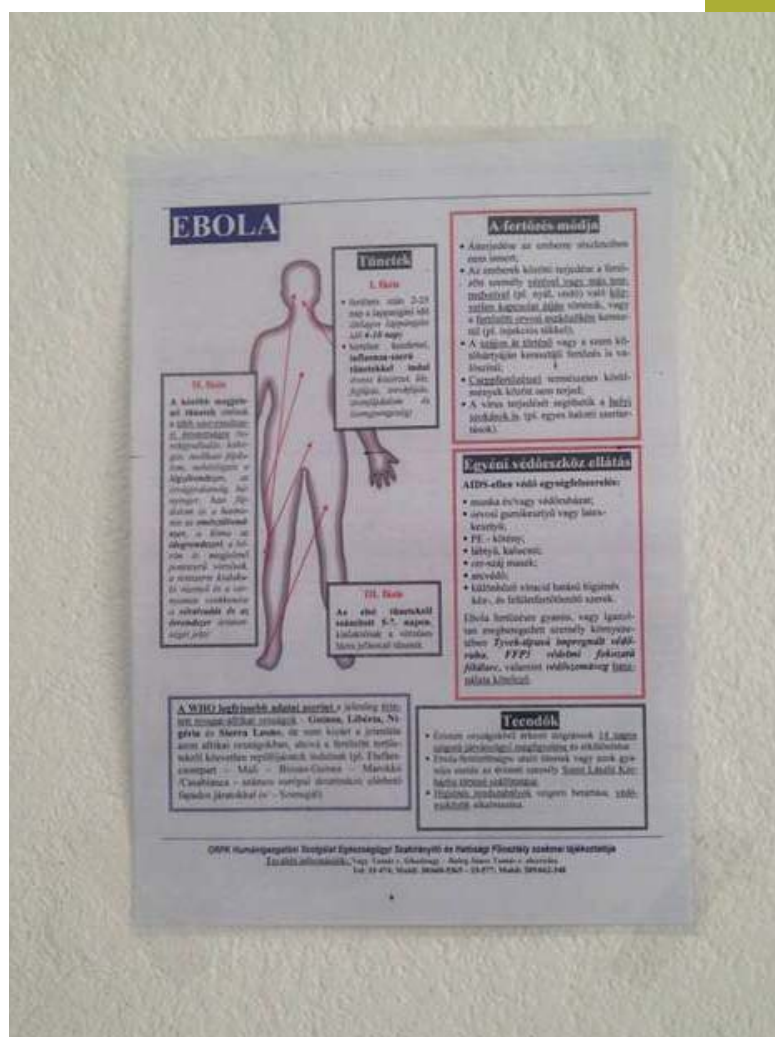
Guards and other staff (including social workers) in Hungarian detention centres often wear **surgical masks and plastic gloves** in order to prevent infections by the detainees, seemingly unaware that such masks are unfit to protect from external germs. Wearing masks and gloves is not based on an order, but “an advice” of the management.

The monitoring teams unanimously witnessed among the detention staff:

- A lack of basic foreign language skills (including the lack of even a basic level of English);
- A lack of information about relevant health risks and the reasonably necessary prevention methods;
- A lack of awareness about what could have pushed asylum-seekers to leave their homes;
- A lack of knowledge about what mental and physical symptoms can be the trauma of war, torture and uprooting cause, and how these phenomena should be dealt with in a detention context; as well as
- A lack of preparedness in conflict resolution in an intercultural context.

These findings indicate that **no proper sensitisation training is provided to guards, social and medical staff working in the detention centres**. This represents a breach

Information about ebola on the wall of the Szeged Border Police facility.



50. Visit at the Bousmantsi detention centre, March 2015.

51. Visit at the Debrecen detention centre, July 2015.

of the two countries' international obligations.⁵² At the same time, it contributes to the **aggravation of situations of tension and conflict**, which could be better resolved if those involved were better trained.

Again, the negative consequences particularly concern victims of torture and traumatised persons, who can be seriously **re-traumatised by violent conflicts and verbal abuse**. Also, asylum-seekers' sense of security, while re-traumatised by detention and in a state of hopelessness and lack of information, is further limited by the fact that they have nobody to turn to. An Iraqi asylum-seeker summed up the connection between his past traumatic experiences and his sufferings in detention as follows:

"I was detained in my home country by an unknown armed group. I was beaten in prison with my hands tied to my back and my eyes blindfolded. I didn't know who they were. Being closed here reminds me continuously of those experiences. I have flashbacks all the time and I cannot sleep at night. If I do fall asleep, nightmares wake me up. Right after waking up, it strikes me like an electric shock that I am again in a prison, and I am terrorised that they will hurt me again."⁵³

In the past years, NGOs, recognising the dire need for sensitisation and training of staff in detention institutions, have set up several successful training and supervision projects targeting guards, police officers and social workers. As a case in point from Hungary, the Menedék Association has been implementing a series of training projects in immigration detention centres since 2011, aimed at developing the competences of police staff, armed guards, as well as psycho-social and health care professionals in the centres. Their projects constitute a good example of successful cooperation between authorities; in this case, the Hungarian Police and an NGO providing specific and much needed services for the mutual benefit of the staff and the detainees alike.⁵⁴ However, it is to be noted that continuous training is indispensable for the sustainability of such achievements.

RECOMMENDATION

Hungary and Bulgaria should ensure that the staff of asylum and immigration detention facilities are provided with sensitisation training upon hiring. The training should include basic information about asylum and asylum-seekers, the possible reasons behind fleeing and the reasons why they may end up in detention. Basic facts about trauma and PTSD, along with its possible behavioural manifestations (including outbursts of anger, memory problems and sleeping disorders that may affect detainees' behaviour) should be taught, along with intercultural communication and conflict resolution skills. The results and experiences gathered through project-based initiatives may be used to develop a training curriculum. Beyond this initial mandatory training, the relevant authorities should ensure that detention staff is provided with regular training and professional supervision, aiming at burnout prevention. The continuous and tailor-made foreign language training of detention staff should also be ensured, focusing on obtaining basic language capacities in English and the knowledge of some key terms in the main languages spoken by detainees. When implementing this set of recommendations, authorities should make use of the positive experience of the relevant project implemented by the Menedék Association at immigration detention centres in Hungary.

52. Recast Reception Conditions Directive, Art. 25 (2); UN CAT, Art. 10 (1)

53. Visit at the Debrecen detention centre, October 2015.

54. See for instance the Menedék Association's latest project from 2014–2015: <http://menedek.hu/en/projects/cooperation-and-competence>

II.4 Working cooperation with the authorities

It is to be highlighted as a positive finding that authorities operating the facilities where the detention of asylum-seekers is carried out have been cooperative during the implementation of the project by providing **proper access to the detention facilities** in both Bulgaria and Hungary.

Cooperation was of pivotal importance not only in having access to persons of concern, but **to be able to signal and solve issues emerging during the monitoring visits**. Monitoring teams were always accompanied by interpreters who would facilitate raising awareness about issues that could have passed unnoticed to staff otherwise – ranging from simple issues such as somebody in need of slippers or a forgotten hygienic pack to communicating-specific symptoms of a patient to the medical staff. Generally, the ability to bridge between detainees and management on specific issues was a positive side effect of visits.

RECOMMENDATION

Relevant Hungarian and Bulgarian authorities should set up formal cooperation agreements with the NGOs providing services on the field. The cooperation agreement of the OIN with the Hungarian Helsinki Committee, in place for several years now, is one of the positive examples to follow. This could facilitate further service provision and implementation of projects in the facilities and would significantly contribute to the identification of torture victims and other vulnerable asylum-seekers in detention, as well as the fulfilment of all other related legal obligations of the two countries in EU and international law. Also, such regular cooperation would contribute to the reduction of tension in detainees and stress in detention staff.

II.5 Unnecessary limitation of detainees' contact with the outside world

Closed facilities designated for asylum-seekers in Bulgaria and Hungary comply to different extents with provisions ensuring detained asylum-seekers' communication with relatives and legal advisors.⁵⁵ It is, however, a regular practice that **mobile phones are taken away** when asylum-seekers are placed in detention. Such practice is often justified by the argument that asylum-seekers could otherwise contact smugglers and organise their onward movement or help family and acquaintances do so. However, detainees, even if in possession of their phone, could hardly initiate any call unless being provided with the opportunity (and having the financial means) to recharge their account. In lack of this option, phones would serve only to receive calls or to use Viber or Whatsapp (widespread communication methods among asylum-seekers) to communicate with relatives and friends.

Having lost their freedom and waiting in detention for the outcome of their asylum case or the uncertain day of release, detainees very frequently expressed their dire need to establish contact with their loved

55. Recast Reception Conditions Directive, Art. 10 (4).

ones – who often would have no information about their whereabouts since the beginning of detention. Some facilities provide a **public phone** where calls can be made, but the price is too high for most to pay. Moreover, family members in war zones or on the move often have no access to land lines, thus mobile applications and online communication is the only option left for them.

Internet use is extremely limited in the facilities, with often only one computer available, where – according to several reports by detainees and the monitors' experience – the connection is so slow and the time slot for one person is so short that even writing a message on Facebook is often impossible.

Mental health professionals of ACET and the Cordelia Foundation have encountered detainees in various detention centres suffering of **severe anxiety symptoms and depression as a direct result of losing touch with the family**. A young, Syrian man torture survivor detained in Békéscsaba had lost touch with his wife and two small children, stuck in Turkey, upon being apprehended in Hungary. His extreme worrying about the fate of his loved ones led him to spend the family's last savings on the bail enabling him to get released and contact them again.⁵⁶

Disrobing room's entrance at the Szeged Border Police facility



Such unreasonable practices significantly contribute to the deterioration of detainees' mental conditions, which **disproportionately affects those already traumatised**. At the same time, such limitations multiply tension among detainees and thus, the risk of violent conflicts increases. Asylum-seekers did not commit any crime, therefore, if their detention is inevitable their communication with family members should be helped, rather than hindered.

RECOMMENDATION

Asylum-seekers in detention should be allowed to keep their mobile phones with them. The provision of a wireless internet network in the facilities not only would be a cost-effective solution to ensure that detainees can keep in touch with their relatives, but would also help decreasing the tension and idleness of detainees.

56. Visit at the Békéscsaba detention centre, June 2015.

II.6 Interpretation is unavailable in many crucial settings

As the majority of the guards and medical staff do not speak English or other foreign languages, the **absence of an interpreter in most communication situations** between them and detainees represents a major obstacle to successful communication and thus, fuels tension. An example for such tensions is that the medical staff and their patients in detention mutually blamed each other for the poor quality of medical care on the occasion of several monitoring visits in Hungary. When confronted with the complaints of detainees, nurses and doctors in the majority of the centres responded that their patients often do not come for the medicine prescribed to them or take it only as long as symptoms persist, disregarding the prescribed length of treatment (crucial in the case of antibiotics, for instance). At the same time, it is difficult to imagine how detainees could understand these prescriptions, if – in lack of an interpreter – they are not explained to them in a language they understand.

Besides fuelling tension, **crucial (even life-saving) medical information can be lost** as interpretation is not provided in moments such as the first medical check-up in detention centres. For example, the medication of a middle-aged, diabetic Syrian man, together with his personal belongings, was taken away from him upon arrival at the Békéscsaba detention centre. At 3 PM, during the initial medical check-up (aimed at ending the 24-hour quarantine of the man and his family), neither the doctor, nor the nurses noticed that his blood sugar level was on 24,5 (minimum 3 times more than the officially accepted average for diabetics). When accompanied by the monitors of the Cordelia Foundation to the nurse again, his blood sugar was measured and he was given his medication. The medical staff in charge and the camp management justified the incident as the result of a miscommunication between the detainee and the doctor, as no Arabic interpretation was provided during the check-up.⁵⁷

At the immigration detention centres in Bulgaria, where asylum-seekers are kept while waiting to formally enter the asylum procedure, at a continuous risk of being deported in the meantime, there is no interpretation available at all. In both countries, **any effort for the early identification of torture victims or other detainees with special needs is condemned to fail with no interpreting ensured.**

RECOMMENDATION

Hungary and Bulgaria should ensure that professional interpreters speaking the main languages spoken by detainees are available on an everyday basis in detention facilities for a determined number of hours; for instance, during the hours of medical consultation. Interpreters should be trained to work with traumatised clients, to be able to facilitate communication between this specific group and authorities or detention centres' staff. For times when live interpretation is unavailable, the relatively cost-effective method of producing and handing out information sheets designated for typical communication situations can be effective. For example, a multilingual and culturally sensitive tool could serve in the medical unit to explain the dosage and length of treatment for those who receive medication, based on already existing good practices in other contexts.

57. Visit at the Békéscsaba detention centre, September 2015.

II.7 Specialised medical care is not available

In both countries, persons in need of specialised medical care as a result of an emergency health condition are transported to nearby hospitals from the premises of detention. Those, however, whose condition is **not deemed to fall under the scope of emergency treatment are not eligible** to see a dentist, cardiologist or psychiatrist. Despite the obligation under EU law,⁵⁸ **no systematic, specialised and state-funded medical care and monitoring is ensured** for victims of torture or other forms of violence in asylum or immigration detention.

Monitoring teams in both countries experienced that needs, even if urgent, of detainees suffering of PTSD or mental disorders not characterised by loud outbursts or aggression, often **go unnoticed**. In November 2015, the Cordelia Foundation's psychiatrist identified a patient in one of the detention centres in the acute phase of paranoid psychosis, already detained for several weeks at the time of the visit, whose hallucinations and severe persecution delusions went completely unnoticed until then. As a result of the monitor's intervention, hospitalisation and medical assistance was initiated. In Hungary, when the Cordelia Foundation's therapists detected a detainee in need of psychosocial support or medical help during the monitoring visits, the detention centres' staff was cooperative to different extents in following specific medical recommendations. It can be concluded, however, that medical prescriptions were generally accepted and followed by local medical personnel.

RECOMMENDATION

In order to comply with EU law, Hungary and Bulgaria shall ensure that detained asylum-seekers who have been subjected to torture, rape or other serious acts of violence receive the necessary treatment for the damage caused by such acts, including access to appropriate medical treatment or care, as well as the regular monitoring of their situation. To this end, both countries are recommended to establish a formalised cooperation framework with expert NGOs for the regular provision of specialised medical care, as well as to make funding available for this purpose. The presence of an interpreter should be ensured at all medical examinations and communication situations between doctors and detained asylum-seekers.

II.8 Specialised social and psychological care is not available

No psychologist or psychiatrist is available for asylum-seekers in detention facilities. NGOs, namely ACET in Bulgaria and the Cordelia Foundation in Hungary, fill this gap to the extent that project-based funding, human resources and access permitted by authorities to the centres allow. In the absence of regular, state-funded psychological counselling and regular mental healthcare, the **tension deriving from the closed circumstances**, lack of information and forced close contact of persons from different national, cultural and social backgrounds is not mitigated. Instances of self-

58. Recast Reception Conditions Directive, Art. 11 (1), 19 (2) and 25 (1).

harm, suicidal attempts or thoughts, as well as aggressive outbursts towards fellow detainees or guards were witnessed as regular during all monitoring visits. The words of an asylum-seeker, interviewed in a Bulgarian detention centre, describe well the psychological conditions of many detainees:

“I cannot sleep. I am constantly thinking about my family, about when they may release me and that my friends are doing better than me. Since I came here I became very nervous. I started cutting my arms. I sometimes even think to kill myself.”⁵⁹

In severe cases of auto- or hetero-aggression, detainees are **taken to the local psychiatric ward**. In lack of interpretation services available (see earlier, Section II.6), the patient is usually released after a short stay and some medical treatment provided. Such emergency interventions, however, do not contribute to detainees’ overall mental wellbeing and sometimes even fuel further tensions between them. In the Debrecen asylum detention centre, when a young Algerian man committed self-harm and was brought to the hospital, other inmates’ reaction was:

“Do we also have to hurt ourselves or others in order to be let out of here?”

Every detention facility visited in this project claims to have professional social workers in numbers that are fit to provide care for the relevant number of detainees. Despite these statements, monitoring teams regularly observed that the activity of the staff supposed to provide social care is **often limited to hand out sanitary packs, clothes or other utensils while being mostly separated from their clients** by iron doors or having their offices in a part of the centre where detainees have no access to. Social workers could play an active role in the identification of torture victims and other detainees with special needs. However, not only are they overburdened by administrative and basic service provision tasks, but they also lack possibilities to be trained specifically to this end, and they are not officially appointed to perform this task.

RECOMMENDATION

In order to comply with EU law, Hungary and Bulgaria shall ensure that detained asylum-seekers who have been subjected to torture, rape or other serious acts of violence receive the necessary treatment for the damage caused by such acts, including access to appropriate psychological treatment or care, as well as the regular monitoring of their situation. To this end, both countries are recommended to establish a formalised cooperation framework with expert NGOs for the regular provision of psychological and psycho-social care, as well as to make funding available for this purpose. These psychologists or psychiatrists should be responsible to carry out a first screening of newly arrived detainees to identify torture victims, traumatised persons and other vulnerable persons. Social workers should be specifically trained to support victims of torture and violence, and to cooperate with mental health professionals in the identification of persons of concern.

59. Visit at the Bousmantsi detention centre, Oct–Nov 2015.

II.9 Internal freedom of movement is unnecessarily limited

The detention of asylum-seekers has no punitive purposes; circumstances of detention, including house rules within the detention facility, should reflect this fact. Nevertheless, the monitoring teams found that **freedom of movement within the detention facilities is often limited more than the purpose of detention and the circumstances would make it necessary**. This is especially the case in Bulgaria, where – for example – a detainee complained to the monitoring team:

“Bedrooms are locked at 10 PM and this creates difficulties when people want to use the bathroom facilities at night time. Some use bottles or the windows as toilets.”⁶⁰

Detainees enjoy a relatively higher level of internal freedom of movement in Hungarian detention facilities. Nevertheless, when detainees have to move within the detention facility, for instance to reach the medical unit, they are **accompanied by several armed guards** and in some centres, even the use of **handcuffs** is a rule. Asylum-seekers interviewed by the monitoring teams unanimously found this frightening, degrading and unnecessary. In one case observed in Nyírbátor, a patient refused to visit the doctor that he had previously requested when he learned that he had to be handcuffed in order to go there.⁶¹ Torture victims are increasingly vulnerable and susceptible to the traumatising effect of such practices in detention, which can fuel a process of decompensation – leading to self-harm or other extreme behaviour.

Fence on the yard of the Békéscsaba asylum detention centre



RECOMMENDATION

Hungary and Bulgaria should lift unnecessary limitations on internal freedom of movement in detention facilities holding asylum-seekers, in order to reflect the non-punitive character of this form of detention. As a general rule, detained asylum-seekers should be allowed to move freely within the facility at least during daytime and should be ensured unhindered access to bathroom facilities 24 hours per day, including at night. Bulgaria is recommended to follow the positive policy changes implemented by Hungary in recent years, in this respect. Hungary should refrain from handcuffing asylum-seekers in detention, unless in exceptional cases, where a clear necessity is established on an individual basis.

60. Visit at the Bousmantsi detention centre, March 2015.

61. Visit at the Nyírbátor detention centre, November 2015.

II.10 Access to meaningful outdoor activities is limited

Access to open air is provided in all centres, however **the time allowed outside and the space provided for outdoor stay varies to a great extent** between the different institutions. While in some cases the open air area is limited to a small square of concrete surrounded by barbed wire, in others, benches or even a football court is available for use. Proper spaces for outdoor stay in such severely limiting environments are indispensable to decrease tension, especially if some opportunity for sports is provided.

Torture victims and traumatised persons often suffer from symptoms such as anxiety or depression and are heavily affected by the **claustrophobic environment of detention**, where often up to ten people have to share a small room. For them, regular stay and physical activities at an open space **can have a therapeutic effect**, while the unnecessary limitation of this possibility can lead to an aggravation of the symptoms. The majority of the detention facilities monitored are **not equipped with a sufficiently equipped outdoor space** that could support this therapeutic effect and offer a real opportunity to do sports, walk around or “socialise” at any season of the year.

RECOMMENDATION

Hungary and Bulgaria should ensure that courtyards at detention facilities all provide an effective possibility for a meaningful outdoor stay, including the possibility of doing sports, regardless of the weather conditions. All courtyards should be equipped with benches, a football yard, bars or other simple tools enabling detainees to do exercise. All courtyards should have a covered area providing shade from the sun and shelter from rain.

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