BAfF

Bundesweite Arbeitsgemeinschaft
der psychosozialen Zentren
für Flüchtlinge und Folteropfer

Rehabilitation for refugee survivors of torture in three European countries

A PILOT PROJECT

Imprint

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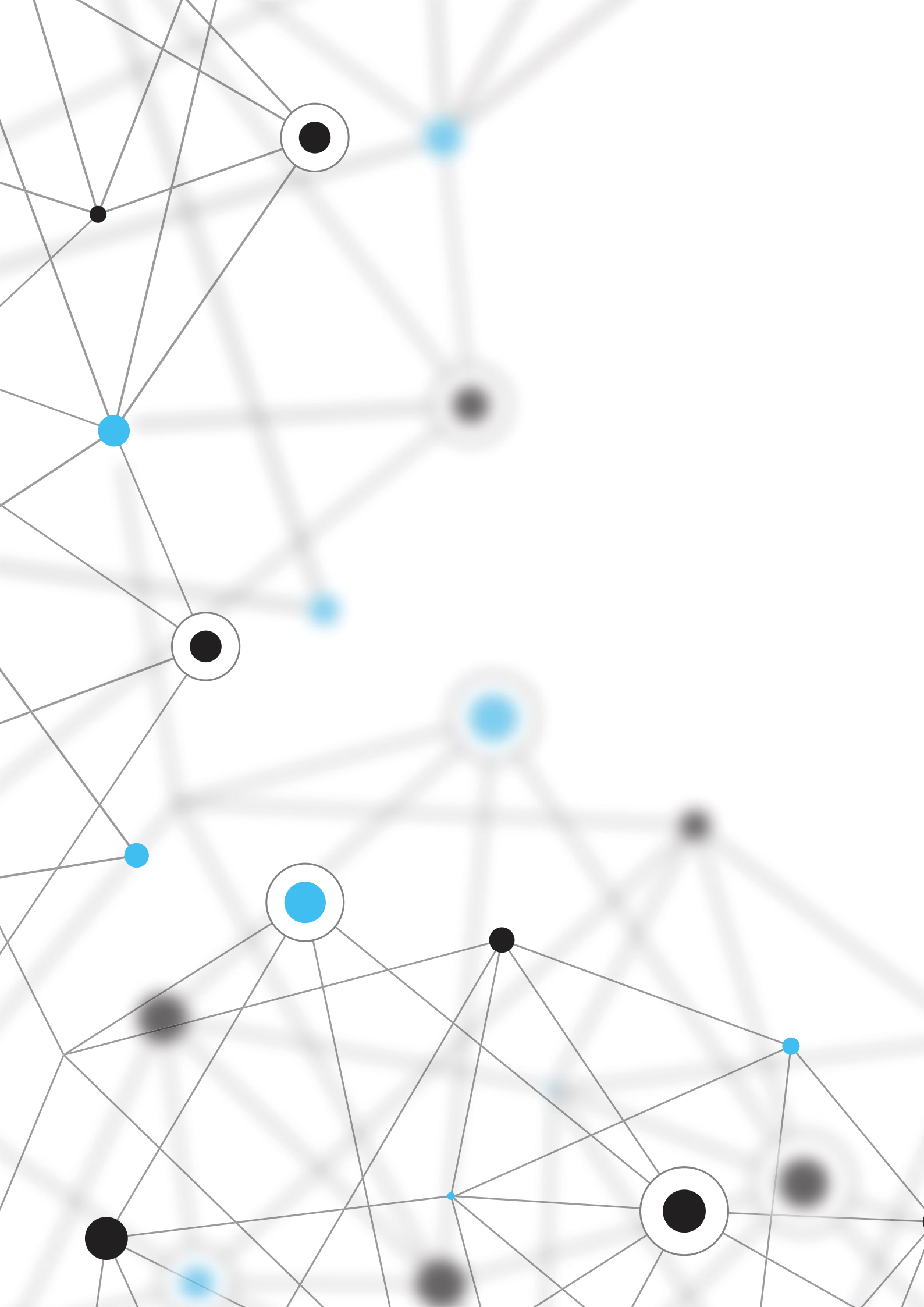

Foreword

Dear readers,

It is my pleasure to send some introductory remarks on the publication "Rehabilitation for refugee survivors of torture in three European Countries". In my previous post as head of the bilateral relations unit in the German Ministry of Health and in my current post as Head of the Health Unit in the Permanent Representation of Germany to the EU in Brussels I had numerous opportunities to cooperate with NGOs like BafF e.V. (Germany) and ICAR (Romania). Both are doing excellent work in the field of providing appropriate care and support to survivors of torture. Therefore a Europe-wide comparison of working methods, best practices and accompanying measures in the dialogue between political institutions, health care suppliers and NGO activities is a helpful step in mutual learning. It would have been advantageous if the planned physical meetings between representatives of European Parliament, Council of the EU and European Commission would have been possible. COVID-19 did not allow for that in the troubled year of 2020 but I would hope that we can identify ways to come back to these plans 2021.

I would like to express my sincere thanks to all NGOs active in this important field and I really appreciate all efforts undertaken despite an often challenging financial framework.

Best regards,

Ortwin Schulte

Head of Unit "Health Policy"

Permanent Representation of Germany to the EU, Brussels

1. Introduction

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This report is based on a project supported by the German Federal Ministry of Health (Bundesministerium für Gesundheit, BMG), which included a workshop with European experts on the rehabilitation of torture survivors. Due to the Coronavirus, the workshop had to be held online. It was originally planned to explore the outcomes of the workshop and implications for health policy in Brussels under the auspices of the European Parliament; however this too had to be abandoned and instead a number of consultations with experts took place to explore in more depth the state of rehabilitation in Europe. This report is based on a subsequent desk study intended as a small-scale pilot project, which focusses on three European countries: Germany, Romania and Norway. The selection of these countries was pragmatic in light of the constraints of the Corona pandemic and the availability of experts who were able to contribute and to engage with the pilot. Ideally, a wider range of European countries would have provided a fuller picture, although this pilot project has yielded invaluable initial information to better understand the state of rehabilitation in the selected three European countries.

1.1. Background

The BAfF (Bundesweite Arbeitsgemeinschaft der Psychosozialen Zentren für Flüchtlinge und Folteropfer) is the German Association of Psychosocial Centres for Refugees and Victims of Torture. It is the umbrella organisation of Germany's 44 specialised psychosocial and treatment centres. The expertise within BAfF and its member centres, which have long experience in providing rehabilitation for refugee torture survivors, has contributed to the development of current understanding in the field. Whilst there has been considerable progress in recent years in providing health and social care support to refugees, there are differences across European countries, in policy and in practice.

1.2. Recent context

There have always been refugees in Europe but in 2015 the context changed significantly, with a global movement of people seeking asylum in Europe. This development has been acknowledged by decision-makers and practitioners as presenting one of the greatest challenges ever to modern European states, and is frequently described as the greatest refugee crisis since World War II. This emergency precipitated a moral crisis for the public in different European states as well as political, logistical and financial crises for states facing the task of meeting their obligations under international law, which required them to take on the responsibility of providing asylum and related health and social care to millions.

Amongst these refugee populations newly arriving in Europe were torture survivors: adults, minors and families. Service providers which had experience in dealing with the needs of refugee torture survivors and which were already caring for thousands of them, found themselves inundated and stretched beyond their capacity.

For many health professionals providing care for torture survivors, the perennial questions arose again:

- Whose responsibility is it to effectively identify torture survivors and those most vulnerable?
- Whose responsibility is it to ensure the necessary support to refugee torture survivors?
- What are European countries doing to support refugee torture survivors and who is providing this support, and what financial support do they receive from their governments?

This report examines the nature of rehabilitation for torture survivors and the international legal framework underpinning the responsibilities of states to ensure the means to rehabilitation. It provides a brief overview of provision in three European countries, using a small number of established global indicators for the right to rehabilitation. The report concludes with a summary of key areas requiring further attention if refugee torture survivors in Europe are to receive rehabilitation.

2. Understanding the rehabilitation needs of refugee torture survivors

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This section outlines the current obligations and challenges with regard to ensuring an appropriate response by states to address the needs of torture survivors in Europe.

2.1. What is rehabilitation for torture survivors?

The impact of torture can be profound, long-term and severe, and significantly, not always visible. The impact of torture includes physical injury, disability, illness, chronic pain, difficulties in psychological health, in interpersonal, couple and family relationships and in social functioning in everyday life, education or vocational pursuits. Additionally, torture survivors have needs which relate to their safety, basic welfare (adequate food, housing, clothing etc.) and protection against further harm, whether from within the host society or from being returned to the place where they were subjected to torture and risk facing further torture or other harm. Torture survivors may also face stigma, social isolation, social exclusion, discrimination, racist abuse and violence as asylum seekers and refugees. Some may resort to substance misuse as a way of coping with flashbacks, intrusive thoughts and other difficulties, which can create further health complications and needs.

Given that torture survivors are very diverse in their experiences of torture and other ill-treatment as well as in their social, cultural and political contexts and personal backgrounds, there is no one form of care or intervention which can be defined as appropriate rehabilitation for all.

The breadth, severity and complexity of health, social, educational and vocational support which torture suvivors may need require that any response needs to ensure that the focus is not exclusively on one aspect of health (e.g. physical health or mental health) or solely on health to the exclusion of other needs such as social care, welfare support, educational support, integration and vocational support.

Rehabilitation is therefore a *combination of interventions and services* which together address the complex needs of refugee torture survivors[1], including psychological, medical, social welfare, educational, legal and vocational support interventions and services.

1 For a fuller discussion see Patel, N. (2019). Conceptualising rehabilitation as reparation for torture survivors: A clinical perspective. *International Journal of Human Rights*, 23(9), 1546-156.

2.2. What is the right to rehabilitation?

The right to rehabilitation is considered in various international legal instruments.

Box 1. State health response for torture survivors: Relevant legal provisions

Relevant legal provisions	Key sources
The right to rehabilitation as reparation for torture	• Article 14, UN Convention Against Torture (UNCAT)[2] • General Comment 3 on Article 14, UNCAT[3] • UN Human Rights Resolution on Rehabilitation for Torture Survivors[4]
The right to the highest attainable physical and mental health	• Article 12, UN International Covenant on Economic, Social and Cultural Rights • Article 25, UN Convention on the Rights of Persons with Disabilities
The right to "habilitation and rehabilitation" for persons with disabilities	• Article 26, UN Convention on the Rights of Persons with Disabilities
The right to effective remedy and reparation	• Articles 3 and 13, European Convention of Human Rights • Article 4, the Council of Europe Convention on the Compensation of Victims of Violent Crime • Articles 4 and 47, EU Charter of Fundamental Rights • Council of Europe, Commissioner for Human Rights, Human Rights Comment, 7 June 2016[5]

2 The United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (UNCAT) enshrines the right to rehabilitation, as a form of reparation, in Article 14. *Each State Party shall ensure in its legal system that the victim of an act of torture obtains redress and has an enforceable right to fair and adequate compensation, including the means for as full rehabilitation as possible. In the event of the death of the victim as a result of an act of torture, his dependents shall be entitled to compensation […].*

3 UNCAT, General Comment 3, Implementation of Article 14 by the States parties, CAT/C/GC/3, 19 November 2012.

4 UN Human Rights Council Resolution on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment: Rehabilitation of Torture Victims, A/HRC/22/L.11/Rev.1, 19 March 2013

5 *http://www.coe.int/da/web/commissioner/-/torture-survivors-have-the-right-to-redress-and-rehabilitation*

For torture survivors, the right to rehabilitation is enshrined in Article 14 of the United Nations Convention Against Torture (UNCAT), and more fully dealt with within the General Comment no. 3 (GC3) on Article 14, UNCAT. The GC3 establishes the core features of the right to rehabilitation, which may be provided by states or by non-governmental and non-state organisations.

Box 2. Rehabilitation for torture survivors[6]

- Available, readily accessible, adequate, appropriate rehabilitation
- Holistic approach, with range of interdisciplinary and specialist services for torture survivors
- Provided on the basis of a needs assessment and evaluation by qualified, independent health professionals
- More than initial care in the aftermath of torture
- Non-discriminatory and culture- and gender-sensitive
- Available in the relevant languages of victims
- Victim-centred: tailored to address the victim's needs, preferences for rehabilitation service and their culture, personality, history and background
- Provided in a way that guarantees the safety and personal integrity of the victims and their families
- Provided without a requirement for the victim to pursue judicial remedies; and without reprisals or intimidation.

In its General Comment no. 3, the UNCAT affirms that the provision of means for as full rehabilitation as possible should be *holistic and include medical and psychological care as well as legal and social services*. The Committee specifies that states parties shall ensure that effective rehabilitation services and programmes are set up, that access to such rehabilitation should not depend on the victims pursuing legal remedies, and that the right applies to all victims without discrimination and regardless of the victim's status.[7]

6 Supra note 2.
7 UNCAT, General Comment No. 3 (2012), paras. 15 and 32.

3. Rehabilitation for torture survivors in Europe:

Case studies

3. Rehabilitation for torture survivors in Europe: Case studies

In Europe, each country has adopted its own policy position and implementation, within its own unique social, economic, political, cultural and historical context. As such, despite a common European policy[8] and commitments under international law, rehabilitation has been understood and implemented differently, and to a greater or lesser extent.

A comparison of countries in Europe on how they have addressed rehabilitation for refugee torture survivors can be useful to better understand the diverse contexts, constraints and policy priorities in each country and to identify good practice examples. However, such a comparison provides little without comprehensive information and data. This report does not seek to provide a comprehensive comparison, but draws on a methodology using human rights indicators to examine some of the different ways which three countries, Germany, Romania and Norway, have sought to address rehabilitation for torture survivors.

3.1. Methodology: sample indicators for the right to rehabilitation

The standards established in international law for the right to rehabilitation for torture victims/survivors and their families are substantial. The UN Committee Against Torture states that appropriate monitoring and evaluation of state practice in relation to ensuring the "*means to as full rehabilitation as possible for torture survivors*"[9] is essential to ensure accountability. However, appropriate monitoring and evaluation is difficult without the use of clear indicators[10], which are a prerequisite of effective implementation of rehabilitation in practice.

Indicators for the right to rehabilitation capture the nature and scope of that right for survivors of torture. They are not a checklist, but a tool to assess and to report on any progress, or lack of progress, on implementation. Indicators can

- Inform assessments and provide a roadmap towards better implementation of rehabilitation for torture survivors
- Inform strategies at a country level, including public policies and programmes
- Identify what information is not available, and gaps in information
- Monitor and evaluate progress.

8 Specifically, operating under the Common Asylum System (CEAS); the Council Directive 2003/109/EC; the Qualification Directive (Directive 2011/95/EU); and the Reception Conditions Directive (Directive 2013/33/EU). See: *https://ec.europa.eu/home-affairs/what-we-do/networks/european_migration_network_en).*

9 UNCAT, article 14.

10 UNCAT, General Comment No. 3 (2012), paras. 45-46.

Altogether, 200 indicators for the right to rehabilitation have been compiled and developed by Professor Nimisha Patel, International Centre for Health and Human Rights, as part of a global framework of indicators for the right to rehabilitation. These indicators have been developed over many years, based on assessment methods evaluating the quality of rehabilitation services for torture victims and on research including survivors of torture and experts in the rehabilitation of torture survivors and in human rights indicator development, including members of the Research and Right to Development Team of the Office of the High Commissioner for Human Rights. The indicators have been further adapted for specific country contexts[11] in collaboration with the International Rehabilitation Council for Torture Victims (IRCT) and in consultation with rehabilitation providers and experts, policy-makers, human rights institutions and civil society in South Africa, Uganda, Chile and Mexico.

For this pilot assessment, only a very small selection of indicators was used. A questionnaire was designed to elicit the relevant information, which was provided by rehabilitation experts (health professionals and academics) for their own country context.

3.2. Country context: overview of the three study sites

Germany

Germany ratified the UN Convention Against Torture in 1990, however, the first specialist psychosocial centres directed at torture victims were founded even before that.

There are currently 44 specialised centres, initiatives and NGOs organised under one umbrella organization, the German Association of Psychosocial Centres for Refugees and Victims of Torture (BAfF e.V.). The centres offer a complex range of services based on the needs and living conditions of vulnerable groups such as refugees, asylum seekers and victims of torture. The range of services and networks varies from one German state to the other.

Survivors of torture arrive in Germany unidentified among the general population of asylum seekers, refugees and migrants. It is therefore impossible to determine their exact number, and it is difficult to determine the extent of their needs and vulnerability. Currently, an identification process takes place as soon as possible after arrival, when health screening is conducted for the purpose of infection and disease control and to identify severe physical health conditions, but this is not designed to identify vulnerable torture survivors according to the CAT standards of documentation.

11 Funded by the Federal Department of Foreign Affairs of Switzerland; the work is ongoing.

In the last five years there have been several significant changes to regulations on asylum, migration and the integration of refugees and asylum seekers in Germany. Access to health and social care for refugees and asylum seekers is regulated by the Asylum Seekers Benefits Act (AsylbLG). The type of care provided depends on a person's legal status and for how long they have continuously been living in Germany. Asylum seekers who have been living in Germany for less than eighteen months and persons without legal residence status are only entitled to medical care in case of acute illness and persistent pain. Further benefits may be granted on a discretionary basis. After eighteen months, refugees receive the same health services as German welfare recipients, unless they are accused of illegally failing to cooperate in their deportation.

As Germany is a federal state, the provision of services differs across the states. While some states issue electronic health cards to asylum seekers which enable them to see a doctor without permission from the authorities, about half of the states require them to apply personally for a medical voucher at the social welfare office. Depending on the municipality, either a general health care voucher is issued every three months which can be used repeatedly, or the voucher is valid for just one treatment.

The psychosocial centres of BAfF receive annually 22,700 clients across Germany, including survivors of torture as well as other refugees in need of psychosocial support. This number does not reflect the total number of refugees in need of care and treatment as many cannot be reached through existing networks. Since the number of places in the psychosocial centres for rehabilitation care and treatment is limited, with long waiting lists, access to rehabilitation is not always guaranteed.

Despite increased financial support to the centres in recent years by the federal government, most centres still lack stable and adequate funding to ensure appropriate and sustainable rehabilitation care for all refugee torture survivors.

Romania

Romania ratified the UN Convention Against Torture in 1990.

The right to rehabilitation in Romania only refers to the rights of criminals to rehabilitation after they have served their term in penitentiary. Rehabilitation of torture victims as defined in international law has not been implemented by Romanian governments, even after 1989.

The ICAR Foundation and the Association of Former Political Prisoners have both over the years attempted to put the issue of rehabilitation of torture survivors on the political agenda, but with only modest results. Former Romanian political prisoners receive a monthly allowance based on the number of years they spent in prison. However, many categories are excluded, such as those hospitalised in psychiatric units, and there is no compensation for other losses. Former political prisoners, together with other vulnerable people, also receive other basic services such as free transportation by train, some medical services and medicines. A wide-

ranging reparation law which would have compensated victims of political persecution for all the losses they had suffered was passed by Parliament but thrown out by the constitutional court in 2009.

Rehabilitation of torture victims in post-totalitarian Romanian society is viewed as part of a larger process which includes coming to terms with the past, establishing an independent judiciary and ending impunity. There have been several legal and political milestones towards healing, reparation and justice in Romania, many a result of concerted efforts by civil society and the ICAR Foundation, the latter being instrumental in mobilising its unique expertise based on the rehabilitation of former political prisoners as part of a process of public recognition of survivors, public apologies by the State and reparation for survivors. These milestones include a number of significant changes in domestic law, public awareness-raising and a historic declaration by the President publicly condemning the communist regime from 1945-89 as illegitimate and criminal and offering a public apology to its victims and their families on behalf of the Romanian state.

Establishing the exact number of torture survivors in Romania is difficult. For Romanian victims (both imprisoned and deported persons), data collected by the Association of Former Prisoners in 1990 indicated that there were approximately 150,000 survivors of communist prison camps. However, for various reasons, not all former political prisoners living in Romania had registered with the Association in 1990; those who emigrated during the 45 years of Communism (1945-1989), and those involved in the 1989 Revolution and in other state-orchestrated conflicts after 1990 were not included. Researchers estimate that the real figure is close to 3 million.

Rehabilitation for torture survivors is exclusively provided by non-governmental specialist rehabilitation centres.

Norway[12]

Norway ratified the UN Convention Against Torture in 1986.

In Norway, the rehabilitation of victims of torture or cruel, inhuman or degrading treatment (CIDT) is addressed within the general health system, so that health services for survivors of torture are provided by the mainstream system. In addition, a system for providing specialised dental care has been established for persons with strong fear of dental treatment (odontophobia) and for those who have suffered torture or sexual violence. Other than this, there is no specific provision of rehabilitation services specifically for persons subjected to torture.

Any person who alleges ill-treatment or torture at the hands of public agents, such as police, prison officers or as part of involuntary treatment in psychiatric hospitals, in child protection facilities or other service

12 For further details, see: Lie, B., Sveaass, N., & Hauff, E. (2014). Refugees and healthcare in Norway: Historical view and critical perspectives. In G. Overland, E. Guribye and B. Lie (eds.). *Nordic Work with Traumatized Refugees. Do We Really Care*, pp. 30-40. Cambridge Scholars Publishing. Newcastle, U.K.; Norwegian Red Cross (2020): Tortured and forgotten? Identification and rehabilitation of torture survivors in Norway. Oslo: Norges Røde Kors, *https://www.rodekors.no/globalassets/globalt/rapporter-program-avtaler/humanitar-analyse-rapporter/torturert-og-glemt-2020.pdf*

institutions, can be provided with care and treatment from the general health system, should they wish it.

Cases involving alleged torture or ill-treatment in any of these contexts, including in psychiatric health care, have also frequently been brought to national courts and in some cases also to the European Court of Human Rights.

With respect to torture survivors who have arrived as refugees, Norway has a public health model which provides psychosocial assistance and works towards their integration from the time of their initial arrival, in line with principles of equal opportunity and the perceived need for integration and inclusion in the host society. Various initiatives to support this public health model have included the training and supervision of health professionals and the provision of access to specialised services. Uniquely in Europe, both mainstream health services as well as specialised "centres of excellence" are part of the public health services. Private health services also exist, although the majority of health services, including specialised health care both in general medicine and in mental health care, is provided by the public healthcare system.

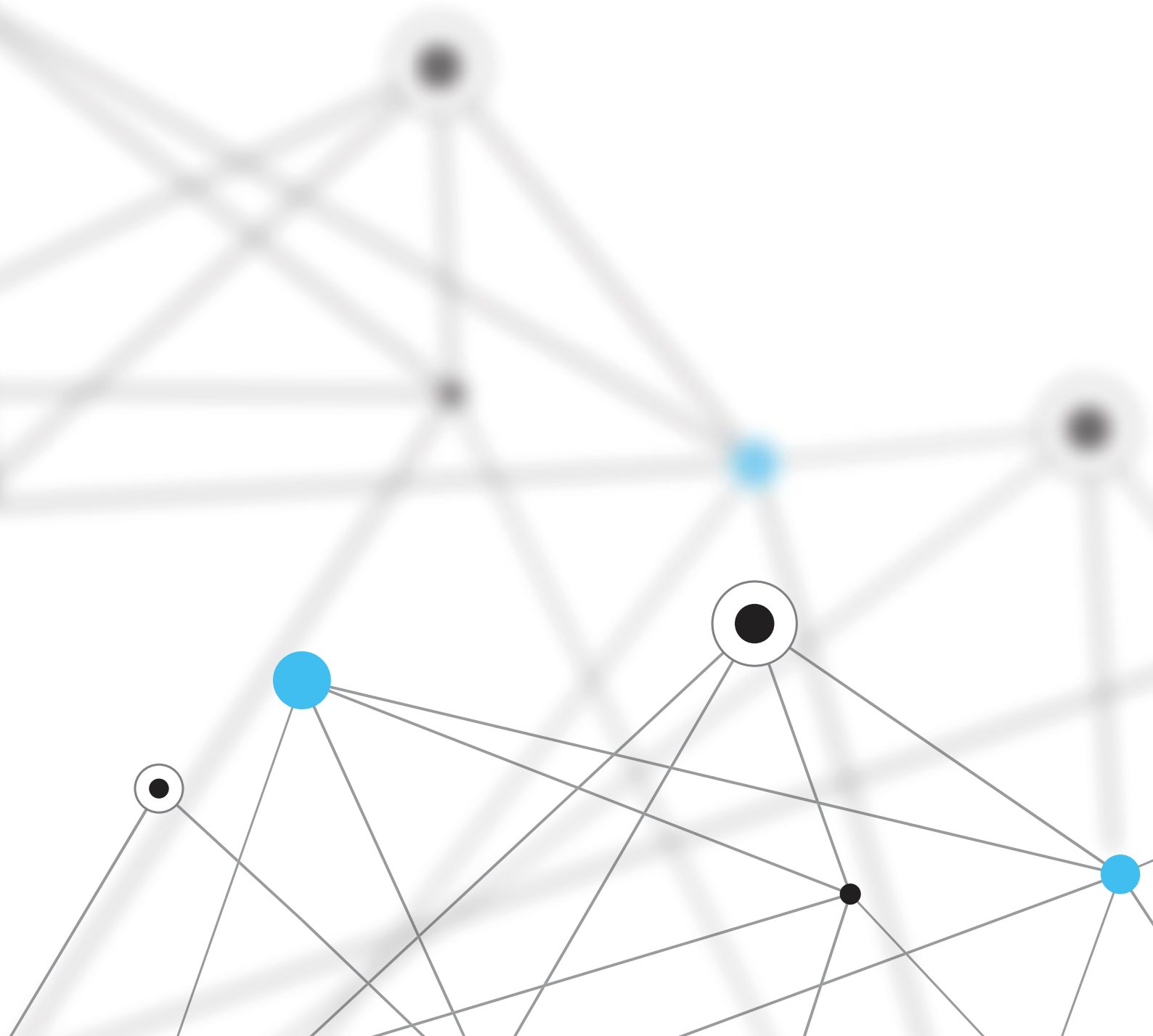
These principles of equal opportunity and inclusion were decisive in the process of developing the refugee healthcare model in Norway. The government White Paper referring explicitly to immigration and the multicultural society did not appear until 1996 (Om innvandring og det flerkulturelle Norge, St.meld 17 1996–97) and underlined the importance of equality between immigrants and Norwegians, as well as the importance of equal opportunities and equal services.

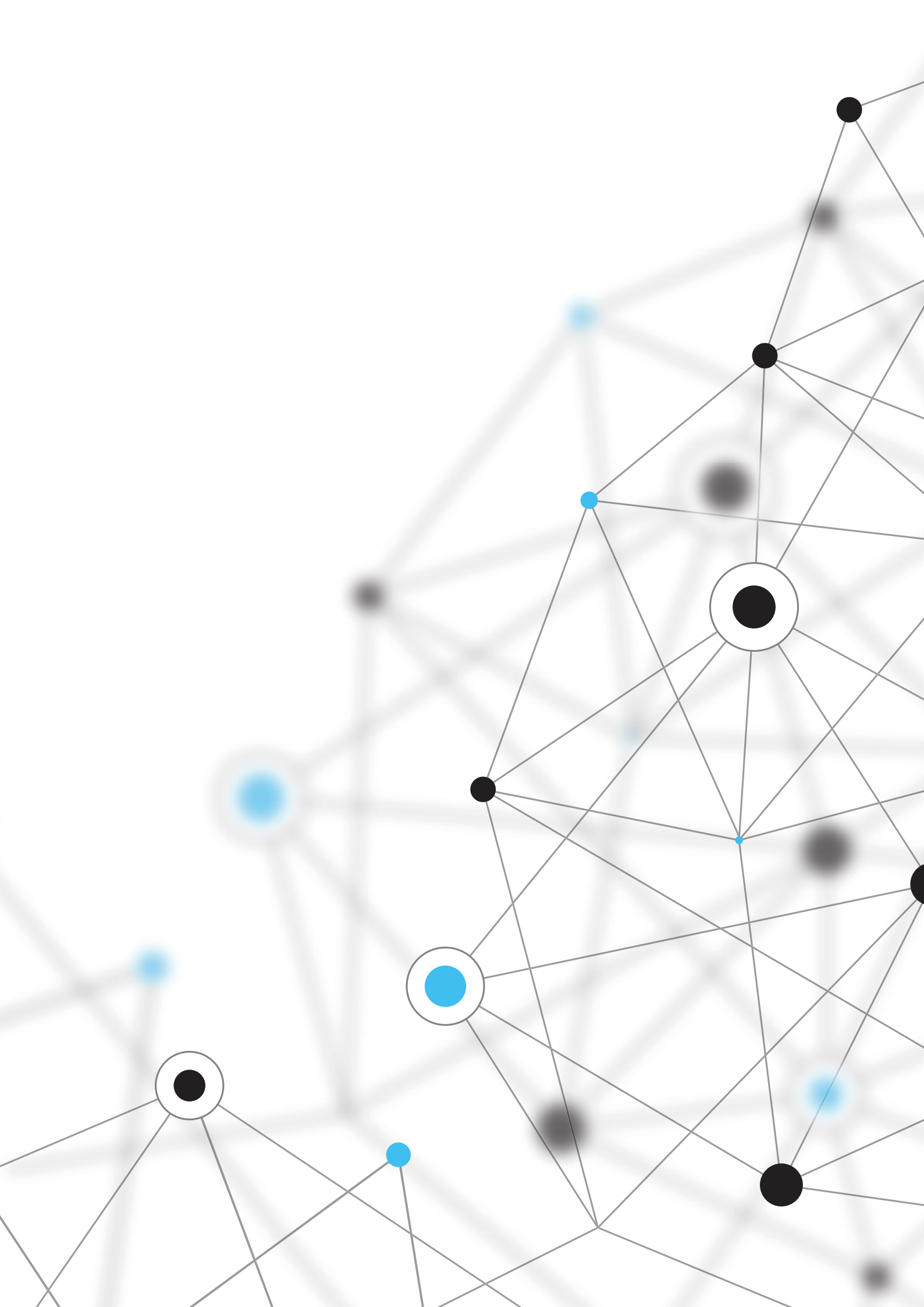
The outline for this was first presented in 1988 in a strategy plan from the Norwegian Health Directorate. A national psychosocial team for refugees had already been established in 1986 at the University Psychiatric Clinic at Vinderen in Oslo by the Ministry of Social Affairs in order to meet the new challenges, and, in the plan, regional psychosocial teams including mental health professionals with special competence in working with traumatised refugees were proposed. The model was further developed and included the establishment in 1990 of the Psychosocial Centre for Refugees at the University of Oslo with a commitment to both promote respect for the principles of human rights and at the same time to fulfil the scientific demands of objectivity and independence in research as well as in clinical work; and to support professionals and refugees nationally. The role of this centre was also to maintain contact with the four regional teams established with the remit to offer supervision, training and direct psychotherapy or psychosocial support to individuals or families with refugee backgrounds and a need for specialised care; whilst also collaborating with academia to systematise lessons learned. This model fostered close collaboration between the local services in the municipalities and specialised services at a regional level.

A reform by the Norwegian health authorities in 2002 led to the closure of the specialised clinical services, including closure of services for victims of torture. At the same time, new regional teams for capacity-building and research into trauma and violence were established. In addition, the new model included a National Centre on Violence and Traumatic Stress—as a centre of excellence focusing on research and providing information to

the authorities—and four regional teams on violence, suicide prevention and traumatic stress, aimed at providing information, consultation and recommendations to health authorities. The main areas of work within the ambit of “violence and traumatic stress” were domestic violence, violence in intimate relations, sexual abuse, suicide prevention, and refugee and migration health, but the focus is on research. In this new model, there is no provision for clinical work with the target groups.

Following advocacy at the regional level, some regional authorities permitted combined positions for some of the professionals affiliated to the regional teams to enable them to spend half their time providing direct services to refugees, although the rehabilitation of torture survivors was not a defined area of work.





4. Findings

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As noted earlier, the following is based on only a few illustrative human rights indicators for the right to rehabilitation for torture survivors, and does not provide a comprehensive picture across all indicators, or of the commitment and efforts made by states to date.

Indicator 1: National laws relevant to the the right to rehabilitation for torture survivors

Structural indicators such as the existence of domestic laws assess a state's commitment to its human rights obligations, specifically with regards to rehabilitation for torture survivors.

Germany

There is no specific statutory basis in German law for a claim to rehabilitation for torture survivors. There are, however, a number of provisions which establish a claim to rehabilitation benefits and which may apply to survivors of torture. These include:

- Section 1 of the Crime Victims Compensation Act
- Sections 2, 4, 6 of the Asylum Seeker Benefits Act (AsylbLG, in combination with articles 21, 22, 25 of the Reception Conditions Directive—Directive 2013/33/EU of the European Parliament and of the Council)
- Provisions of the German Social Code (Sozialgesetzbuch), in particular the provisions of Volume V, VI, VIII, IX, XI, XII, XIV
- Sections 403 to 406 (l) of the German Code of Criminal Procedure
- Civil claims for damages according to the German Civil Code

The law on compensation for victims of crime (Crime Victims Compensation Act, OEG/SGB XIV) has been reformed to include many improvements for victims of crime regarding their right to rehabilitation[13]. The reform supports victims in accessing prompt, readily available holistic rehabilitation (as established by the Committee Against Torture in GC3 to article 14)[14]. It provides a legal basis for universal psychotherapeutic provision and quality-controlled counselling. However, this law only applies if the crime was committed on German territory or on a German boat or airplane or, for crimes committed abroad, if the victim was normally a German resident.

13 Gesetz zur Regelung des Sozialen Entschädigungsrechts vom 12.12.2019 BGBl. I S. 2652 (Nr. 50): *https://www.bgbl.de/xaver/bgbl/start.xav#__bgbl__%2F%2F*%5B%40attr_id%3D%27bgbl119s2637.pdf%27%5D__1604391293363*.

14 UNCAT General Comment No. 3, para. 11.

Refugees and asylum-seekers who suffered torture in their home country are effectively excluded and there is no other legal provision which explicitly establishes their right and access to rehabilitation.

Romania

In Romania torture is criminalised in the current Penal Code (article 282) as is degrading treatment (article 281). The law applies to Romanian citizens. Those tortured in another country cannot obtain compensation or reparation from the Romanian state.

The Law no. 211/2004 is the transposition of the EU's Victims' Rights Directive into national legislation and includes measures to ensure the protection of victims of crimes. Since torture is a criminal offence under Romanian legislation, torture survivors can potentially access support services under Law 211/2004 which could include free psychological assistance and free legal assistance.

Free legal assistance is offered, upon request, to the victims of the following crimes: attempted murder or qualified murder, as defined in art. 188 and 189 of the Criminal Code; bodily injury, as defined in art. 194 of the Criminal Code; an intentional crime that results in bodily injury to the victim; rape, sexual assault, sexual intercourse with a minor, sexual corruption of minors, as defined in art. 218-221 of the Criminal Code.

Free legal assistance is granted to victims if the crime was committed on the territory of Romania or—if the crime was committed outside the territory of Romania—if the victim was a Romanian or foreign citizen who legally resides in Romania and the criminal proceedings take place in Romania.

Norway

There are no laws specifying the right to rehabilitation for torture survivors nor what kinds of services they should be offered. Nevertheless, Norway has ratified a number of Human Rights Conventions relevant to the health care of persons with specific needs, including survivors of torture. Norway ratified the UN Convention Against Torture (CAT) in 1986 and subsequently included the prohibition of torture into Norwegian penal law in 2005. Norway ratified the UN International Covenant on Economic, Social and Cultural Rights (CESC) in 1972, and has elaborated what the rights under article 12 (the right of everyone to the enjoyment to the highest attainable standard of physical and mental health) mean in practice. The Convention on the Rights of the Child (CRC) was ratified in 1991 and the CRC and the CESC are directly applicable in Norwegian courts, and have priority over other laws. The rights of the child are also included in the Norwegian Constitution. The Convention on the Rights of Persons with Disabilities (CRPD) as well as the Optional Protocol to the CAT (OPCAT) were ratified in 2013. The right of persons with disabilities to adequate and necessary health care has been referred to in national discussions on torture survivors. At the regional level,

Norway has ratified the European Human Rights Convention, and made it part of Norwegian Human Rights Law. Although Norway is not a member of the EU, it participates in the Common European Asylum System (CEAS) and is also bound by the European Reception Directive through bilateral agreements. This means that Norway is obliged to provide the services referred to in the reception directive, including health care to survivors of torture (articles 30[2] and 21).

The right to rehabilitation and necessary health care for survivors of torture is covered by the general right to health care. Torture victims or survivors are not specified in any specific health law. There is no specific plan or national plan (as suggested in General Comment no. 2, to article 14 of CAT) with respect to state obligations to provide rehabilitation services to torture survivors.

Laws relevant to the rehabilitation of torture survivors include:

- *Pasient- og brukerrettighetsloven: (Law on Patient and Users' Rights).*

This law has a defined user/patient perspective, and aims at ensuring that the whole population has equal access to good quality services by providing them with rights vis-à-vis the law of health and care services (§ 1-1). Equal access is understood as aiming to provide health services to all, regardless of age, gender, economic or cultural background, or social status.

- *Helse- og omsorgstjenesteloven (Law on Health and Care Services).*

This law obliges all municipalities to provide necessary health care to all persons who find themselves in the municipality at any time. Legal decisions have required that services must have a minimum standard. There is a special commentary developed for habilitation and rehabilitation by the Directorate of Health and Care, where more information about specific services are described, as well as the obligations of the municipalities.

- *Spesialisthelsetjenesteloven (2001/2020) (Law on Specialised Health Care)*

The law on specialist health care regulates all specialist care that is offered in the country, either by state or private providers. Survivors of torture are not identified as a particular group, nor are particular services for this group mentioned explicitly.

In addition, Norway has established national guidelines relevant to the health care of refugees (not specifically torture survivors). In 1993 the first guidelines for healthcare for refugees[15] were issued by the health authorities, followed in 2003 by the more comprehensive National Guidelines for Health Care for Asylum Seekers, Refugees and Reunited Families[16]. These are regularly updated, with the last version from 2017. In these national

15 (IK 9-93). General guidelines for health services to migrants and refugees. The Directorate of Health (1993).

16 (IS-1022), National Guideline for health care to asylum seekers, refugees and reunited families. The Directorate of Health, (2015).

guidelines, screening for tuberculosis is mandatory with free mandatory treatment. Other forms of health care offered and treatments listed in the guidelines are optional.

The national guidelines also make several references to the Istanbul protocol (IP)[17]. Health professionals are informed that the IP "provides guidelines for assessing and documenting torture, and the consequences of this. Documentation is an important basis for following up health care, necessary treatment and rehabilitation. Health personnel must be familiar with symptoms of torture, diagnostics, treatment and follow-up in line with the Protocol" (7.2). However, assessment to identify torture or CIDT is not complusory, and the identification of torture and health problems related to this does not automatically secure a person's access to rehabilitation.

Indicator 2: Financial plan and budgetary provision specifically for the rehabilitation of torture survivors

A financial plan and budgetary provision, based on an analysis of the numbers of torture survivors and their needs, are also considered indicators of state commitment to the right to rehabilitation for torture survivors. Establishing an accurate number of torture survivors in any country is difficult, and without a systemised approach, establishing the needs of torture survivors is also unlikely. State finance, even if there is a specific budget for rehabilitation for torture survivors, can at best be only based on an estimate.

Germany

There is no specific budget item for the rehabilitation of torture survivors. German health provision is funded by insurance schemes; health insurers cover psychotherapy. Most residents in Germany are covered by public service insurers—they pay according to their income and receive services according their need.

These benefits are not available to asylum seekers in Germany. During the first 18 months of their stay in Germany asylum seekers have restricted access to the German health care system, including psychological treatment. Entitlement to health care is limited to treatment for acute illness and pain.[18] However, health care may also be authorised in cases of chronic, life-threatening conditions.[19]

In most parts of Germany, the local social welfare administration is responsible for deciding applications for psychological or psychotherapeutic treatment for refugees. There are no binding time limits for processing

17 UN Office of the High Commissioner for Human Rights (OHCHR), Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment ('Istanbul Protocol'), HR/P/PT/8/Rev.1, 2004.
18 § 4 Asylum Seekers Benefits Act.
19 § 6 Asylum Seekers Benefits Act.

applications and decisions often take longer than six months. In 41% of the cases submitted by Psychosocial Centres for Refugees and Victims of Torture (PSZs), the decision was negative[20] and appeals can take another six months or even longer. During this time asylum seekers are unlikely to receive the rehabilitation care and treatment they may need from the regular health and social care system.

There is no federal law which implements Art. 21, 22 and 19 II of the Reception Conditions Directive (2013/33/EU)[21]. Many asylum-seekers who are survivors of torture or ill-treatment, especially those in reception conditions, are not being assessed and therefore not receiving the appropriate mental health care or other rehabilitation services. Only recently have individual states or local authorities begun to work on concepts for early identification of vulnerable groups.

Conditions for funding interpreters in psychosocial contexts depend on the status of the refugee. In the first 18 months, treatment must be approved by local social welfare departments and interpreters may additionally be granted. After 18 months, health insurers are responsible for approving applications for treatment, but the local social welfare department is still responsible for approving the cost of an interpreter. All these decisions often take a very long time, and often are negative. Even after asylum has been granted and the refugee has become a regular member of a health insurance scheme, German courts have decided that health insurers cannot use their funds to provide language interpreting services[22].

The PSZs are the main service providers for rehabilitation services and they are all BafF members. Only about 6% of the psychotherapy conducted in these centres can be charged to one of the legally responsible service providers (welfare agencies, child welfare offices and health insurers) whilst the rest has to be covered by independent funding. Since such independent funding is overwhelmingly project funded - by the EU through the AMIF (Asylum, Migration and Integration Fund, which accounted for 5% of all funds received by PSZs in 2018) or by foundations and donations (which accounted for 9% and 5% respectively), the funds are insecure, usually time-limited and not specifically for survivors of torture. An example of the latter is funding from the BMFSFJ (Federal Ministry of Family Affairs, Senior Citizens, Women and Youth) under the budget line “Counselling and care for foreign refugees”, which is not specifically for survivors of torture.

The national structure in Germany, with a federal government and 16 state governments, enables the PSZs to apply for funds at the regional, state level (in 2018 this accounted for 39%). Local governments may sometimes financially contribute to PSZs, although this is variable. None of these budgets are specifically for survivors of torture.

20 Versorgungsbericht der BAfF, 6th version, soon to be published here: *http://www.baff-zentren.org/veroeffentlichungen-der-baff/versorgungsberichte-der-baff/*

21 OJ L 180, 29.6.2013, p. 96–116, *https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:32013L0033&from=EN*

22 Federal Social Court 1 RK 20/94, B 1 KR 23/01 R and B 6 KA 33/05 B.

Romania

There is a specific legal provision (law 118/1990) which applies to survivors of Communist political persecution before 1989, and establishes that Romanian victims receive a stipend calculated on the basis of the number of months they spent in prison or in deportation.

The size of the budget is calculated yearly, based on the number of survivors or their spouses entitled to support and registered at the Pension Authority. They receive a monthly allowance for deprivation of liberty (though not for any other harms, such as adverse health impacts and impact on the family, confiscation of property, deprivation of education and career opportunity or financial losses). The budget does not provide for any rehabilitation service, and the monthly allowance mainly covers daily living and basic needs. Each former political prisoner has a permit entitling them in addition to free transportation and free basic medical assistance.

For survivors of torture among refugees there are no rehabilitation measures established by law. Individually, refugees, like all other victims of torture, may seek reparation (including compensation) using the courts, if the torture was carried out in Romania since the end of Communist rule. There is no state budget for the rehabilitation of refugee torture survivors. The provision by NGOs of rehabilitation services for torture survivors is entirely dependent on independent funding, of which two sources have proved more reliable: the United Nations Voluntary Fund for Torture Victims and the national AMIF. As a matter of policy, the UN Fund does not wish to support centres in the long term, expecting national governments and other funders to step in. However, in a country like Romania, where the government is very unlikely to provide any support, there is a danger that centres with solid expertise built over the years are in danger of closing down for the sake of "sustainability". So far, the UN Fund has continued its support but there is annual uncertainty about the future. As far as the AMIF is concerned, rehabilitation is never mentioned in the AMIF calls for proposals in Romania, but in practice, limited amounts from the AMIF do contribute to some rehabilitation services (although never to comprehensive rehabilitation).

Norway

There is no national financial plan or state budget that is specifically developed for or dedicated to the rehabilitation of torture survivors

Some ongoing regional initiatives have earmarked funds for special projects (predominantly in psychiatric services), where care and rehabilitation for traumatised refugees have been included as part of healthcare activities. These initiatives are not permanent and funding is insecure and subject to local political factors.

Following the publication of the report "Adapted Dental Care" (*Tilrettelagte tannhelsetilbud for mennesker som er blitt utsatt for tortur, overgrep eller har odontofobi*) by the Health Directorate, based on an assignment from the Ministry of Health (HOD), a service was established and has been

included in the national budgets for at least seven years. Torture survivors are mentioned specifically in the national budget only in relation to this dental care project to provide direct services to special groups and carry out capacity-building and awareness-raising for other dental services.

Health care for refugees is included in general terms in the national budget, mainly in relation to the funds allocated to the Centres of Excellence, the national Norwegian Centre for Violence and Traumatic Stress Studies (NKVTS) and the four Regional Centres on Violence and Traumatic Stress (RVTS). Torture survivors are not mentioned in the budget (National Budget, Department for Health and Care, 2018-2019; 2019-2020).

In the national budget for 2019/20, there is an explicit reference to asylum seekers in relation to a project in which they are volunteering to help in the training of health professionals, but there is no reference to asylum seekers and their special health needs, including identification of torture.

In Norway, there are no private or NGO-initiated services for torture survivors which are supported by the state. The only NGO-driven organisation aimed at supporting refugees are two centres for “undocumented migrants” in Oslo and Bergen, both financed and operated by the Norwegian Church City Mission and Red Cross.

In Norway, the only legally required health assessment on arrival is TB screening, undertaken very shortly after entry at so-called transit centres. These are reception centres with very limited stay. Other than that, no general assessment is carried out and only essential health care is provided, mostly at the request of the asylum seeker. Beyond TB screening, all other forms of health assessment or screening have been included as recommendations, including a guideline suggesting the use of a brief self-assessment on psychological trauma (e.g. Harvard Trauma Questionnaire; H-10).

The Norwegian Directorate of Health further recommends that municipalities offer a health examination to all refugees, asylum seekers, and persons reunited with their family in Norway within three months of arriving in the municipality. This should check health status and identify any need for psychological and/or physical health follow-up, based on self-assessments and self-reports by the refugees. The health check is carried out by a nurse or health assistant who decides whether there is a need to see a doctor. The general practitioner may then refer the patient to a district psychiatric centre (DPS) for assessment or treatment, or an asylum seeker may request such an assessment or treatment. There is no formal register or recording of trauma or torture, and hence no national assessment of numbers of torture survivors and their needs.

Indicator 3: Availability of specialist rehabilitation services for torture survivors

The availability of rehabilitation services for torture survivors provides an indication of a state's commitment to its obligations under international law.

Germany

There are no specialist rehabilitation state services for torture survivors.

Multi-disciplinary rehabilitation for torture survivors, including counselling and psychotherapy, is almost exclusively offered by NGOs. The 44 specialised Psychosozialen Zentren für Flüchtlinge und Folteropfer in Germany, PSZs—all members of the BAfF—are unique in their provision of teams of multi-disciplinary professionals for all survivors of torture, regardless of their legal status. These centres are available across Germany, the majority of them in cities.

Romania

There are no specialist rehabilitation state services for torture survivors.

There are currently two NGOs which are specialist rehabilitation centres for torture survivors in Romania: the ICAR Foundation, Bucharest, and the MRCT, Craiova, which is a former branch of ICAR. The Craiova centre works exclusively with Romanian victims of torture, while the ICAR Foundation works with torture survivors who may be asylum seekers, refugees or migrants, as well as with former Romanian political prisoners.

The services provided depend on the donors' requests as formulated in their calls for proposals.

In the case of the ICAR Foundation, a wide range of rehabilitation services is provided (medical, psychological, social and legal), although this is subject to the availability of funding, legal status and the location of the victims.

Norway

There are no specialist rehabilitation state services for torture survivors.

Three of the state regional resource centres (RVTS) which focus on violence and trauma have created a limited opening for the psychological treatment of torture survivors. This is not permanent and depends on annual funding. Two regional health service centres (Stavanger and Kristiansand) have been established: one only receives refugees, the other refugees and others with trauma-related health problems.

Indicator 4: State efforts to ensure awareness-raising, education and training on the right to rehabilitation for torture survivors

State efforts to ensure effective awareness-raising, education and training on the right to rehabilitation and on how to provide it, directed at all health and social care workers who may see torture survivors, are considered to be an indication that there is state commitment to increasing the knowledge and understanding of the right to rehabilitation for torture survivors by health practitioners.

Germany

There are no state efforts to raise awareness or to provide or ensure training on the right to rehabilitation and its provision for torture survivors, although staff of the government's immigration authority, the BAMF (Federal Office for Migration and Refugees) may receive training in recognising vulnerable groups, among them torture victims.

The PSZs are sometimes funded by the EU through the AMIF (Asylum, Migration and Integration Fund) to provide training for interviewers in the asylum procedure, including the "specialist interviewers on trauma" at the BAMF, who can be called in to deal with individual refugees when needed.

One of the BAfF centres (PSZ-Düsseldorf) has worked with the International Rehabilitation Council for Torture victims (IRCT, an NGO based in Denmark) to conduct awareness-raising programmes, and it's collaborated with the local forensic medicine and local psychotherapeutic clinics to document evidence of torture. Other centres and the BAfF itself have worked together to develop a curriculum for health professionals on the documentation and treatment of survivors of torture and traumatised refugees. They also carry out the training programmes in cooperation with local branches of the National Association of Psychotherapists and the Berlin Medical Association. The BAfF and most centres are also involved in training health, educational or social service professionals and volunteers, and they participate in awareness-raising through outreach work, networking with local and national authorities and stakeholders, lectures, publications, and in social media. The "Versorgungsbericht zur psychosozialen Versorgung von Flüchtlingen und Folteropfern in Deutschland"[23] (the "Report on services for refugees and vitims of torture in Germany") is—although it can only be based on data provided by the PSZs themselves—considered a most important source of data and information on the current state of affairs in the field of health and care services.

23 http://www.baff-zentren.org/veroeffentlichungen-der-baff/

Romania

In Romania there are no state efforts to ensure awareness concerning the needs or the rights of survivors of torture. The ICAR Foundation has made efforts to raise the awareness of public and health professionals as well as of the state as to the specific needs and right to rehabilitation of torture survivors. The UNHCR in Bucharest has also organised such awareness-raising activities with ICAR experts.

Asylum seekers who are identified as survivors of torture are informed of their rights through local NGOs such as ICAR with AMIF-funded projects. In addition, ICAR has proposed to the Immigration Authority specific content for leaflets and brochures, which includes information on rehabilitation.

Norway

There are no state efforts to raise awareness or to provide training on the right to rehabilitation and ensure the provision of rehabilitation services for torture survivors (except in odontology – see below).

National Guidelines on Health Services to Refugees, Asylum Seekers and Reunited Families provide guidance and hyperlinks to further information and resources for all health professionals nationally. However, this is not focussed on the right to rehabilitation for torture survivors or the provision of services specifically for torture survivors.

The Norwegian Center on Violence and Traumatic Stress (NKVTS) does not explicitly mention or have a focus on torture or torture survivors and their needs, although its refugee health team has conducted various relevant studies on trauma and torture.

All the *Regional Resource Centers* (RVTS) have information about torture, the obligations of Norway under the CAT, the need to provide care to persons exposed to torture and the importance of training and capacity building in this area. The RVTS provide awareness-raising work regarding torture, they participate in international fora dealing with issues surrounding torture and they organize seminars, conferences and meetings on torture and its consequences. The RVTS have also developed information folders for health service users on relevant topics under the heading of trauma, but there is no specific folder on torture. As referred to above, three of the RVTS receive a limited number of refugees for clinical services, but these are linked to the general health system in the region, not formally to the RVTS themselves.

Public health education throughout the country, including psychology, has recently been reviewed and revised. Human rights have entered as a required subject, trauma-related issues are included but torture or the rehabilitation of torture survivors are not explicitly mentioned. Of the four universities that offer medical training, two have included torture as a required subject, and the two others have references to the topic and optional courses. Three universities offering psychology and clinical psychology education have optional courses on torture. Information about torture is offered at two of the nursing training centres. In odontology, a

project on odontophobia has led to a number of dentists being trained to deal with persons who have developed this problem, including following torture. Police and legal training both include the issue of torture in their curricula.

Indicator 5: Accessibility of specialised and interdisciplinary rehabilitation services for torture survivors

In order to meaningfully access the right to rehabilitation, torture survivors should be provided information on where and how to access specialised and interdisciplinary rehabilitation services, and they should have the means to access those services. This indicator assesses the results of state efforts to ensure the means to as full a rehabilitation as possible.

Germany

There are no standardised state procedures, information brochures or leaflets to inform survivors of torture, including asylum seekers at first registration, how to access specialised rehabilitation for torture survivors. A few German states provide a general guide to the health system, in which psychotherapy is referred to as a "possibility" and not as an entitlement, and rehabilitation for survivors of torture is not mentioned. State authorities may direct asylum seekers directly to a regional PSZ if psychological needs are identified at the reception centres but these referrals are infrequent and there is often no translation service available. There are some pilot projects but no consistent early identification system for vulnerable refugees, including victims of torture. Most of the PSZs have information brochures about their services in multiple languages, but these are not specifically directed to torture survivors.

Torture survivors can access PSZ rehabilitation centres in cities, and many travel across state lines to access the nearest service. Approximately 67% of all those seen in the PSZ centres travel less that 25km, 21% travel between 25-50km and 12% travel more than 50km to access rehabilitation services.

Rehabilitation services are specialised and multidisciplinary, offering psychological therapy, psychosocial counselling, psychiatric treatment, multimodal creative and physical health services. For 64% of all clients seen in the PSZ centres, professional interpreters are required and provided. Approximately 25% receive services in German or English, and 11% use another language common to the rehabilitation professional and the client. Funding of interpreters is precarious since there is no legal basis for health insurers to cover interpreter costs. However, asylum seekers who are torture survivors may be entitled to interpretation costs under the Asylum Seekers Benefits Act (AsylbLG).

Romania

The Victims' Directive has been largely transposed into law, although in practice its implementation is poor and torture survivors cannot easily access specialised services.

There have been some improvements in recent years in public services for Romanian nationals, yet the public specialised services remain underdeveloped and insufficient. While refugees are legally entitled to services such as psychological counselling they remain largely inaccessible and survivors are left to pay privately. Basic free services in the public health system are also hard to access for geographical reasons, given that these services are mainly located in urban areas.

Torture survivors amongst asylum seekers and refugees can access the ICAR Foundation's specialist rehabilitation centres in one of the six reception and accommodation centres of the Immigration Authority in Bucharest, Galati, Timisoara, Radauti, Somcuta Mare and Giurgiu; and migrant torture survivors can access basic health services in five regional centres run either by the immigration authorities or by NGOs financed independently via specific project funding. For services which are outside these centres, funding is provided for local and regional transport.

However, asylum seekers, refugees or migrants who do not speak Romanian (almost all of them) and do not have access to interpreters will remain unaware of the existence of rehabilitation services and will be unable to access them.

Professional interpreters are difficult to find in Romania. Additionally, there are constraints regarding their payment due to rigid labour and fiscal regulations. It is often prohibitively expensive for NGOs to fund interpreters, especially those speaking rare languages.

Norway

There are no state mechanisms for specifically informing torture survivors of their rights and where and how to access rehabilitation services for torture-related needs.

Asylum seekers and refugees are entitled to the same health care as the wider Norwegian population. The municipality is responsible for ensuring that all Norwegian nationals and all individuals residing in Norway, either as refugees or asylum applicants, have the right to a general practitioner, as part of the Norwegian primary health care system.

Necessary health services can be provided during the asylum application process, as well as specialised services deemed to be urgent (including mental health care). In practice, access to specialised mental care is rare for those who have not received their residence permit.

There is no systematised mechanism within the health service for the assessment and identification of torture or other forms of vulnerability.

If such assessments are made, they will usually be conducted during the asylum application process by professionals working pro-bono.

Whilst there are no specialist services for the rehabilitation of torture survivors in Norway, as noted earlier, existing state services for refugees are mainstreamed and provided by the primary and secondary healthcare systems. This means that in principle, all healthcare centres may receive traumatised refugees for care and therapy, but usually the services are limited and do not constitute rehabilitation as one usually understands this. In addition to the mainstream services, three of the four regional centres receive a limited number of torture survivors as patients as a result of an initiative of staff members, where they may receive time-limited, trauma-focused psychological support and therapy. Torture survivors can access services in their region only, and if they are in need of psychological or psychiatric services and live outside the city where the clinics are usually situated, this may imply 2-4 hours of travel by public transport.

Out-patient clinics within the health system mostly offer brief psychological interventions, and those in need of long-term treatment or care are referred to therapists in private practice with agreements with the public services. Despite such referrals, the cost of interpreters must be covered by the private therapist; this is often prohibitive and those refugees who do not speak Norwegian are unable to access longer-term psychological care.

Those who do not need interpreters enjoy the same right to these specialized services as Norwegians, provided that they have a form of permanent residence status. Many professionals, however, remain reluctant to receive patients with experience of torture, in addition to facing the challenges related to cultural differences.

In terms of interdisciplinary rehabilitation and care, provided that they have some form of legal status in Norway, persons exposed to torture, (including asylum seekers) have the right to psychological assistance, social welfare, and limited legal support., With respect to educational, vocational or employment support, all newly arrived migrants are entitled to a two-year training programme, the so-called introduction course. This includes language training, information about the host country and some vocational training, and comes with a subsistence payment. Physical health care is provided to survivors of torture on the same basis as to Norwegian nationals.

5. Recommendations

5. Recommendations

There are a range of rehabilitation service models globally[24], most relying on specialist services for the rehabilitation of torture survivors, including specialist health and social care professionals. Of the three countries included in the pilot project, the example of Norway has illustrated how mainstreaming services is possible with the support of Centres of Excellence, especially regional centres; although a notable proviso is that there is a danger of losing the unique expertise of those specialised in working with torture survivors (not just refugees or asylum seekers) and that the care provided is not tailored to their needs. And with the impact of torture on health, it seems essential that such specialised services be strengthened rather than weakened. Whilst mainstreaming services can seem to widen access to healthcare, this may exclude or neglect the particular health needs of torture survivors. The model of specialist dental care for torture survivors in Norway illustrates how specialist provisions (with allocated budgets) and services may sit alongside general state healthcare, and this is a principle which should be applicable also in relation to rehabilitation of torture survivors.

The example of Romania demonstrates how survivors of torture, alongside civil society and specialist rehabilitation services for torture survivors, can themselves help achieve some level of reparation and raise public awareness of the adverse and long-term consequences of torture, as a step towards redressing historical harms.

The example of Germany highlights how efforts can be made to ensure adequate services for refugee torture survivors and to develop related projects. However, the German case also highlights the problems of a lack of inter-departmental transparency, coordination and collaboration in ensuring a more integrated and effective approach to ensuring rehabilitation for refugee torture survivors.

Despite commitments under the Common European Asylum System, early identification of torture survivors, their array of needs and their vulnerability, remains inadequate in all three pilot sites. Without prompt and effective identification systems and practices, torture survivors cannot be referred early in the asylum determination process to appropriate healthcare and other rehabilitation services, even if it is available.

Based on the very limited number of indicators used in this pilot project to assess the state of rehabilitation for torture survivors, four key recommendations are made.

24 Patel, N. (2019). Conceptualising rehabilitation as reparation for torture survivors: A clinical perspective. *International Journal of Human Rights*, 23(9), 1546-1568; Bittenbinder, E. (ed.) (2012). Beyond statistics: sharing, learning and developing good practice in the care of victims of torture. BAfF and Von Loeper Literaturverlag: Karlsruhe.

Recommendation 1: All states which are signatories to the UNCAT should fully comply with obligations to ensure that the means to as full rehabilitation as possible (article 14 of the Convention and General Comment no. 3 on article 14) are provided. Effective monitoring systems should also be in place[25].

Recommendation 2: All state signatories to the UNCAT should ensure adequate state financing and allocation of funds to ensure the availability of specialist, interdisciplinary, holistic and appropriate rehabilitation for torture survivors.

Recommendation 3: There should be adequate mechanisms to ensure access to accurate and reliable information which is as comprehensive as possible on the numbers of torture survivors and their needs, based on identification and documentation and needs-based recommendations by health professionals. Early identification and documentation services should monitor those who are torture survivors amongst asylum seekers.

Recommendation 4: Specialist rehabilitation services for torture survivors should be available and accessible to all torture survivors; and where these are mainstreamed the services should be specialist, integrated, coordinated and holistic in their approach to the task. Existing barriers should be identified and addressed where health or social care services are inadequate or unprepared to provide care for torture survivors.

25 See General Comment no. 3 (paras. 45-46).

Appendix

Statement by rapporteurs on the process of seeking information on rehabilitation of torture survivors in Germany

We approached government and non-government institutions in Germany to identify relevant national laws, structures, bodies, mechanisms and practices that could potentially be involved in ensuring the provision of rehabilitation services to victims of torture in Germany. The aim was to get the broadest picture of the infrastructure determining the nature of the social and health care services being actually received by the target group.

We contacted several state and non-state actors: Federal Ministry of Justice and Consumer Protection (BMJV), Federal Office for Migration and Refugees (BAMF), Federal Ministry of Health (BMG), Federal Ministry for Family Affairs, Senior Citizens, Women and Youth (BMFSFJ), Federal Ministry of Labour and Social Affairs (BMAS) and the German Institute for Human Rights (GIHR) as well as the National Agency for the Prevention of Torture (National Agency).

Some of them were unable provide us with the requested information. Some said they found the questionaire difficult to relate to.

The BAfF found it enlightening to have all their responses—it was the first time an attempt had been made to bring together all the central government provision for victims of torture.

Summarising the feedback: when it comes to the provision of rehabilitation services to victims of torture, there is a lack of cross-sectional and professional coordination as well as modalities for cooperation between each other and with relevant civil society organizations.

Almost all state and non-state actors make no distinction in their information gathering between victims of torture and other refugees and migrants. There is thus no way of identifying victims of torture in an early identification process. In some German states, there are pilot projects for early identification, but they vary in their approaches. They often focus on one aspect of health (e.g. mental health) or on health at the exclusion of other needs, such as social care, welfare support, vocational and educational support—thereby not taking into account the complex and holistic needs of victims of torture, as recommended in GC no. 3 of the CAT report.

Based on BAfF's advocacy work in improving social and health care to refugees, asylum seekers and victims of torture throughout several decades, there is an extensive knowledge and expertise in working with relevant ministerial bodies and other state authorities that has been very helpful and served as a complementary source to this report.

We should point out that we have only considered federal and national organisations – much of the responsibility for refugees lies at state and local level, but national policy sets the ground rules for local provision.

1.Non-State Actors in Germany

1.1. German Institute for Human Rights (Deutsches Institut für Menschenrechte - DIMR)

The Institute has reported to us that it repeatedly dealt with the protection and rehabilitation of victims of torture and other forms of violence. Its annual report has reported to the national parliament about the situation of vulnerable refugees during their initial reception due to the inadequate identification of traumatised persons and the lack of therapeutic treatment. Currently, the Institute is working on the law and practice of recognising post-traumatic stress disorder as a reason for suspending or cancelling deportation orders. For this purpose, the Institute is in irregular contact with practitioners such as the BAfF.

1.2. National Agency for the Prevention of Torture (Nationale Stelle zur Verhütung von Folter)

The National Agency could not provide us with feedback due to lack of specific knowledge. According to its website and annual report, however, information concerning conditions and treatment of persons deprived of their liberty influences the selection of detention facilities they visit, among them refugee deportation centres. Although the National Agency's formal mandate is obviously relevant to the circumstances of refugees in Germany, there is no formal connection on the practical or structural level.

2. State Actors in Germany

2.1. Federal Office for Migration and Refugees (Bundesamt für Migration und Flüchtlinge - BAMF)

The Federal Office for Migration and Refugees is the government agency dealing with most issues concerning foreigners living in Germany, including refugees. It is an agency of the German Interior Ministry.

Asylum seekers are interviewed by BAMF staff who decide on their asylum claims. The BAMF says that it has specialists among its interviewers who are able to identify vulnerable and traumatised refugees at an early stage. As far as the BAfF understands, there is currently an attempt being made to ensure that decisions are made in a more consistent fashion. The Ministry of Justice was able to tell us that there were 281 specialist asylum officers as of 31 July 2020. But the BAMF was unable to provide detailed answers to our questions within the time required.

The BAfF has worked with the BAMF to train interviewers and to introduce supervision to help them cope with trauma-related content during asylum hearings and to raise their awareness of the special needs of refugees and victims of torture.

2.2. Federal Ministry for Family Affairs, Senior Citizens, Women and Youth (Bundesministerium für Familien, Senioren, Frauen und Jugend – BMFSFJ)

The BMFSFJ is responsible for policies concerning the welfare of children, youth, family and issues of demographic change and equality as well as diversity matters. In 2016, the BMFSFJ launched the Federal Initiative for the Protection of Refugees in Refugee Accommodation Centres together with UNICEF and other partners.

The ministry has provided us with extensive information about federal initiatives aimed at ensuring protection and care of refugees in accommodation centres and to ensure basic protective measures for asylum seekers, refugees and victims of torture. In 2016, together with UNICEF and other partners, the ministry launched the Federal Initiative for the Protection of Refugees in Refugee Accommodation Centres which focuses on the most vulnerable groups (children, youth, victims of torture and traumatized refugees). Together with UNICEF, it has published the first nationwide Minimum Standards for the Protection of Refugees and Migrants in Refugee Accommodation Centres with input from over 30 partners, including the BAfF. In 2018, the minimum standards were expanded through the addition of LGBTI* refugees, refugees with a disability and refugees with post-traumatic stress disorders, and they still serve as guidelines for developing, implementing and monitoring protection plans in refugee accommodation centres. However, reponsibility for implementing these measures lies at the state and local level..

The ministry also points to its National Programme for Counselling and Care of Foreign Refugees (Bundesprogramm für die Beratung und Betreuung ausländischer Flüchtlinge) which, since 2015, has been spending 4 million Euros a year to support treatment, rehabilitation and psychosocial centres for refugees and victims of torture. The funding mainly goes to provide staff in the areas of psychosocial support, psychotherapy, social and legal counselling and interpreter services.

2.3. Federal Ministry of Health (Bundesministerium für Gesundheit)

The ministry is responsible for health issues at the national level, while the states and local authorities deal with immediate provision. The ministry runs pilot projects for early identification and assessment of psychosocial needs, prevention of chronic diseases, improvement of psychotherapeutic and psychiatric services, and primary health care in reception centers for refugees. The BAfF has had a longstanding dialogue with the ministry on issues such as increasing capacity for rehabilitation services. The ministry has also helped fund projects of the European Network of Rehabilitation Centers for Victims of Torture (EURONET), thus supporting international and European exchange on health policies towards refugees. This current report too has been made possible through ministry funding, with the aim of fostering mutual learning and exchange on health policies towards victims of torture in Germany and other European countries.

2.4. Federal Ministry of Justice and Consumer Protection (Bundesministerium der Justiz und für Verbraucherschutz)

In a very thorough response, the ministry explained the national and international legal provisions which form the framework for the prohibition of torture, the right to medical care under the Asylum Seekers' Benefits Act, and the right to rehabilitation for victims of torture when it occurs in Germany, who are entitled to compensation under the Crime Victims' Compensation Act.

The ministry reported that each German state has a concept for identifying vulnerable persons, including victims of torture. Asylum seekers must be informed during reception of their rights and obligations.

2.5. Federal Ministry of Labour and Social Affairs (Bundesministerium für Arbeit und Soziales)

Even though the ministry did not provide feedback about the provision of rehabilitation services, it is responsible for the implementation of the Asylum Seekers' Benefit Act and other relevant regulations. In addition, it is supposed to ensure integration for the client group in the labour market and to allocate the necessary budgets to foster labour market inclusion.

Summary

This is the first attempt to gain feedback from government and non-government actors at the national level on the right to rehabilitation and its actual implementation. It is clear that, due to federal structures, there are no national statistics that might allow analysis of the position of victims of torture in Germany. Although these actors have responsibility for services for refugees, none of them could provide actual numbers. There are indeed programmes which are helping to ensure the legal basis for the right to rehabilitation and also to implement it in a practical way. However, it appears that there is no coordinated exchange at the federal level, nor are there procedures to foster cooperation and collaboration between governmental bodies and the specialised psychosocial centres which provide the rehabilitation services.

About the authors

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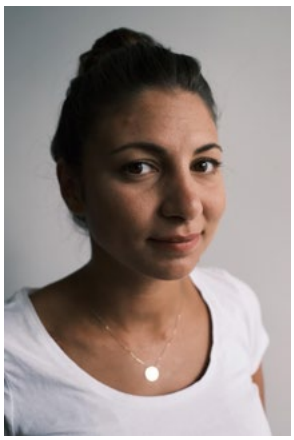
Prof Nimisha Patel is a Consultant, Clinical Psychologist, Founder and Executive Director of the International Centre for Health and Human Rights, a UK-based NGO, and Professor of Clinical Psychology at the University of East London. Her specialist areas of academic, clinical, research and policy interests are in human rights, racism, torture and gender-based violence. She has worked in various human rights NGOs, the NHS and internationally in many countries, including as a consultant to several United Nations bodies and other international human rights and humanitarian organisations.

Elise Bittenbinder

Elise Bittenbinder is the founder and director of BAfF e.V. – the German Association of Psychosocial Centres for Refugees and Victims of Torture based in Berlin, deputy director and psychotherapist at XENION, Psychosocial Centre for Politically Persecuted, Berlin. She is founder and chairperson of the European Network of Rehabilitation Centres for Survivors of Torture. By training, Elise is a couple and family therapist, child psychotherapist (KJP) and supervisor (DGSv). Besides her extensive years working with survivors of torture and human rights violations she works as trainer, senior consultant and supervisor in projects in the Middle East.

Sibel Atasayi



Sibel Atasayi is a psychotherapist with a focus on migration, trauma (PTSD) and mental health. Aligned with her expertise, she functions as an interdisciplinary political psychologist in the field of psychosocial support and rehabilitation services for refugees, asylum seekers and torture survivors. Since 2016, she has been working in this position on a (inter-) national scale at BAfF and the European Network of Rehabilitation Centers for Victims of Torture (EURONET). Being certified in documenting torture and its consequences according to the Istanbul Protocol, she is committed to support the right to rehabilitation for survivors of torture and other massive human rights violations. Throughout her career, she has conceptualized, organized and carried out numerous trainings in conflict mediation, mental health and psychosocial support (MHPSS) for a wide range of actors. From 2011-2015, she worked at the United Nations Development Program (UNDP) and the Berghof Foundation in Turkey, Syria and Afghanistan.

Dr. Elisa Steinfurth

Dr. Elisa Steinfurth has a degree in Psychology, as part of which she conducted research on the basics of emotional regulation in Germany and the US. During her training as a Behavioural Psychotherapist, she worked with a multi-professional team in a day clinic for young adults, as well as at a psychosocial centre for asylum seekers and refugees, where she also organised and conducted trainings for different health professionals working with traumatised refugees. Since September 2019, she has been working as a Consultant for Psychotherapy at BAfF – the German Association of Psychosocial Centers for Refugees and Victims of Torture.

About the European Network

The European Network of Rehabilitation Centres for Survivors of Torture has wide and deep multidisciplinary professional experience of providing rehabilitation to torture survivors in Europe. The organisation is a self-sustaining professional network of health, social care and legal professionals who hold an annual Europe-wide conference which offers a forum for debating and sharing professional experiences in relation to current issues.

The participants to the Network meetings come from more than 120 centres from all over Europe and they bring with them immense and widely-recognised experience.

As professionals who also see themselves as human rights activists we – the members of the Network – see ourselves as having a responsibility towards the survivors of torture who put their trust in us by telling us their stories. We become their "ear witnesses" and we commit ourselves to work to preserve these individual and collective memories of human rights violations, so that they may be available to decision-makers and others in current and future generations.

As a self-sustaining professional network we welcome input and contributions from colleagues.

For more information, visit the website of the European Network (*www.european-network.org*) or contact us (E-Mail: *info@baff-zentren.org).*