

# Torture and the Right to Rehabilitation in GERMANY



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## **Cover Photograph**

Mother and daughter from Syria in Munich

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# INTRODUCTION

In 2015, the German refugee reception system collapsed due to the rapid increase in refugees seeking protection. The influx was far higher than originally projected. To cope with this, all political will and voluntary commitment was concentrated on the provision of basic needs, including shelter, food, clothing and necessary medical care. Vulnerable refugees with special needs, such as victims of torture, were consequently left with very limited access to adequate treatment. The overstrained system – dramatically demonstrated by the images of hundreds of people crammed together in sports halls – only made the situation worse for refugees with torture trauma who lived through horrific circumstances in their home countries, often exacerbated by dangerous journeys to seek safety in Europe.

Germany has ratified several human rights treaties and as a Member State of the European Union (EU), has a legal obligation to implement the Common European Asylum System encompassing all its regulations and directives. This includes the EU Asylum Procedures Directive and the EU Reception Conditions Directive – both of which came into effect in July 2015 – introducing new obligations on states to identify victims of torture through individual vulnerability assessments and provide them with special reception needs and procedural guarantees. In practice, however, there are serious flaws with the implementation of these rights for victims of torture. As the European Commission has made evident through infringement proceedings, Germany has not yet effectively transposed the Asylum Procedures Directive or the Reception Conditions Directive.

There is currently no procedure to identify victims of torture even though the EU Reception Conditions Directive clearly mandates it. As a consequence of the lack of identification, there is no system in place to provide adequate medical help to those who suffer from mental illnesses. Some NGO pilot projects in several Bundesländern employ early-identification models for vulnerable asylum seekers<sup>1</sup>. However these best-practice models of serving the needs of a large number of victims are not able to meet all the demand, consequently leaving many victims of torture without much needed support.

Over **1,200,000**  
people sought protection in Europe in 2015

# TORTURE AND ILL-TREATMENT IN GERMANY

In 2015, the number of persons seeking protection in Europe, and especially in Germany, increased to a historic peak of over a million people. The substantial majority fled the brutal civil war in Syria, experiencing torture, violent conflict and abhorrent cruelty committed by different combatant groups. The other highly represented nationalities are Afghanistan, Iraq and Eritrea fleeing from torture and ill-treatment, violent conflict and state brutality<sup>2</sup>. Among the most common violations clients of bzfo list are arbitrary detentions, torture, rape, burning, and killings of relatives by combatant groups in civil war.

Torture and ill-treatment is not isolated to the countries of origin. Many asylum seekers also report traumatising events during their flight to safety, including the death of family members in unseaworthy boats and ill-treatment at the hand of traffickers. Others report coercive and sometimes violent treatment by border officials across Europe and in Member States of the European Union.

In 2015, bzfo published a report documenting allegations of violence and ill-treatment committed by EU border guards<sup>3</sup>. The report was based on several medico-legal reports (MLRs) and prevented clients, who had suffered at the hand of EU border guards, from being returned to Bulgaria, Hungary or Italy under the Dublin Regulation.

Refugees on hunger strike at the Sendlinger Tor in Munich. | © FootToo



# THE SITUATION FOR VICTIMS OF TORTURE AND ILL-TREATMENT

**According to a number of surveys, approximately 20 to 45 percent of asylum seekers in Germany are likely to suffer from mental illness<sup>4</sup>.**

In 2015, 502 victims of torture, ill-treatment and violent conflict benefitted from general rehabilitation services at bzfo. These services aimed to improve clients' mental health and social wellbeing, including by offering assessment of needs, MLRs and complex rehabilitation treatment and support in individual and group settings. Clients also benefitted from medical diagnostics, psychiatric and psychotherapeutic treatment as well as social support.

Psychological and medical problems also often overlap with social problems for victims of torture, which is exacerbated by the anxiety of spending long periods in uncertainty over the type of protection status granted the entitlements resulting thereof. Many bzfo clients were particularly worried about the situation of their loved ones remaining in warzones. As a result of this, victims of torture needed more social support as well as more urgent psychotherapeutic and psychiatric crisis interventions. This has meant that capacity has shifted from the normal long-term rehabilitation programme – with an average duration of one and a half years – in order to meet the acute needs of newly arrived victims of torture in an ongoing situation of distress.

To address the acute and immediate needs of victims of torture, partners<sup>5</sup> from Bulgaria and Germany launched an EU-funded project titled “Early Access to Adequate Therapy” (hereinafter, “Early Access”) to give support to a greater number of victims with effective support for a period of up to six months. The project was designed as an early-intervention support mechanism for traumatised refugees and was tailored to meet the acute needs of recently arrived victims of torture. This was done in order to offer stabilising, therapeutic interventions so that the victim of torture could faster access holistic support measures.

Due to the overstrained reception conditions in Germany, many more traumatised refugees requested help compared to previous years.

As a part of the Early Access treatment programme, 199 clients were initially seen for intake interviews. After a diagnostic interview, they either received counselling or in cases of urgent indication were admitted to the Early Access treatment programme. Upon completion, participants in the short-term treatment programme reported a significant improvement in their mental health. About 80 percent of the clients received stabilising treatment and were released. Only 20 percent of the clients were referred to intensive or prolonged therapy at the bzfo day-clinic or to long-term treatment and rehabilitation programmes. These clients were mainly torture victims with complex posttraumatic and psychiatric syndromes or persons with a pre-traumatic unstable personalities, which had resulted in reduced capacity to cope with trauma and flight.

It is likely that some of the participants of the Early Access programme with persistent posttraumatic symptoms will return at a later point to receive more trauma-focusing therapy. For the time being, the majority do not wish to look back but want to start their new lives in exile by learning German and looking to enter the workforce.

# THE RIGHT TO REHABILITATION

**In accordance with the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (hereinafter, CAT) and General Comment 3 on the implementation of Article 14, States parties have an obligation to ensure that victims of torture and ill-treatment have free and prompt access to rehabilitation services. Furthermore, Article 25 of the Reception Conditions Directive notes that “Member States shall ensure that persons who have been subjected to torture, rape or other serious acts of violence receive the necessary treatment for the damage caused by such acts, in particular access to appropriate medical and psychological treatment or care.”**

However, as with other countries where service for survivors of torture are offered outside state healthcare, there is no holistic system for the rehabilitation of victims of torture in Germany. NGO treatment centres offer psychosocial rehabilitation programmes - providing a multidisciplinary, holistic approach to treatment that addresses the medical, psychological, social and legal needs of the victims. There are only 26 of these specialised centres in Germany, mainly in urban areas; and the demand for treatment far exceeds the resources and funding to centres providing holistic treatment and rehabilitation services is a major concern.

While the German national health system provides medical, psychiatric and psychological treatment, access to these services depends on the person's health insurance status. Persons with legal residency have the right to get the treatment that is necessary; but asylum seekers, during their first 15 months of stay, only have limited access to the healthcare system<sup>6</sup>. That means that the services are restricted to emergency cases and help that is deemed necessary. As a consequence, applications for therapy from asylum seekers are rejected 10 times more often than applications from persons with legal residency. It can take up to several months or even a year before such an application for psychological treatment for an asylum seeker is approved.

The national law determines that after 15 months of residence in Germany, asylum seekers can apply for full access to healthcare services; but there is still no guarantee that victims of torture will receive the treatment they need. A study by Bermejo et al shows that people with immigrant backgrounds do not have the same access to health programs<sup>7</sup>. Language barriers, including the lack of trained interpreters and a problems with financing all serve as obstacles to accessing appropriate treatment. The study also found that asylum seekers often do not have proper information about the health programmes that are being offered. Another problem is that rehabilitation needs a multi-professional approach with integrated social work - such services do not exist in the regular health care system.



**A German police officer takes care of a little refugee child in the registration area of Passau.**

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# IMPLEMENTATION TARGETS

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- **Identification:** Victims of torture and ill-treatment must be identified in asylum procedures. As long as there is no identification procedure, an adequate assessment of individual needs is not guaranteed. Therefore, the state must put in place a procedure for systematic and early identification of torture victims and staff who potentially encounter victims of torture in the asylum procedure and the social workers in the reception facilities need to be trained to identify signs of traumatization.
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- **Rehabilitation:** it is necessary to provide rehabilitation services funded by the state. Therefore, the state has to ensure that victims of torture are identified and referred to an adequate healthcare service which is not restricted to emergency treatment. bzfo will continue to advocate for providing asylum seekers with full coverage to health care, so that they do not lose out on vital services. As long as there is no nationally funded treatment programme, psychosocial and treatment centres, NGOs, who struggle with funding, have to continue to provide rehabilitation services.
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- **Reception Conditions:** the reception conditions must be adequate so that psychiatric and psychotherapeutic treatment can be more effective. Specialized reception centres for vulnerable persons, including traumatized persons should be in place. These specialized centres should have smaller rates of occupancy per room. Meaning that rooms are occupied by one or two persons, compared to the standard four to ten persons per room in the normal reception centres. Also the composition of staff members in these centres should match with the needs of vulnerable refugees especially victims of torture. The staff should be trained in how to interact with traumatized person.
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- **Implementation of Relevant Laws:** Germany has to ensure that the obligations of CAT, General Comment 3, Asylum Procedural Directive and the Reception Directive are being fulfilled and that victims of torture and ill-treatment receive the treatment that is needed.
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- **The Dublin Regulation:** bzfo will continue to advocate for the revision of the Dublin Regulation to better suit the needs of victims of torture. As long as the Asylum Procedure Directive and the Reception Directive are not properly implemented to ensure a common minimum standard of adequate treatment in all EU countries, torture victims should not be sent to other countries under the Dublin Regulation. Without appropriate standards, victims of torture and ill-treatment are at risk of aggravating their trauma and may suffer from chronic mental health issues.
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# MEMBER INFORMATION

**bzfo** has been rehabilitating victims of torture and violent conflict from over 40 countries since 1992. People fleeing from torture and persecution from Chechnya, Turkey, Iran, Iraq, Syria, Lebanon, Somalia, Eritrea and the Balkans have sought help over the years.

bzfo's multidisciplinary team is specialised in medicine, psychotherapy, psychology, physiotherapy, social work and creative therapies. Together with trained interpreters bzfo treats 400 patients a year. bzfo raises awareness through publications both for the general public and decision-makers, through participation in workshops and conferences, by networking with national as well as international organisations and bodies as well as public relation work. Our international activities focus on the establishment of treatment centres in persecutory states and crisis areas. of torture in France as well as national and international advocacy to promote the right to rehabilitation.

## Notes and references

<sup>1</sup> Bzfo participated in a project, which attempted to institutionalize the early identification of victims of torture with the Regional authorities in Berlin. The Berlin Network for Particularly Vulnerable Refugees. Available at: <http://www.migrationsdienste.org/projekte/bns3.html>.

<sup>2</sup> Eurostat, Asylum in the EU Member States, Record number of over 1.2 million first time asylum seekers registered in 2015, Syrians, Afghans and Iraqis: top citizenships. 4 March 2016

<sup>3</sup> Mechthild Wenk-Ansohn und Sven Veigel: „Gewalt mit Methode?- Das Dublinverfahren und Menschenrechtsverletzungen an den EU-Außengrenzen“, Asylmagazin 6/2015, S. 187-193.

<sup>4</sup> see for example, Richter et al. (2015): "Warten auf Asyl: Psychiatrische Diagnosen in der zentralen Aufnahmeeinrichtung in Bayern".

<sup>5</sup> Bzfo, Refugio Munich and ACET Bulgaria

<sup>6</sup> The Asylum Seekers' Benefit Act of 1993 restricts access to healthcare to cases of "acute diseases or pain" in which "necessary" medical treatment must be provided.

<sup>7</sup> I. Bermejo et al (2012): "Subjektiv erlebte Barrieren von Personen mit Migrationshintergrund bei der Inanspruchnahme von Gesundheitsmaßnahmen", Bundesgesundheitsblatt 2012, S. 944-953.



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