



Bundesweite Arbeitsgemeinschaft  
der psychosozialen Zentren  
für Flüchtlinge und Folteropfer e.V.

## ABSTRACT and RECOMMENDATIONS

### **GUIDELINES TO THE DEFINITION OF MINIMUM STANDARDS FOR THE RECEPTION OF ASYLUM SEEKERS**

#### Preamble (9)

The terms and conditions should be suitably modified for the reception of groups of people requiring special treatment.

- **It is BAfF's opinion that the expertise and knowledge within psychosocial and treatment centres is qualified for and suited specifically to the work of developing and adapting the special requirements of torture victims.**

#### Preamble (16)

Accordingly, the member states will be asked to adopt the terms outlined in this guide, also with regards to their practices, for people requiring forms of protection other than those mentioned in the Geneva Convention for third country members and stateless persons.

#### Chapter II paragraph 5 (2) Information

The member states are responsible for issuing information (according to paragraph 1 and including information relating to medical care) in written form and, where possible, in a language that one can assume the asylum seeker will understand. Where necessary, the information can also be verbally communicated.

- **Through work carried out in the centres, we know that people who suffer from conditions such as stress and anxiety disorders require information to be communicated in a more reasonable manner and the information needs to be repeatedly affirmed throughout any process.**
- **On implementation of the guidelines, it should be noted that information will be provided by independent organisations such as NGOs and/or the UNHCR.**

### Article 7 Residence and Freedom of movement

Member states can establish the granting of material reception conditions on the provision that the asylum seeker has their ordinary residence at a specific place designated by the member state. A ruling of this sort, which can be of a generic nature, should be met for individual cases and on the basis of individual state law.

- **Persons suffering from conditions such as stress and anxiety disorders require a more reasonable admission process, in the form of supporting structures and accessibility to treatment.**
- **Observance of the terms of admission and medical care allows free access to treatment centres (see paragraph 7 Freedom of movement).**

### Article 8 Family

Member states meet appropriate measures within their territory to ensure family unity if the asylum seekers are granted accommodation by the said member state. These measures will be implemented on agreement with the asylum seeker.

- **People with psychological disorders are often reliant or dependent in a specific manner on the psychosocial support of family members.**

### Article 13 (2) General conditions of material terms of admission and medical care

Member states have the responsibility of ensuring that the material reception conditions granted provide a standard of living that guarantees the asylum seeker's health and subsistence.

- **People in need and with special requirements are to have an individual assessment of their material terms of admission, which must take their requirements into consideration.**
- **For victims of torture, for example: individual rooms, gender separation, noise-free surroundings, comprehensive consideration regarding the extent to which the institution may resemble another in which the person was mistreated (uniforms, locks, bars etc.).**
- **The opportunity to lead an independent life.**
- **We would like to refer to UNHCR's statement: "*it is important [...] to ensure that, at a minimum, the basic dignity and rights of asylum seekers are protected and that their situation is, in all the circumstances, adequate for the country in which they have sought asylum.*"<sup>1</sup> BAFF subscribes to this statement.**

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<sup>1</sup> <http://www.unhcr.org/cgi-bin/texis/vtx/search?page=search&docid=4aa763899&query=adequate%20standard%20of%20living%20and%20protection%20of%20fundamental%20rights>, p. 3

### Article 13 (3)

Member states can grant all or specific material reception conditions and health care independent of whether the asylum seeker has the means<sup>2</sup> to provide a certain standard of living that ensures health and subsistence.

- **Assessment standards should contain no criteria that are more restrictive than those applicable to the local population.**

### Article 14 Conditions of material reception

- **BAFF is working on the basis that large reception institutions do not, in general, fulfil the specific requirements (according to the guidelines) of victims of torture. Victims of torture should therefore not be housed in large reception institutions or in areas that do not offer an appropriate infrastructure. We wholly subscribe to this.**
- **It is in the specific interest of (psychologically) ill people that specialist treatment centres and/or preventative support structures are readily available.**

### Article 15(1) Medical Care

Member states have the responsibility of ensuring that asylum seekers receive the necessary medical care that includes, at a minimum, emergency supplies and essential treatment of illness.

- **Essential treatment should include the treatment of psychological illnesses and should be viewed as the treatment of an acute illness.**
- **Treatment that is ended too early can lead to an emergency situation.**
- **This article always needs to be viewed in conjunction with article 15(2).**

### Artikel 15(2)

Member states grant necessary medical or specialised help to asylum seekers with special requirements<sup>3</sup>.

- **Expertise relating to these special requirements and the assessment of whether treatment is necessary is to be found within psychosocial (treatment) centres and other specialist institutions.**
- **The centres or other qualified experts (specialists in the field of treating consequences arising from torture/serious human rights violations and in interculturalism) should be consulted, as independent experts, at regular intervals. They should have the opportunity to present the reception programme with constructive criticism.**
- **BAFF is of the opinion that ‘specialised help’ should cover a wide range of options that include psychological services (counselling, therapy), psychosocial counselling/support, secondary preventative programmes (e.g. environmental considerations, community activities) and complementary services.**

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<sup>2</sup> ‘Means’ refers to the asylum seekers’ personal financial situation. It may include money which they have brought with them (or earned in their country of asylum) as well as the financial situation which they have left in their country of origin.

<sup>3</sup> The term ‘special requirements’ is defined under article 17(1).

## Chapter IV Conditions relating to persons with exceptional special requirements

### Article 17 (1) General policy

Member states account for the execution of chapter II in their national statutory provisions. This relates to material reception conditions as well as medical care for those in special situations and in particular need of protection, such as minors, unaccompanied minors, the handicapped, the elderly, expectant mothers, single mothers with young children, and people who have suffered torture, rape or other forms of severe psychological, physical or sexual violence.

- **BAff states that the guidelines are not exact in their ruling on how the member states should account for special requirements. Therefore the member states should have a clear duty to take the special requirements of the abovementioned groups into consideration, in all areas of the national statutory provisions. We believe that the psychosocial centre reception guidelines provide a relevant foundation and that BAff members are able to act as qualified contact people for the practical implication of these.**
- **Those responsible for an initial health check require a comprehensive education in the field of the psychological consequences of torture, rape and other severe forms of violence as well as culture-specific knowledge.**
- **Those responsible for the child health checks require a comprehensive education in the field of child-specific psychological needs following all forms of abuse, neglect, exploitation, torture, atrocious, inhumane and derogatory treatment or the consequences of armed conflict. [18(2)]**
- **Consideration of the reception conditions and medical care require free access to treatment centres (see paragraph 7 Freedom of movement).**

### Article 17(2)

Paragraph 1 refers exclusively to those defined as requiring special help, according to an individual assessment of their situation.

- **Individual assessments require a high standard of specialist knowledge.**
- **BAff is of the opinion that individual assessments should be responsibly carried out according to the structures of accommodative public health sector (not BAMF), which is financially positioned within social law.**
- **A qualified translator is to be employed, when necessary, for work carried out by the public health sector.**
- **The centres can provide expertise in the form of psychological/medical reports (documents, solely for information on condition of health, and in no way related to legal implications), training and further education.**
- **If the individual assessment determines a positive result, access to treatment must follow automatically.**
- **Therefore, a mechanism should be developed that determines the ability to carry out individual assessments independently of internal or external (material) pressures. A transparent and objective instrument of review needs to be developed in order to guarantee a qualified individual assessment.**
- **UNCHR would like the identification of asylum seekers with special requirements to be determined at the earliest possible stage. We support this statement.**

### Article 18(1) Minors

Member states take the welfare of the child first and foremost into consideration when implementing terms as according to the guidelines for minors.

- **We state that the welfare of the child is not specifically defined within the guidelines.**
- **BAff recommends the definition as according to the UN Convention on child law.**
- **The following question also arises: How can the welfare of the child be taken first and foremost into consideration when the system is unsure as to whether a child is regarded as an individual? A reasonable age determination is a necessary aspect of guaranteeing the welfare of the child.**
- **Age determination is a risk analysis process and requires a multi-disciplinary approach that engages a certain time span. This entails treating the child as an individual until the assessment process has been completed. Simplified models of age determination are scientifically and ethically unacceptable.**

### Article 18(2)

Member states have the responsibility of engaging rehabilitation measures and, when necessary, providing specific psychological care and qualified counselling for minors who have been victim to any form of abuse, neglect, exploitation, torture, atrocious, inhumane and derogatory treatment or who have suffered under armed conflict.

- **BAff declares that physical age is not the sole factor. Psychological development and emotional maturity also need to be taken into consideration.**
- **According to the Child and Youth Services Act (KJHG), minors have the fundamental right to accessing the benefits of the youth welfare service. BAff states that determination and rehabilitation opportunities are not clearly defined on a national level and are therefore unsatisfactorily executed.**

### Article 19(1) Unaccompanied minors

Member states provide the required supervision for unaccompanied minors in the form of a legal guardian or, if necessary, an organisation or other suitable authority that assumes responsibility for the care and welfare of the minor. The relevant authorities are responsible for carrying out regular reviews.

- **BAff is of the opinion that legal guardians who are educated in a relevant field and have specialised knowledge of their clients' specific needs have a positive effect on the child's welfare in almost every instance. This is especially relevant when the child has special requirements. A transparent and objective instrument of review needs to be developed in order to guarantee a successful procedure.**
- **Voluntary support is a necessary and valuable addition to legal guardianship and should be encouraged by the state. This does not mean that government agencies assume the responsibility. If alternatives are being discussed, this must be carried out in consultation with health specialists who are trained in the relevant fields (expertise and intercultural competency).**

## Article 20 Victims of torture and violence

Member states are to see that persons who have suffered torture, rape or other serious acts of violence are able to receive treatment, when necessary, for damage caused by their experiences.

- **BAfF would explicitly like to support the UNHCR's statement: "Mechanisms are necessary in order to identify survivors of torture and violence at the earliest possible stage after their arrival. The treatment of such persons should be dealt with by specialised medical personnel and institutions."**

### Damages

- **BAfF prefers the use of the word 'damages' rather than 'injuries' and is of the opinion that the term 'damages' encompasses our clients' experiences more fully. For example, a mother can be 'damaged' in that after experiencing trauma she is no longer capable of looking after her child, even though she was previously an able mother.**
- **'Damages' can be visible and/or invisible.**
- **Based on the collective experience of centres in Germany and other European countries, we are of the opinion that 'damages' can be permanent in nature and can differ from 'injuries/wounds' (physical or psychological) in that they can be treated but not necessarily healed.**
- **We believe that the use of the word 'damages' suggests a legal dimension that qualifies an assessment for the payment of compensation/reparation. This is an important aspect of the 'treatment' (see below).**

### Necessary treatment

- **BAfF is of the opinion that necessary treatment for asylum seekers 'who have suffered torture, rape or other serious acts of violence' must take place in an interdisciplinary and holistic clinical institution that offers the following: medical, social, psychological/psychotherapeutic, legal (compensation/reparation payments – see above) and spiritual treatments.**
- **Necessary treatment includes the use of a qualified translator in instances where language limits understanding. Standards for translators in the public health sector apply in this instance.**
- **Familial and cultural needs must be taken into consideration in order to ensure 'necessary treatment'. This means that the treatment must relate to the asylum seeker's individual context; which means, in turn, that the documentation of a life story is necessary in order to guarantee an adequate assessment of 'necessary treatment' and material needs.**
- **BAfF is of the opinion that equal treatment in terms of services offered to the local population must prevail.**
- **BAfF views 'necessary treatment' as an important element of 'tertiary prevention' of torture (whereas 'primary prevention' means the promotion of health and prevention of risk factors through human rights education that seeks to eliminate torture and severe human rights' violations).**
- **'Secondary prevention' refers to an early identification of special requirements (through the means of an adequate individual assessment – see above) of those belonging to risk groups with chronic damages and reoccurring trauma. 'Tertiary prevention' calls for security and 'appropriate material reception conditions' for the necessary treatment of**

**the consequences of torture in order to decrease complications and reduce long-term negative effects.**

- **BAfF is of the opinion that ‘necessary treatment’ should be carried out by qualified clinicians. This expertise is currently mainly to be found in the psychosocial and treatment centres that are joined under BAfF.**
- **In order to meet the guideline specifications, BAfF is of the opinion that specialist clinics within the EU member states need to expand their treatments on offer to asylum seekers. In order for general health care to be provided, many of the clinical specialists need to be trained and accredited. Minimum standards for these experts include knowledge of:**
  - **Trauma**
  - **Psychological damages, caused by extreme human rights violations and torture**
  - **Intercultural skills**
  - **Human rights context**
  - **Specialised treatment for those with special requirements**

#### Article 26 Implementation

Member states implement the necessary legal and administrative regulations in order to comply with these guidelines by 6<sup>th</sup> February 2005. The commission will forthwith be informed.

#### Financial implications for implementation

**BAfF welcomes the guidelines but would like to ensure that the additional work tasks will not have to be covered by the heretofore very limited funds available to the centres.**

**Berlin, April 2005  
Elise Bittenbinder  
Chairperson of BAfF**