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Practices and challenges in identifying victims of torture and/or ill-treatment in the context of international and temporary protection

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Disclaimer

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The Red Cross EU Office supported the conceptualisation of this inform and contributed to the collection of selected information and good practices. The inform does not necessarily reflect the opinions and views of the European Commission, the EMN Service Provider the EMN NCPs, the Swedish Red Cross and the Red Cross EU Office and its members - nor are any of these organisations bound by its conclusions. Similarly, the European Commission, the EMN Service Provider, the EMN NCPs, the Red Cross EU Office and National Red Cross Societies are in no way responsible for any use made by third parties of the information provided in this inform.

Explanatory note

This inform was prepared on the basis of national contributions from [27] EMN NCPs (AT, BE, BG, CY, CZ, DE, EE, EL, FI, FR, HR, HU, IE, IT, LT, LU, LV, MT, NL, PL, PT, SE, SI, SK, and NO, UA and RS) collected via two AHQs developed by the EMN NCPs to ensure, to the extent possible, comparability. In addition, this inform was also prepared on the basis of a contribution from Red Cross societies in Croatia, Denmark, Italy, Luxembourg, Spain, Sweden, Norway and Switzerland. The examples provided have been reported in separate boxes. The information contained in this inform refers to the situation in the abovementioned EMN Member and Observer Countries up to July 2023.

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1. KEY POINTS

- In the context of international protection procedures, the majority of competent authorities in European Migration Network (EMN) Member and Observer Countries receive **training on detecting and identifying victims of torture and/or ill-treatment** through general national training programmes or, in some cases, dedicated standalone training on relevant thematic issues.
- In most EMN Member and Observer Countries, **medico-legal documentation is requested on a case-by-case basis by the case worker**, but it can also be provided by the applicant themselves in some countries.
- In the majority of countries, **the case worker requests medico-legal documentation when there is insufficient evidence to support claims of torture or ill-treatment.** Some countries request documentation when any signs of torture or ill-treatment are disclosed during the asylum interview, or when recommended by reception authorities who have conducted the health screening.
- Many EMN Member and Observer Countries have **guidance or criteria for practitioners providing medico-legal documentation** in order for it to be allowable as evidence in international protection applications, or medico-legal reports are written by medical practitioners in accordance with certain criteria. Some EMN Member and Observer Countries have a **list of designated medical practitioners** with expertise in performing these assessments or specific guidelines intended for medical practitioners.
- In over half of the countries that responded**, applicants can provide the documentation directly in support of their application.**
- Most EMN Member and Observer Countries use **guidance and training on the detection and identification of victims of torture and/or ill-treatment in asylum procedures** organised by the European Union Agency for Asylum (EUAA), non-governmental organisations (NGOs) or international organisations. France and Sweden have written their own guidance.
- Most EMN Member and Observer Countries use **guidance and training on medico-legal documentation in the asylum procedure** from European Union (EU) sources, but they can also use guidance from international and non-governmental actors, or the Istanbul Protocol.
- **Most national training and guidance for competent asylum officials falls under national programmes to detect and identify victims of torture or ill-treatment**, i.e. broader vulnerability assessments or general international protection application procedures. Some countries provide specific training programmes or offer dedicated guidance for considering medico-legal documentation.
- There is no application process for temporary protection. **Some EMN Member and Observer Countries have introduced specific practices to identify victims of torture and/or ill-treatment among persons enjoying temporary protection** (or beneficiaries of temporary protection – BoTP), such as protocols and specialised centres providing tailored medical services. Some countries also promote self-reporting through awareness-raising pamphlets and hotlines.
- **Organisations or centres providing support to victims of torture and/or ill treatment during the international protection determination procedure** are available in nine EMN Member and Observer Countries.
- **Key challenges in international protection procedures** include: victims' hesitancy to report due to fear, shame or mental health consequences; assessing the credibility of torture claims; and victims' lack of trust in the authorities, often due to their experiences in countries of origin or transit.
- **Good practices** reported by EMN Member and Observer Countries **in the context of international protection** include fostering strong cooperation, involving several stakeholders from earlier stages (e.g. reception centres), and promoting flexible processes and the exchange of information that meet the needs of torture survivors.
- The primary challenge for the authorities in identifying and detecting BoTP who have been subject to torture and/or ill-treatment is that **BoTP spend relatively little time in contact with authorities while registering for temporary protection**.
- Good practices in detecting BoTP who are potential victims of torture and ill-treatment focus on **raising-awareness among different stakeholders** including BoTP themselves. **Interdisciplinary approaches** that offer different methods to identify and support BoTP were also deemed important.

2. INTRODUCTION

This 2024 EMN inform covers the period from January 2022 to the end of July 2023, with additional information gathered in April 2024 specifically on support for possible victims of torture during the international protection determination procedure.

Its objectives are to provide an overview of:

- EMN Member and Observer Countries' **guidance and training** on early detection (before the asylum interview/before the claim is assessed) and identification (during the asylum interview) of presumed victims of torture or other forms of inhuman or degrading treatment or punishment ('torture and/or ill-treatment') in **international protection procedures**;

- EMN Member and Observer Countries' **procedural safeguards**[1] **and guidance** available to competent asylum authorities when requesting and taking into account medico-legal documentation in reaching a decision on an **application for international protection**. This includes the criteria/parameters set by competent asylum authorities in EMN Member and Observer Countries for those authorities/entities performing the actual medico-legal assessment;
- Any practices in place to identify victims of torture and/or ill-treatment among persons enjoying temporary protection (or beneficiaries of temporary protection - **BoTP)** to provide access to medical care in accordance with the relevant provisions of the Temporary Protection Directive (2001/55/EC) (Article 13(4)).[2] The European Commission's operational guidelines for the Implementation of Council Decision 2022/382[3] clarify that there is no application process for temporary protection or adequate protection under national law.

This inform aims to complement the findings of the EUAA mapping report published in March 2023[4] on the needs of victims of torture and other forms of inhuman or degrading treatment or punishment. In addition, it considers BoTP or people fleeing war in Ukraine to EMN Member and Observer Countries.

The analysis is based on contributions from 24 EMN Member Countries,[5] Norway, Ukraine and Serbia. It also includes case examples provided by eight National Red Cross Societies.[6]

3. DEFINITIONS

The inform uses the following definitions, which – unless otherwise stated – are based on the EMN Asylum and Migration Glossary.[7]

Term	Definition
Torture	Any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from them or a third person information or a confession, punishing them for an act they or a third person has committed or is suspected of having committed, or intimidating or coercing them or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity.
Degrading treatment or punishment	Treatment that humiliates or debases an individual, showing a lack of respect for, or diminishing, their human dignity, or when it arouses feelings of fear, anguish or inferiority capable of breaking an individual's moral and physical resistance.
Inhuman treatment or punishment	Ill-treatment which is premeditated and applied for hours at a stretch and causing either actual bodily injury or intense physical and mental suffering.
Vulnerable person	A non-exhaustive list of vulnerable applicants provided in Article 21 of the Reception Conditions Directive (2013/33/EU) and in Article 24 of the Reception Conditions Directive (2024/1346/EU), including 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 (FGM). This inform will refer to victims of torture and/or ill-treatment.
Medico-legal documentation	This can take the form of notes, medical charts (including body charts to show the location of injuries), official medical certificates, computer files, digital mobile files, recordings, photographs, reports or a combination thereof.[8]

1 Procedural safeguards and guidance documents refer to legal frameworks and any other soft law tools, such as guidelines, checklists, or manuals (e.g. Manual on Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Istanbul Protocol)) available to national authorities to collect and assess medical, legal, and psychological evidence, where relevant, as part of the identification process.
2 Council Directive 2001/55/EC of 20 July 2001 on minimum standards for giving temporary protection in the event of a mass influx of displaced persons and on measures promoting a balance of efforts between Member States in receiving such persons and bearing the consequences thereof, https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32001L0055&qid=1648223587338, last accessed on 6 June 2023.
3 Operational guidelines for the implementation of Council Implementing Decision 2022/382 establishing the existence of a mass influx of displaced persons from Ukraine within the meaning of Article 5 of Directive 2001/55/EC, and having the effect of introducing temporary protection, https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52022XC0321%2803%29&qid=1647940863274, last accessed on 8 May 2023.
4 EUAA, 'Victims of Torture: Identification, support and examination of claims', 2023, https://euaa.europa.eu/publications/victims-torture, last accessed on 12 April 2023.
5 AT, BE, BG, CY, CZ, DE, EE, EL, FI, FR, HR, HU, IE, IT, LT, LU, LV, MT, NL, PL, PT, SE, SI, SK.
6 Red Cross societies in ES, HR, IT, LU, SE, and NO, CH, DK.
7 EMN, 'EMN Glossary', version 10.0, https://home-affairs.ec.europa.eu/networks/european-migration-network-emn/emn-asylum-and-migration-glossary_en, last accessed on 19 June 2024.
8 Office of the United Nations High Commissioner for Human Rights (OHCHR), 'Istanbul Protocol: Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment', 2022, p. 77, https://www.ohchr.org/sites/default/files/documents/publications/2022-06-29/Istanbul-Protocol_Rev2_EN.pdf, last accessed on 7 May 2024.

4. LEGAL AND POLICY CONTEXT

The prohibition of torture and inhuman or degrading treatment or punishment is an absolute, non-derogable right under international human rights law, the European Convention on Human Rights (ECHR) and the Charter of the Fundamental Rights of the European Union (EU Charter).[9] The prohibition of torture includes the principle of non-refoulement of people facing risk of torture on their return to a third country.

Asylum seekers and recognised refugees who have suffered torture and ill-treatment are among the vulnerable groups referred to in the Common European Asylum System (CEAS) legislative instruments.[10] Both the Asylum Procedures Directive (recast) (2013/32/EU) and the Reception Conditions Directive (recast) (2013/33/EU) contain specific guidance and provisions on the identification of victims of torture and/or ill-treatment after an application for international protection has been submitted, as do the Asylum Procedures Regulation (2024/1348/EU)[11] and the Reception Conditions Directive (2024/1346/EU) adopted in 2024.[12] The provision of medical or other assistance to BoTP with special needs is covered under the Temporary Protection Directive (2001/55/EC).

Research by the International Rehabilitation Council for Torture Victims (IRCT) has found that many individuals who flee war, armed conflict or political oppression around the world, particularly those fleeing persecution, are likely to have experienced trauma, including torture and ill-treatment.[13]

While limited data prevents a comprehensive overview of the prevalence of applicants for international protection who have been exposed to torture and/or ill-treatment, a report from the IRCT found that in 2010, around 400 000 torture survivors lived in the EU.[14] The same report estimated that 30-60% of applicants for international protection seeking medical attention were survivors of torture. In 2017, the European Union Agency for Fundamental Rights (FRA) pointed to the limited availability of comprehensive data on victims of torture and/or ill-treatment who arrive in Europe, are identified by the authorities, and go through the asylum procedure in the EU Member States and Schengen Associated Countries.[15] FRA found that this was partly because data on torture and/or ill-treatment can depend on victims' abilities and opportunities to self-report.[16]

Applicants for international protection who have been subject to torture and ill-treatment are particularly susceptible to struggles with their mental health and psychosocial well-being. Research by the United Nations High Commissioner for Refugees (UNHCR) and the EUAA suggests that this can then affect their ability to properly present their claim for international protection, which, therefore, might increase the likelihood in some cases of receiving a negative outcome.[17] Post-traumatic stress disorder (PTSD) is one of the most common mental health conditions experienced by torture survivors, alongside anxiety, suicidal thoughts, and depression. UNHCR emphasises that the possibility for an applicant to have a medico-legal report that provides important supporting evidence for their torture and ill-treatment may be crucial to the examination of their asylum claim and access to treatment and rehabilitation.[18] However, a medico-legal report is only in the interest of the applicant where it supports the person's asylum application. In situations where the applicant would be granted international protection in any case - such an evaluation might not be in the best interest of the applicant necessarily (e.g. to avoid re-traumatisation), unless it is the only way to access treatment and rehabilitation in a particular country.

The Istanbul Protocol, published by the UN (revised edition 2022), includes guidelines for examining and documenting torture and other serious forms of ill-treatment.[19]

There is a lack of data on the types of procedural safeguards and guidance documents[20] (on identification of victims of torture or considering expert opinion on evidence of torture in determining a claim) used by competent asylum authorities in EMN Member and Observer Countries across different stages of the asylum procedure (early detection before the asylum interview/before a claim is assessed, identification during the asylum interview, and/or subsequent application).

9 As stipulated by the Universal Declaration of Human Rights (Article 5), the International Covenant on Civil and Political Rights (ICCPR) (Article 7), more specifically in the UN Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (UNCAT) (Articles 1 and 16), and, at regional level, by the ECHR (Article 3) and the EU Charter (Article 4).

10 Directive (EU) 2011/95 of the European Parliament and of the Council of 13 December 2011 on standards for the qualification of third-country nationals or stateless persons as BoTP, for a uniform status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted (recast) (Qualification Directive), Article 20(3), https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32011L0095, last accessed on 12 February 2023; Directive (EU) 2013/33 of the European Parliament and of the Council of 26 June 2013 laying down standards for the reception of applicants for international protection (recast) (Reception Conditions Directive), Article 21, https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32013L0033, last accessed on 12 February 2023.

11 Regulation (EU) 2024/1348 of the European Parliament and of the Council of 14 May 2024 establishing a common procedure for international protection in the Union and repealing Directive 2013/32/EU, https://eur-lex.europa.eu/eli/reg/2024/1348/oj, last accessed 10 September 2024.

12 Directive (EU) 2024/1346 of the European Parliament and of the Council of 14 May 2024 laying down standards for the reception of applicants for international protection, https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=OJ:L_202401346, last accessed 10 September 2024.

13 IRCT, 'Falling through the cracks: asylum procedures and reception conditions for torture victims in the European Union', 2016, https://irct.org/wp-content/uploads/2022/08/Falling-Through-the-Cracks-2016.pdf, last accessed on 12 February 2023.

14 European Network of Rehabilitation Centres for Survivors of Torture, 'Refugee survivors of torture in Europe. Towards positive public policy and health outcomes', 2018, https://www.baff-zentren.org/wp-content/uploads/2018/08/Euronet_Publikation_English_online.pdf, last accessed on 6 June 2023.

15 FRA, 'Current migration situation in the EU: torture, trauma and its possible impact on drug use', 2017, https://fra.europa.eu/sites/default/files/fra_uploads/fra-february-2017-monthly-migration-report-focus-torture-trauma_en.pdf, last accessed on 6 June 2023.

16 Ibid.

17 UNHCR, 'Beyond proof: credibility assessment in EU asylum systems', 2013, footnote 58, https://www.unhcr.org/51a8a08a9.pdf, last accessed on 13 February 2023; EUAA, 'Evidence and credibility assessment in the context of the Common European Asylum System', 2018, pp. 166-173, https://euaa.europa.eu/sites/default/files/easo-evidence-and-credibility-assesment-ja_en.pdf, last accessed on 13 February 2023; Noll, G., 'Evidentiary assessment in refugee status determination and the EU Qualification Directive', 2005, p. 311, https://lucris.lub.lu.se/ws/portalfiles/portal/8160959/Evidentiary_Assessment_in_Refugee_Status_Determination_and_the_EU_Qualification_Directive.pdf, last accessed on 13 February 2023.

18 UNHCR, 'Beyond proof: credibility assessment in EU asylum systems', 2013, pp. 93-96, https://www.unhcr.org/51a8a08a9.pdf, last accessed on 9 November 2023.

19 OHCHR, 'Istanbul Protocol', n.d., https://www.ohchr.org/en/publications/policy-and-methodological-publications/istanbul-protocol-manual-effective-0, last accessed on 13 February 2023.

20 Procedural safeguards and guidance documents refers to legal frameworks and any other soft law tools, such as guidelines, checklists, or manuals (e.g. Istanbul Protocol) available to national authorities to collect and assess medical, legal, and psychological evidence, where relevant, as part of the identification process.

Recital 31 of the Asylum Procedures Directive (2013/32/EU)[21] states that during international protection procedures, national measures may be based on the Istanbul Protocol when dealing with the identification and documentation of symptoms and signs of torture or other serious acts of physical or psychological violence.

The Temporary Protection Directive (2001/55/EC) provides a legal framework to ensure that Member States provide access to different rights, including healthcare, to persons enjoying temporary protection, although in accordance with the Commission's Operational Guidelines, it does not mandate a formal application process for BoTP.

5. INTERNATIONAL PROTECTION

EU law requires Member States to have processes in place to detect, identify and consider vulnerabilities, including potential victims of torture, in international protection procedures (see Section 3). This section outlines national practices related to the detection and identification of possible victims of torture in international protection procedures:

- Organisations or centres supporting victims of torture during the international protection determination procedure;
- Guidance and training to support competent asylum authorities to identify and detect victims of torture and/or ill-treatment;
- Criteria set by competent asylum authorities for medical authorities carrying out medico-legal assessments, along with mechanisms to verify compliance with those criteria;
- Guidance and training to support competent asylum authorities in taking medico-legal documentation into account when assessing applications for international protection.

This section also covers specific challenges faced by competent asylum authorities and relevant partners (referenced by EMN Member and Observer Countries) in detecting and identifying victims of torture and/or ill-treatment in international protection procedures. At the same time, EMN Member and Observer Countries have identified good practices in the detection and identification of victims of torture and/or ill-treatment.

Organisations or centres supporting victims of torture during the international protection determination procedure

Austria, Finland, Poland and Sweden reported that centres or organisations provide support for possible victims of torture, but none assists victims during the international protection determination procedure.

In Finland, the Centre for Psychotraumatology[22] assesses, treats and rehabilitates torture victims. The centre has limited capacity and asylum seekers are not treated there. The reception authorities, however, collaborate with the centre and may seek advice and consult the centre regarding their customers (ie. asylum seekers and BoTP).

In Sweden, the Red Cross has treatment centres for people suffering from trauma due to conflict, war, torture or the migration journey. These centres also conduct medico-legal examinations based on the Istanbul Protocol, covering medical, legal and psychosocial aspects of a case.

Eight EMN Member Countries and Serbia[23] have centres and organisations that provide assistance to victims of torture and/or ill treatment during the international protection determination procedure.

In Belgium, *Ulysse Service de Santé Mentale* offers psychological and psychiatric support to victims of trauma in exile, including victims of torture, during their international protection application. The Belgian Refugee Council (NANSEN) offers legal support, enhanced by an interdisciplinary approach to international protection, while another non-profit, Constats, offers medical and psychological expertise and establishes medico-legal reports according to the Istanbul Protocol.

France has several structures dedicated to providing victims of torture with medical support, as well as social and legal assistance, regardless of their administrative status (notably, the Primo Levi Centre, created in 1995, the two Essor centres, created by *Forum Refugiés COSI*, and the *Centre Frantz Fanon*, created by six associations). In Greece, the NGO METADRASI follows a certification procedure based on the Istanbul Protocol. It also operates the 'Hope and Memory: Identification and Certification of Victims of Torture' programme, which protects victims through certification for victims, training for relevant actors, awareness-raising, information, and advocacy.

In Ireland, the SPIRASI centre for the rehabilitation of victims of torture, established in 1999, offers multidisciplinary (medical, therapeutic, psychosocial) interventions and supports. It also offers medico-legal reports for the international protection process, as well as English language classes for victims of torture and their families to complement rehabilitative work. SPIRASI also provides outreach psychosocial services.

The Netherlands has several national and local organisations that specialise in providing assistance to applicants for international protection who may be victims of torture and/or ill-treatment, such as *Centrum 45*, *Afdeling De Evenaar, GGZ Drenthe* and *Psychotraumacentrum Zuid Nederland*, *Reinier van Arkel GGZ*.

In Portugal, caseworkers can make referrals to specialised services at local level. For example, to the Centre of Prevention and Treatment of Psychogenic Trauma, which provides differentiated mental health care adapted to the

21 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), https://eur-lex.europa.eu/legal-content/en/TXT/?uri=celex%3A32013L0032, last accessed on 13 February 2023.
22 The Centre for Psychotraumatology, https://www.hdl.fi/en/rehabilitation-for-torture-victims/, last accessed 26 July 2024.
23 BE, EL, ES, FR, IE, NL, PT, SK, and RS.

needs of survivors of torture and/or serious violence for asylum seekers in the district of Coimbra.

In the Slovak Republic, the NGO, Human Rights League, provides assistance to victims of war/hate crimes in Ukraine and applicants for international protection in the form of legal counselling, psychological and social support.[24] Legal aid can be provided by the Centre for Legal Aid (state organisation) or an NGO contracted by the state to work in asylum facilities.

Serbia's Centre for the Rehabilitation of Torture Victims was established in 2000 by the specialised NGO International Aid Network, which provides comprehensive assistance to victims of torture and members of their families. Since 2015, the Centre has expanded its activities and provides assistance to asylum seekers, particularly victims of torture. The Centre has experience in documenting torture cases based on the Istanbul Protocol and also trains practitioners on the implementation of the Istanbul Protocol.

Box 1: National Red Cross Societies providing support to victims of torture during the asylum procedure

In Croatia, Croatian Red Cross staff provide psychosocial support to applicants for international protection. If experts notice that the person shows signs of being a victim of torture during the initial needs assessment, or if a person explicitly states that they are a victim of torture, experts take action as necessary. This can include advising applicants on the disclosure of information during their application and helping them to access further support.

Spain's Centre for Attention to Victims of Ill-treatment and Torture (SIRA association) offers therapeutic, legal and psychosocial support through a multidisciplinary team. It assists the Spanish Red Cross with the Istanbul Protocol or supporting reports, monitoring, clinical supervision, multidisciplinary supervision, and psychiatric care.

Specialised outpatient clinics are run by the Swiss Red Cross in Bern and the Canton of St Gallen. They can be a resource for victims of torture or ill-treatment during the asylum procedure. They provide migrants suffering from PTSD with psychiatric, psychotherapeutic, body psychotherapeutic and psychosocial counselling. The main work of the clinics is to assist victims in navigating their traumatic experiences, including through translation and interpretation support. The teams also advise and support patients, and can pass on information to their lawyers or doctors on request, but not to the authorities. This type of support is carried out on a case-by-case basis, depending on the needs of the patient. Individuals can also be assisted to access the information they need during their asylum applications.

Criteria to request and access Medico-legal documentation to be considered in asylum applications

The criteria and procedures used by competent asylum authorities to request medico-legal documentation are diverse:

- **Where claims of torture and ill-treatment lack sufficient evidence for substantiation** (11 EMN Member Countries).[25] This may stem from factors such as an unclear narrative or a lack of corroborating evidence from other sources, such as country-of-origin information sheets. In France and Serbia, a request might be made when the applicant's mental state prevents them from expressing themselves clearly;
- **Whenever there are any indications** during the asylum interview **that an individual may have experienced torture and ill-treatment (10 EMN Member Countries).**[26] In Bulgaria, the interviewing authority may request a medical examination to establish evidentiary statements of past persecution or serious harm.

In Austria, Belgium, Finland, the Slovak Republic and Slovenia, **the reception authorities carrying out initial screenings can request, or encourage the competent asylum authorities to request, medico-legal documentation**. In Finland, if signs of torture and/or ill-treatment are detected in the initial health screenings at the reception centre, medico-legal documentation can be requested. The applicant is asked whether this document can be disclosed to the asylum authorities to support their asylum application. In Luxembourg, the Minister for Asylum makes the request.

In most EMN Member and Observer Countries it is at the discretion of the competent asylum authorities to request medico-legal documentation. However, in 13 EMN Member Countries and Norway, **applicants for international protection can submit a request for medico-legal documentation, which they can then choose to submit to the competent asylum authority to be considered as part of their asylum application**.[27] In Norway, the applicant alone can request this documentation and subsequently submit it to the asylum authorities. In Ireland, medico-legal documentation is generally requested and submitted in support of an application by the applicant or their legal representative. In France, applicants do not submit a request, but have free and voluntary access to medical examinations and can submit the resulting documents with their application. If the vulnerability has been identified before the asylum application is processed, a mental health professional can attend the interview, at the request of the applicant.

In 11 countries, **both applicants and competent asylum authorities can request medico-legal documentation.**[28] In four EMN Member Countries, **policy and/or legislation specifies** that it is up to the competent asylum authority or applicant to request medico-legal documentation should they see the need for it.[29]

24 Project-based activity.
25 BE, DE, EL, FI, FR, HU, LT, LU, NL, SE, SK.
26 AT, BE, BG, CY, EE, EL, HR, IT, LU, LV, MT.
27 BE, BG, CZ, FI, FR, IE, IT, LU, MT, NL, PL, SI, SK and NO.
28 BE, BG, CZ, FI, FR, IT, LU, LV, MT, NL, SK.
29 IT, LU, NL, SE.

In Bulgaria, Finland, Italy and Luxembourg, the applicant can request a medico-legal assessment (at their own expense) if the competent asylum authority did not do so. In Luxembourg, this is free of charge when initially offered, but incurs a fee should the applicant wish to have the information incorporated at a later stage. In Finland and Italy, if the authority does not consider a medico-legal assessment necessary, the applicant can conduct such assessment at their own expense. Belgium has both options, but typically the applicant makes the request for medico-legal documentation rather than the competent asylum authorities. In the Netherlands, applicants for international protection and the competent asylum authorities can both request medico-legal assessment, but the applicant can stop or amend the medico-legal assessment requested by the competent asylum authorities, as they have the right to block a medical report from being submitted, as well as the right to submit corrections.

Fourteen EMN Member and Observer Countries have **guidance or criteria for practitioners providing medico-legal documentation** for it to be considered as evidence in international protection applications, or **medico-legal reports** are carried out by medical practitioners **in accordance with certain criteria**.[30] These include:

- A list of nominated experts for the competent authorities that meet the competent asylum authorities' standards.[31] In Cyprus, this is a list of **doctors trained on the Istanbul Protocol**. In Ireland, medico-legal documentation is prepared by medical practitioners in the SPIRASI centre, who have expertise on the Istanbul Protocol. Similarly, in Greece, the METADRASI NGO is the only organisation that follows a certification procedure by an interdisciplinary team based on the Istanbul Protocol.
- In Belgium, Germany, Italy and the Netherlands, **detailed guidelines are prepared for medical professionals conducting the assessment to ensure the medico-legal documentation has uniform standards and meets the needs of the competent asylum authorities**. These can be prepared by relevant medical authorities (e.g. Italy: Ministry of Health; or the competent asylum authorities. In Lithuania these procedures are more ad hoc, as the guidelines are included in the individual's request for medico-legal documentation. In Norway, the criteria are set out in the relevant regulations and the asylum authorities check compliance on receipt.

Seven EMN Member Countries **have no specific criteria set by competent authorities for practitioners providing medico-legal documentation**.[32] In Estonia, additional questions can be included if the medico-legal documentation does not contain all the necessary information. In Sweden and Finland, the competent authorities will consider all medico-legal documentation submitted.[33]

Guidance and training

On the detection and identification of victims of torture and/or ill-treatment

EMN Member and Observer Countries organise their training on the detection and identification of torture and/or ill-treatment in different ways. In most EMN Member and Observer Countries, **national training on early detection and identification of victims of torture** for competent asylum authorities **is part of broader training programmes on potential vulnerabilities of applicants for international protection**.[34] In Belgium, the Czech Republic and the Netherlands, this training is integrated into the mandatory training for all asylum case officers. France provides a global training scheme for the French Office for the Protection of Refugees and Stateless persons (OFPRA) protection officers, with the support of the torture and trauma working group. It also cooperates closely with relevant associations and mental health professionals for better detection of victims in advance and better support during the asylum procedure.

Seven EMN Member Countries offer training on identifying and detecting victims of torture for the purposes of the international protection determination process for relevant staff at reception centres (e.g. social workers), who may raise this as an issue with the competent asylum authority.[35] In five EMN Member Countries, training for national competent asylum authorities is developed in cooperation with the EUAA[36] or based on EUAA guidelines.[37] Six EMN Member Countries organise distinct training sessions on specific thematic issues.[38] These include sessions on the Istanbul Protocol (for reception authorities in Finland and border guards in Poland) and an online course on migration, torture and trauma (offered by the Swedish Migration Agency for asylum case workers), as well as training on FGM (for reception authorities in Finland and Luxembourg) and an e-learning course in Norway for healthcare professionals. Ireland engages SPIRASI to provide training on identification and sensitive engagement with people who may have experienced torture or trauma, trauma-informed care, vicarious trauma, and self-care.

Six EMN Member Countries[39] reported that their **national training is supplemented by training run by/with international organisations,**[40] **or NGOs.**[41] UNHCR France and the French Office for Immigration and Integration (OFII) have organised joint training since 2021. It focuses on identifying vulnerabilities, particularly trafficking in human beings, within the context of asylum procedures, and targets asylum auditors, territorial directors, and, as of 2023, social workers employed in pre-care centres for the reception of asylum seekers. In Greece, the NGO METAdrasi – Action for Migration and Development, has organised a dedicated workshop on identifying victims of torture in asylum processes.

30 AT, BE, BG, CY, DE, EL, FR, IE, IT, LT, LU, NL, SI, and RS.
31 AT, CY, EL, FR, IE, LU, SI, and RS.
32 CZ, EE, LV, PT, SE, SK.
33 The guidelines prepared by the Finnish Medical Association concern writing medico-legal documentation in general and not medico-legal documentation addressing torture for the international protection procedure.
34 AT, BE, BG, DE, EE, EL, FI, FR, IT, LT, LU, NL, PL, SE, SK, and NO, RS.
35 BG, CY, EL, FI, FR, LU, LV.
36 CY, EL, FR, IT, LV.
37 SK.
38 IE, FI, LU, PL, SE and NO.
39 EE, EL, FI, FR, LU, PL.
40 EE, EL, FI, FR, PL.
41 EL, FI, LU, PL.

The Norwegian Directorate of Immigration (UDI) planned to provide training on identification, following the completion of a set of tools for identification of victims of torture. This step is in response to the 2020 research paper, 'Torture victims in the Norwegian asylum process'.

Fifteen EMN Member and Observer Countries have **written guidance at national level** to aid authorities in the early detection and identification of victims of torture and/or ill-treatment.[42] It takes different forms, such as standard operating procedures (SOPs),[43] strategies,[44] outputs from training courses,[45] recommendations,[46] and handbooks.[47] In certain countries, country of origin sheets also include information on potential forms of violence, including torture and ill-treatment, that applicants for international protection from that specific country may have experienced.[48] This information is provided to assist the case worker in their evaluation. Much like the national training programmes, many EMN Member and Observer Countries with established guidance have general guidelines that encompass various vulnerabilities, including those pertaining to victims of torture and/or ill-treatment.[49] France and Sweden have specific written guidance for competent asylum authorities covering the detection and identification of victims of torture and/or ill-treatment in asylum processes. In France, the OFPRA also drafted guidelines (for internal use) on the processing of asylum applications from victims of torture, as well as country profiles listing situations in each country that could potentially imply violence or torture of asylum seekers. Italy's 'Guidelines for the planning of assistance and rehabilitation interventions as well as for the treatment of mental disorders of beneficiaries of international protection who have suffered torture, rape or other serious forms of psychological, physical or sexual violence'[50] specify how to draft certifications of physical and mental health conditions stemming from torture and intentional violence, as well as supporting applications for international protection. In Ireland, the International Protection Office has an internal guidance paper on the submission of SPIRASI medico-legal reports by applicants. The Czech Republic highlighted that the competent authorities rely on previous case-law as guidance.

Four EMN Member Countries reported using guidance produced by the EUAA[51] or international organisations (e.g. International Organization on Migration (IOM), UNHCR,[52] or the Istanbul Protocol directly).[53]

On medico-legal documentation

Fourteen EMN Member countries have **national training for competent authorities on taking medico-legal documentation into account in applications for international protection**.[54] In most cases, the competent authorities receive general national training on vulnerability assessments.[55] In France, Ireland and Italy, specific training is delivered on taking medico-legal documentation into account. In France, the OFPRA's Torture and Trauma Working Group schedules training sessions to ensure dialogue between all relevant stakeholders (e.g. medical community, specialised NGOs). In Ireland, the competent asylum authorities engage the SPIRASI centre to provide training on the use of medico-legal documentation for its case workers. Several countries rely on the EUAA training module on evidence assessment for training the competent asylum authorities.[56]

Ten EMN Member and Observer Countries use **EU and international documents as a source of guidance on how to take medico-legal documentation into account in applications for international protection**.[57] For example, EMN Member Countries relied on EUAA guidance,[58] UNHCR manuals,[59] or the Istanbul Protocol.[60]

Nine EMN Member and Observer Countries use nationally developed guidance.[61] In Belgium, Germany, Greece, Luxembourg and Poland, the general guidance on vulnerability assessments used to detect and identify victims of torture, also includes information on taking medico-legal documentation into account. In Luxembourg, doctors must take into account the Istanbul Protocol.

France, Ireland, Italy, Sweden and Norway have more **tailored guidance.** In Italy, territorial commissions and specialist hospitals have developed protocols on how to conduct and report such assessments. In France, OFPRA's Torture and Trauma Working Group, in addition to internal guidelines, issues advisory opinions on individual cases. Ireland has internal guidance on the interpretation of the Istanbul Protocol and how a medico-legal report should be used if submitted by an applicant or their legal representative. In Sweden and Norway, the competent asylum authorities have access to guidance documents advising on different issues related to the health of the applicant for international protection that case workers may encounter. It includes advice on how to take medico-legal documentation into account.

42 BE, CY, DE, EE, EL, FI, FR, IE, IT, MT, NL, PL, SE, and NO, RS.
43 BG, CY, EL, FI, IT.
44 DE, FR.
45 EE, FR.
46 NO.
47 FI, FR, PL.
48 AT, DE, FR, LU, SK.
49 BE, BG, CY, DE, EE, EL, FI, IT, MT, NL, PL, and NO, RS.
50 Ministry of Health, 'Guidelines for the planning of assistance and rehabilitation interventions as well as for the treatment of mental disorders of beneficiaries of international protection who have suffered torture, rape or other serious forms of psychological, physical or sexual violence', 2017, https://www.salute.gov.it/imgs/C_17_pubblicazioni_2599_allegato.pdf, last accessed on 13 April 2024.
51 PT.
52 PT.
53 HR, LV, SI, SK.
54 AT, BE, CZ, DE, EL, FR, IE, IT, LU, MT, NL, PL, PT, SE.
55 AT, BE, CZ, DE, EL, LU, MT, NL, PL, PT, SE, SK.
56 CY, EE, FI, HR, NL, SI, SK and RS.
57 CY, EE, FI, HR, LT, LU, LV, SI, SK and RS.
58 CY, FI, LT, LV, SK and RS. EUAA guidance: EASO, 'Practical Guide on Evidence Assessment', March 2015; EASO, 'Evidence and credibility assessment in the context of the common European asylum system — compilation of Jurisprudence', 2018; EUAA, 'Evidence and credibility in the context of the Common European Asylum System — Judicial analysis', Second edition; EUAA, 'Victims of Torture: Identification, support and examination of claims', 2023.
59 CY, LT and RS. UNHCR guidance: UNHCR, 'Handbook on Procedures and Criteria for Determining Refugee Status and Guidelines on International Protection Under the 1951 Convention and the 1967 Protocol Relating to the Status of Refugees', April 2019, HCR/1P/4/ENG/REV; UNHCR, 'Note on Burden and Standard of Proof in Refugee Claims', 16 December 1998; UNHCR, 'Beyond Proof, Credibility Assessment in EU Asylum Systems', Full Report, May 2013.
60 CY, LU, SK.
61 BE, DE, EL, FR, IE, IT, PL, SE, and NO.

Challenges and good practices

Challenges

EMN Member and Observer Countries reported several challenges, ranging from applicants' fear and trust issues to difficulties in establishing the credibility of claims, to practical problems and obstacles, such as a lack of professionals, low levels of awareness, and cultural barriers.

- Thirteen EMN Member and Observer Countries noted the significant challenge for competent authorities in that **applicants for international protection are often hesitant to self-report as victims of torture and/or ill-treatment**.[62] This could be due to potential fear of repercussions (e.g. rejection from their families)[63] or the shame of revealing the (sometimes intimate) violence[64] to which they have been subjected. Individuals may also struggle to report these experiences because of the mental health consequences resulting from torture and ill-treatment, such as PTSD, memory issues, and concentration difficulties.[65]
- **A lack of trust in the authorities** can hinder individuals from sharing their personal and painful experiences of violence.[66] Negative experiences with authorities in their countries of origin/transit can significantly influence their perceptions of the authorities in their countries of asylum. Hungary and Luxembourg emphasised that the authorities in the applicant's country of origin may even have been perpetrators of torture.[67]
- Nine EMN Member Countries reported that a major challenge is **assessing the credibility of claims of torture and ill-treatment**,[68] including where the applicant is unable or unwilling to disclose information on the experience of torture.[69] The Czech Republic and Luxembourg highlighted that training focuses on credible situations of torture, including how to approach the situation, with less information provided on the identification of false claims of torture and ill-treatment.[70]
- Another challenge in assessing the credibility of claims of torture and ill-treatment is where competent authorities struggle to detect evidence of torture and ill-treatment when there are **no obvious physical signs or visible clues.**[71]
- EMN Member and Observer Countries have encountered **challenges related to the medico-legal documentation provided to them**. These challenges include delays in obtaining the documentation,[72] which can lead to making asylum decisions without it, difficulties in comprehending the findings,[73] and variations in the quality and completeness of the documentation, often with missing information in the reports.[74] In the Netherlands, Amnesty International[75] noted that applications from a safe country of origin[76] have an accelerated procedure, thus there might not be time, in their opinion, to request and take into account medico-legal documentation.
- Seven EMN Member Countries emphasised the need to **raise awareness of trauma sensitivity in asylum interviews and the Istanbul Protocol with the competent asylum authorities**.[77] Greece highlighted that a lack of an intersectional approach and interdisciplinary teams can pose a challenge.
- Belgium, France, Italy and Portugal pointed out that the **timing for international protection applicants to reveal evidence of torture and ill-treatment can be challenging**, as they have limited opportunities to do so (primarily during asylum interviews). The available time within the interviews is not enough to establish relationships of trust that would encourage victims of torture to share their experiences. If accounts do not come up during the initial asylum interview but emerge later, it becomes more difficult to include them in the process.
- Latvia, Slovenia and Serbia noted that as they are **primarily transit countries rather than final destinations**, applicants seeking international protection **may cooperate less with the authorities**. This makes it less likely that they will reveal evidence of torture and ill-treatment.
- **Language and cultural barriers** may limit individuals' abilities to express themselves.[78] **Different understandings of 'torture and ill-treatment'** may also mean that some victims do not consider themselves as such, or do not know that the violence to which they were subjected could be relevant to their asylum case.[79]
- Five EMN Member Countries reported a national **lack of mental health professionals specifically trained to work with victims of torture and ill-treatment**.[80] In Belgium, a notable concern is the shortage of medical professionals within competent asylum authorities, making it difficult to receive guidance on relevant international protection applications. The Swedish Red Cross, Norwegian Red Cross and the

62 BE, CY, DE, EL, FI, FR, HR, IT, LU, LV, MT, SE, SK, and NO.
63 FR, SK.
64 FR, HR, LU, SK.
65 DE, EL, FI, FR, HR, SK.
66 FI, FR, HR, LU, PT, SE, SI, SK.
67 HR, LU.
68 BE, CY, CZ, IE, LT, LU, PL, PT, SK.
69 IE.
70 CZ, LU.
71 AT, IE, LU, SK.
72 CY and NO.
73 CY.
74 FI, LU.
75 Amnesty International, *Slachtoffers van seksueel geweld blinde vlek in asielprocedure*, 2023, https://www.amnesty.nl/actueel/slachtoffers-van-seksueel-geweld-blinde-vlek-in-asielprocedure, last accessed on 19 October 2023.
76 Regulation (EU) No 604/2013 of the European Parliament and of the Council of 26 June 2013 establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person.
77 EL, FI, LU, NL, SK.
78 CY, FR, LU, PT.
79 CZ, SK and NO.
80 BE, EI, FR, LU, SK.

Danish Red Cross also reported challenges in Sweden, Norway and Denmark for applicants for international protection (see Box 2).

Limited data is also a challenge.

Box 2. Challenges for applicants for international protection reported by the Swedish Red Cross, Norwegian Red Cross and Danish Red Cross

Accessing medical certificates as a prerequisite to request medico-legal documentation: In Sweden, a 'medical certificate' has become a de facto pre-requirement for the Swedish Migration Agency to refer the claimant for a medico-legal assessment, posing a difficulty for many applicants for international protection. Obtaining a medical certificate comes with its own challenges, including limited guidance from case workers on the process, a lack of familiarity among medical professionals with the issuance of such certificates, and prolonged waiting times for doctor's appointments.

Constraints hindering sharing accounts of torture and ill-treatment: Victims of torture and/or ill-treatment interviewed by the Swedish Red Cross reported that the asylum interview setting, questions asked, and limited time allocated posed a challenge for them to share their stories. This is compounded by the fact that the Swedish Red Cross found situations[81] where important details were overlooked or omitted during asylum proceedings. This indicates a potential general lack of awareness of the Istanbul Protocol, an issue compounded by staff turnover.

The Norwegian Red Cross pointed to **more holistic and systemic difficulties in identifying victims of torture**, including how such identification should be done, by whom, and what it should entail. There can be insufficient knowledge within the national health service and a concern that deliberate identification may be unethical without support services to which patients/clients may be referred.[82]

The Danish Red Cross Asylum Centre medical clinics report that while their certified psychologists are capable of offering specialised torture/trauma treatment and rehabilitation, this is often not possible during the asylum procedure because of **time constraints**, especially during periods with high numbers of asylum seekers, or because the people affected are not yet ready to process their traumatic experiences.

Good practices

EMN Member and Observer Countries' competent asylum and national authorities identified good practices in dealing with applicants for international protection who have been subjected to torture and/or ill-treatment. They range from strong, multi-disciplinary cooperation and information exchanges between key stakeholders, to the implementation of specific initiatives to improve the provision of information.

- Thirteen EMN Member and Observer Countries recognised that **fostering strong collaboration among a network of relevant stakeholders from various disciplines** is good practice in addressing the needs of victims of torture and/or ill-treatment within asylum procedures.[83] In France, the Primo Levi Centre is a **multidisciplinary centre** set up to care for and support (exiled) victims of torture and political violence. It also provides training for professionals and volunteers working in this sphere.
- Seven EMN Member Countries noted the importance of **involving different parties from the very beginning, starting from the reception centre**.[84] The appropriate use of vulnerability assessment tools at an early stage[85] and tailored training of reception authorities[86] were also reported as good practices. In France, the Vulnerability Plan launched in 2021 implemented a health appointment for asylum seekers when registering their application in order to improve the detection of vulnerabilities linked to physical and mental health and provide them with adapted support.
- Implementing procedures that facilitate the **identification and detection of victims of torture and/or ill-treatment as an ongoing process, with the flexibility to make adjustments and additions as needed** was identified as good practice.[87] This flexibility accommodates situations where accounts of torture and ill-treatment may emerge at different stages.
- **Promoting the exchange of knowledge among competent asylum authorities is recognised** as good practice.[88] In France, Germany and Greece, this is achieved through the specialised focal points for vulnerability assessments, from whom colleagues can seek advice and guidance. In Greece, the focal point has the following responsibilities: 1) mapping relevant actors and services, 2) updating referral pathways, 3) guidance to case officers, 3) operating the helpline, 5) designing and implementing feedback to national procedures, 6) participating in and organising coordination meetings, and 7) supervising and ensuring proper implementation and dissemination of SOPs. The Orspere Samdarra observatory, in France, on mental health and vulnerabilities provides support to mental health professionals and volunteers who encounter difficulties in providing support in mental health or access to care for migrants or people in precarious situation, through a platform providing resources in different languages and a dedicated hotline for 'mental health, migration and precariousness'.

81 Swedish Red Cross, 'Torture injuries in the asylum process', 2015, https://www.rodakorset.se/om-oss/fakta-och-standpunkter/rapporter/tortyrskador-i-asylprocessen/, last accessed on 7 May 2024.
82 Norwegian Red Cross 'Torture and Forgotten: Identification and rehabilitation of torture victims in Norway', 2020, https://www.rodekors.no/globalassets/_rapporter/humanitar-analyse-rapporter/rk_torturrapport_digital-5.pdf, last accessed on 13 March 2024.
83 BE, CY, EE, FI, FR, HR, IT, LU, PL, PT, SE, SK, and RS.
84 BE, CY, FI, HR, LU, PT, SK.
85 CY, FI, FR, LU, SK.
86 FI, SK.
87 BE, CY, HR, MT, SE, SK.
88 DE, EL, FR, NL.

- **The implementation of designated projects and research to improve the situation.**[89] In Slovenia, the Protection Against Trafficking and Sex and Gender-Based Violence (PATS) project aims to inform applicants for international protection and BoTP about possible forms of support for potential victims of different forms of violence. It also develops adapted information for children and adolescents.[90]

In Luxembourg, a specific good practice is that asylum seekers are provided with immediate access to psychological and psychiatric support services on arrival. The National Reception Office (ONA) takes into account the particular needs of vulnerable people, including identification by an ethno-psychological team from the Red Cross, which is responsible for screening new arrivals for mental health and possible vulnerabilities and for referring people to external mental health services. Where potential torture is identified, the Red Cross can inform the Director of the Reception Agency, who will ensure it is signposted in the asylum procedure.

Box 3. Good practices for applicants for international protection reported by the Swedish Red Cross and Italian Red Cross

- **Cooperation between the Swedish Red Cross and the Swedish Migration Agency to develop guidance on medico-legal documentation:** Collaboration between these entities is formalised through a comprehensive Memorandum of Understanding (MoU). This means that the Swedish Red Cross assists the Swedish Migration Agency in various ways, including the development of guidelines for case workers on requesting medico-legal documentation. The Swedish Red Cross produces information sheets to ensure that this documentation complies with the Istanbul Protocol, as well as conducting specific training sessions.
- **Project between the Red Cross and regional authorities to improve detection and identification of victims of torture:** A project between the Swedish Red Cross and regional councils in the Swedish Skåne region, 'Documentation, identification, and knowledge about torture' (*Dokumentation, identifiering och kunskap om tortyr*, DIKT) aimed to improve the conditions for identifying physical and psychological torture injuries. The project had several activities, including mapping levels of awareness among healthcare professionals, and devising tailored training, methods and tools to improve the identification and documentation of torture injuries. There are plans to build on the insights of this project across the country.
- **Joint protocols for early identification upon arrival**: Alongside national authorities, EU agencies and other organisations, the **Italian Red Cross** is part of a Working Group on Vulnerabilities, which aims to establish a uniform governance model for the early identification, referral, and provision of care for individuals with specific needs on arrival in Italy and throughout the reception process. This initiative resulted in the publication of the 'Handbook for the identification, referral, and care of vulnerable individuals entering Italy and the protection and reception system', including those who had suffered any form of torture.[91]

  Upon disembarkation, a multidisciplinary Italian Red Cross team (doctors, cultural mediators, psychologists, protection experts) identifies potential vulnerabilities, including experiences of torture. In line with the Handbook, a careful assessment is carried out to detect initial indicators such as physical manifestations or changes in individuals' behaviour. A vulnerability report is then generated and shared with stakeholders from various agencies, and the Italian authorities are tasked with transferring individuals and identifying appropriate facilities within the Italian reception system.

6. DETECTION OF VICTIMS OF TORTURE AMONG BOTP

Specific initiatives and practices

Eighteen EMN Member and Observer Countries offer **opportunities for BoTP to be referred to the appropriate health and social services if they have been subjected to torture and/or ill-treatment**.[92] In 14 EMN Member Countries, BoTP receive health screenings on arrival in the receiving country.[93] If any signs of torture or ill-treatment are detected during these screenings, BoTP will be directed to appropriate services, such as medical or psychosocial support.[94] In France, several measures were implemented as soon as French authorities identified potential victims of THB among persons fleeing from Ukraine, especially women and children. In addition to circulars sent to authorities related to the specific cases of children, awareness training, webinars and flyers were disseminated with the help of NGOs to all stakeholders in contact with this public. In some countries, information on specific services for victims of torture and ill-treatment is included in the healthcare information provided to BoTP.[95] Six EMN Member Countries have set up specific centres for BoTP, providing tailored medical services.[96]

89 FI, SI and NO.
90 Funded by UNHCR for 2023 and by the Asylum and Migration Integration Fund (AMIF) and the national budget for 2024-2026.
91 Ministry of the Interior, 'Handbook for the identification, referral, and care of vulnerable individuals entering Italy and the protection and reception system', 2023, https://www.interno.gov.it/sites/default/files/2023-11/vademecum_vulnerabilities_31-web-eng.pdf, last accessed on 13 March 2024.
92 AT, BE, CY, CZ, EE, EL, FI, FR, HR, IE, IT, LT, LU, LV, MT, NL, SI, SK.
93 AT, CY, CZ, EE, EL, FI, IE, IT, LT, LU, MT, SE, SI.
94 AT, BE, CY, CZ, EE, EL, FI, FR, HR, IT, LT, LU, LV, MT, SI.
95 BE, SE, SK and NO.
96 BE, EE (as of 1 October 2023, BoTP were integrated into the regular healthcare system), EL, IE, LU, NL.

In Greece, the Reception and Identification Service (RIS) and national public health authorities set up a dedicated facility for BoTP, the Elefsina controlled access temporary accommodation facility, where psychosocial support and case management advice are provided. In Estonia, Ireland and Luxembourg, 'one-stop shop' services offer contact with health services and, in Estonia, provide psychological counselling. In the Netherlands, an advice centre for psychosocial care for BoTP, Loket Ontheemden Oekraïne Psychosociale (LOOP), was set up by several governmental organisations and NGOs.

Box 4. Specific protocols to aid the identification of victims of torture and/or ill-treatment among BoTP

Four EMN Member and Observer Countries established specific protocols to aid the identification of victims of torture and/or ill-treatment amongst BoTP.[97] These entailed SOPs (Greece) and orders to local authorities (Italy, Serbia) on how to pay special attention to vulnerabilities of registered BoTP.

France introduced several initiatives in the form of ad hoc tools and procedures to help to assess vulnerabilities and potentially identify individuals who may have experienced torture and/or ill-treatment:

- Introducing new internal instructions, including on paying special attention to the assessment of minors registering for temporary protection and potential vulnerabilities;
- Setting up a coordination group on the risks of trafficking in persons displaced from Ukraine, comprising associations specialising in supporting victims of trafficking and in child protection, as well as national and international administrations and institutions;
- Developing awareness-raising booklets on trafficking in human beings for adults and specific booklets for children within the coordination group on the risks of trafficking for persons displaced from Ukraine, as well as dedicated training (provided by UNHCR, French Red Cross and the Interministerial Mission for the Protection of Women against Violence and the Fight against Human Trafficking (MIPROF)).

Eleven EMN Member and Observer Countries have **specific practices to promote BoTP self-reporting as victims of torture and/or ill-treatment**, typically through **psychosocial crisis counselling hotlines**[98] (in Estonia, this service is also available in Russian and Ukrainian), or through **awareness-raising materials**[99] such as pamphlets, flyers and websites. In the Czech Republic, workshops and courses educate BoTP on how to report offences and understand their rights, as well as some of the opportunities available to them.

Norway has a self-reporting system where applicants for temporary protection are asked whether they have experienced or witnessed war crimes of different types, including torture.

Challenges and good practices

Challenges

Eight EMN Member and Observer Countries pointed out that the **primary challenge for competent authorities in identifying and detecting BoTP who have been subject to torture and/or ill-treatment is that BoTP spend relatively little time in contact with authorities while registering for temporary protection**.[100] Portugal, Sweden and the Slovak Republic stated that limited time impacted the extent to which trust can be built between the BoTP and the competent authorities, posing an additional challenge to their ability to identify and detect victims of torture and/or ill-treatment.

Similar to applicants for international protection, Greece, Latvia and the Slovak Republic identified BoTP **hesitancy to self-report as victims of torture due to feelings of shame or fear**. Coupled with the absence of a legally mandated application process and thus limited contact with authorities, this poses significant difficulties for identifying and detecting victims of torture. In Greece, this is exacerbated by a lack of specialised psychosocial staff and mental healthcare professionals. Greece and the Czech Republic highlighted challenges stemming from varying interpretations of 'torture and ill-treatment', with some individuals not recognising themselves as such, leading to a lack of self-reporting.

France highlighted that **there are more women and children among the BoTP from Ukraine, putting them at higher risk of vulnerabilities.** In the context of conflict and mass displacement, isolation, insecurity and instability of vulnerable groups can all be exacerbated, as can the rapid creation of several exploitation networks.

As with international protection, here too limited data is a challenge.

Good practices

EMN Member and Observer Countries identified **good practices in detecting BoTP who are potential victims of torture and ill-treatment.** Four EMN Member countries and Serbia reported national-level practices to **increase awareness among BoTP of their rights and services available.** This is particularly important given the limited interaction between BoTP and the authorities during their registration process.[101] Practices took various approaches, such as hotlines in target languages,[102] efforts to sensitise authorities,[103] raising awareness through multiple channels, including social networks,[104] and specific pamphlets for both adults and children.[105]

97 EL, FR, IT, and RS.
98 EE, EL, SK.
99 EE, EL, FR, IT, LT, LV, MT, SK, and RS.
100 BG, EE, EL, FI, MT, NL, SK, and NO.
101 CZ, FR, HR, SK, and RS.
102 EE, HR.
103 AT, FR.
104 CZ.
105 FR.

'One-stop shops' were also recognised as good practice to provide BoTP with comprehensive information.[106]

National competent authorities dealing with BoTP in the Czech Republic, Estonia, Malta (Ministry of the Interior) and the Slovak Republic highlighted the **importance of adopting interdisciplinary approaches that offer different methods to identify and support BoTP who have experienced torture and/or ill-treatment**. National authorities in Malta stressed the significance of implementing systems that allow authorities to refer potential victims of torture and ill-treatment among BoTP to specialised services. The Estonian Health Insurance Fund underlined the value of a multi-tier approach reaching different target groups, beginning with an initial check at the reception centre, followed by a more comprehensive health assessment.

106 LU and RS.

ANNEX – RELEVANT PROVISIONS IN EU, REGIONAL AND INTERNATIONAL LAW

Relevant provisions in the CEAS

Asylum Procedures Directive (2013/32/EU)

Recital 29: Certain applicants may need special procedural guarantees due to their age, gender, sexual orientation, gender identity, disability, serious illness, mental disorders, or as a consequence of torture, rape or other serious forms of psychological, physical or sexual violence. Member States should endeavour to identify applicants in need of special procedural guarantees before a first instance decision is taken. Those applicants should be provided with adequate support, including sufficient time, in order to create the conditions necessary for their effective access to procedures and for presenting the elements needed to substantiate their application for international protection.

Recital 31: National measures dealing with identification and documentation of symptoms and signs of torture or other serious acts of physical or psychological violence, including acts of sexual violence, in procedures covered by this Directive may, inter alia, be based on the on the Manual on Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Istanbul Protocol).

Article 4(3): (…) Persons interviewing applicants pursuant to this Directive shall also have acquired general knowledge of problems that could adversely affect the applicant's ability to be interviewed, such as indications that the applicant may have been tortured in the past.

Article 18(1): Where the determining authority deems it relevant for the assessment of an application for international protection, in accordance with Article 4 of the Qualification Directive (2011/95/EU), Member States shall, subject to the applicant's consent, arrange for a medical examination concerning signs that might indicate past persecution or serious harm. Alternatively, Member States may provide for the applicant to arrange for such a medical examination.

Article 24(1): Member States shall assess within a reasonable period after an application for international protection whether the applicant is in need of special procedural guarantees.

Articles 4(3) and 14: Those conducting the asylum interview must have knowledge of problems that may adversely affect the applicant's ability to be interviewed, in particular indications of torture in the past.

Article 24(3): Member States shall ensure that where applicants have been identified as needing special procedural guarantees, they are provided with adequate support to allow them to benefit from the rights and comply with the obligations of this Directive throughout the duration of the asylum procedure.

(…) in particular, where Member States consider that the applicant is in need of special procedural guarantees as a result of torture, rape or other serious forms of psychological, physical or sexual violence, Member States shall not apply, or shall cease to apply, Article 31(8) and Article 43.

Article 24, read in conjunction with **Article 46(7):** the applicant with a negative first instance decision must have at least one week to request a court or tribunal to decide on the right to remain in the territory pending the outcome of the appeal.

Reception conditions Directive (2013/33/EU)

Article 21: Member States shall take into account the specific situation of vulnerable persons 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 FGM, in the national law implementing this Directive

Article 25:

1. Member States shall ensure that persons 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.

2.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 and shall be bound by the confidentiality rules provided for in national law, in relation to any information they obtain in the course of their work.

Temporary Protection Directive (2001/55/EC)

Article 13(4): Member States shall provide necessary medical or other assistance to persons enjoying temporary protection who have special needs, such as unaccompanied minors or persons who have undergone torture, rape or other serious forms of psychological, physical or sexual violence.

Other relevant provisions in EU law

Charter of Fundamental Rights of the European Union (EU Charter)

Article 4: No one shall be subjected to torture or to inhuman or degrading treatment or punishment.

Relevant provisions in regional human rights instruments

European Convention on Human Rights(ECHR)

Article 3: No one shall be subjected to torture or to inhuman or degrading treatment or punishment.

Relevant provisions in international law

Universal Declaration of Human Rights

Article 5: No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.

International Covenant on Civil and Political Rights (ICCPR)

Article 7: No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. In particular, no one shall be subjected without his free consent to medical or scientific experimentation.

UN Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (UNCAT)

Article 1(1): For the purposes of this Convention, the term 'torture' means any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. It does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions.

Article 16(1): Each State Party shall undertake to prevent in any territory under its jurisdiction other acts of cruel, inhuman or degrading treatment or punishment which do not amount to torture as defined in Article I, when such acts are committed by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. In particular, the obligations contained in Articles 10, 11, 12 and 13 shall apply with the substitution for references to torture of references to other forms of cruel, inhuman or degrading treatment or punishment.

For more information

EMN website: http://ec.europa.eu/emn
EMN LinkedIn page: https://www.linkedin.com/company/european-migration-network
EMN X account: https://x.com/emnmigration
EMN YouTube channel: https://www.youtube.com/@EMNMigration

EMN National Contact Points

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Czech Republic www.emncz.eu/
Estonia www.emn.ee/
Finland emn.fi/en/
France www.immigration.interieur.gouv.fr/Europe-et-International/Le-reseau-europeen-des-migrations-REM3/Le-reseau-europeen-des-migrations-REM2
Germany www.bamf.de/EN/Themen/EMN/emn-node.html
Greece emn.immigration.gov.gr/en/
Hungary www.emnhungary.hu/en
Ireland www.emn.ie/
Italy www.emnitalyncp.it/
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The Netherlands www.emnnetherlands.nl/
Poland www.gov.pl/web/european-migration-network
Portugal rem.sef.pt/en/
Romania www.mai.gov.ro/
Spain www.emnspain.gob.es/en/home
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Norway www.udi.no/en/statistics-and-analysis/european-migration-network---norway#
Georgia migration.commission.ge/
Republic of Moldova bma.gov.md/en
Ukraine dmsu.gov.ua/en-home.html
Montenegro www.gov.me/mup
Armenia migration.am/?lang=en
Serbia kirs.gov.rs/eng