

THE IMPLEMENTATION OF THE ISTANBUL CONVENTION IN RELATION TO REFUGEE WOMEN AND GIRLS IN GERMANY.

Shadow report for GREVIO

by

PRO ASYL

Bavarian Refugee Council

Brandenburg Refugee Council

Hesse Refugee Council

Lower Saxony Refugee Council

Saxony-Anhalt Refugee Council

Prof. Dr Sabine Hess (University of Göttingen)

PRO ASYL
DER EINZELFALL ZÄHLT.


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Hessischer Flüchtlingsrat


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Flüchtlingsrat
Sachsen-Anhalt e.V.

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Anna Hartnagel, Laura Müller, Nicole ViusaWe thank the following for their expertise:
Anke Achhammer, Helen Deffner, Michelle Kerndl-Özcan,
Prof. Dr. jur. Susanne Nothhafft, Lena Ronte,
Benita Suwelack, Meral Zeller**Edited in English:** Elaine Griffith**Cover photo:** © picture alliance / dpa / Frank Rumpenhorst

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Tel.: +49 69 - 24 23 14 0, proasyl@proasyl.de
www.proasyl.de

Contact: Andrea Kothen, Nicole Viusa

Bavarian Refugee Council e.V.

Geschäftsstelle, Westendstr. 19 Rgb, 80339 München

Tel.: 089 - 76 22 34

Email: kontakt@fluechtlingsrat-bayern.de

www.fluechtlingsrat-bayern.de

Contact: Simone Eiler

Brandenburg Refugee Council e.V.

Rudolf-Breitscheid-Str. 164, 14482 Potsdam

Tel.: 0331 - 71 64 99

Email: info@fluechtlingsrat-brandenburg.de

www.fluechtlingsrat-brandenburg.de

Contact: Lotta Schwedler

Hesse Refugee Council e.V.

Leipziger Straße 17, 60487 Frankfurt am Main

Tel.: 069 - 076 987 10, Email: hfr@fr-hessen.de

www.fr-hessen.de

Contact: Anna Hartnagel

Lower Saxony Refugee Council

Röpkestraße 12, 30173 Hannover

Tel.: 0 511 / 98 24 60 30, Email: nds@nds-fluerat.org

www.nds-fluerat.org

Contact: Laura Müller

Saxony-Anhalt Refugee Council

Landsberger Straße 1, 06612 Halle (Saale)

Tel.: 0345 - 44 50 25 21, Email info@fluechtlingsrat-lsa.de

www.fluechtlingsrat-lsa.de

Contact: Helen Deffner

University of Göttingen**Institute for Cultural Anthropology,**

Heinrich-Düker-Weg 14, 37073 Göttingen

Tel.: +49 551 39 253 55

<https://www.gender-flucht.uni-osnabrueck.de/projekt/forschungsverbund.html>

Prof. Dr. Sabine Hess (Director)

Email: shess@uni-goettingen

Johanna Elle (Research Associate)

Email: jelle@gwdg.de

About the publishers**PRO ASYL** is the independent voice for human rights and the protection of refugees in Germany and Europe. The association implements aid programmes for refugees, provides individual case and legal assistance, and carries out projects, documentations and research. It organises political campaigns, engages in awareness-raising and public relations, and is linked with national and international aid and human rights organisations. The work of the organisation is financed by membership fees, donations and grants from foundations.**The refugee councils of the German federal states** are connected through membership of PRO ASYL, the group advocating for refugees nationwide. They see it as a state task to provide refugees with generous reception, effective protection, sustainable integration and an autonomous future, while seriously considering their reasons for fleeing and their humanitarian needs. The state refugee councils are nonprofit associations that give advice and engage in project work and political advocacy in their federal states. At the state level, they see themselves as independent representatives of support groups, solidarity initiatives and the refugees' own organisations.In the **research project at the University of Göttingen** under the direction of Prof. Dr. Sabine Hess (Institute of Cultural Anthropology/European Ethnology), gender-specific arrival and reception policies were investigated as part of the research network "Gender, Displacement, Reception Policies. Processes of gendered inclusion and exclusion in Lower Saxony". The results of the research, which investigated the insecure situation of refugee women as well as various (support) measures for refugee women from 2017, are incorporated into this report.

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INTRODUCTION: COMBATING AND PREVENTING VIOLENCE IN THE ASYLUM AND RECEPTION PROCEDURE OF REFUGEE WOMEN AND GIRLS

In 2017, Germany ratified the Council of Europe's *Convention on Preventing and Combating Violence against Women and Domestic Violence: Istanbul Convention (IC)*. It entered into force in February 2018 and has since then had the rank of both federal law and international law, requiring an interpretation of national law in conformity with international law. "Aspiring to create a Europe free from violence against women and domestic violence", as stated in the preamble, the signatory states adopted the following purposes in Art. 1:

Article 1 IC – Purposes of the Convention

1. The purposes of this Convention are to
 - a protect women from all forms of violence, and prevent, prosecute and eliminate violence against women and domestic violence;
 - b contribute to the elimination of all forms of discrimination against women and promote substantive equality between women and men, including by empowering women;
 - c design a comprehensive framework, policies and measures for the protection of and assistance to all victims of violence against women and domestic violence;
- (...)

This report examines the extent to which the central obligation of the Istanbul Convention, protecting women¹ and girls from violence and combating it, has been implemented in relation to refugees in Germany.

In 2020, around 42 % of all asylum applicants in Germany were female.² The main country of origin is by far Syria, followed by countries such as Iraq, Somalia, Eritrea, Afghanistan and others. Most of these countries have been war and crisis zones for many years. Women's rights in general and the physical and psychological integrity of women in particular are particularly at risk in such an environment. In many civil wars, systematic rape of women and girls is part of the war strategy. Physical, sexualized, psychological and structural violence against women and girls is common practice there. Many women flee because of individual gender-specific persecution. This includes forced marriages, femicide, female genital mutilation/cutting (FGM/C), domestic violence, forced prostitution and trafficking in women.

However, the situation of refugee women and girls must be given special attention not only because of the violence they have already suffered in their country of origin. The reality of their lives is marked by violence at many stages, in many respects and by different perpetrators in the past and present. In this context, researchers speak of a continuum of violence.³ This often applies to the situation in the country of origin no less than to the months or years of fleeing. And it does not end with arrival in Germany. Refugee women and girls are often exposed to violence and have more difficult access to support when violent incidents occur. They are a group that needs special attention when it comes to protecting women from violence.

¹ The preamble to the Istanbul Convention also states that "domestic violence affects women [and girls] disproportionately". This includes people who are read as such since trans people and those who do not fit into the binary gender system are also affected by gender-based violence and discrimination. At the same time, this report refers as far as possible to women to show that violence against women must be named as such.

² Federal Office for Migration and Refugees. 2021. Current figures issued in December 2020.

³ Krause, Ulrike. 2018. Gewalterfahrungen von Geflüchteten. In: State-of-Research Papier 03, Verbundprojekt, Flucht: Forschung und Transfer, Osnabrück: Institut für Migrationsforschung und Interkulturelle Studien (IMIS) der Universität Osnabrück / Bonn: Internationales Konversionszentrum Bonn (BICC), Juni 2018. <https://flucht-forschung-transfer.de/wp-content/uploads/2017/05/State-of-Research-03-Gewalterfahrungen-von-Flüchtlingen-Ulrike-Krause-1.pdf> Retrieved on 2.6.2021.

The Istanbul Convention underlines this fact insofar as it makes specific provisions in the area of asylum and migration in Articles 59 to 61. Article 4(3) obliges states to guarantee the rights of the Convention to *all* women and girls without discrimination – explicitly irrespective of the asylum or residence status of the persons concerned:

Article 4 para.3 IC

(3) The implementation of the provisions of this Convention by the Parties, in particular measures to protect the rights of victims, shall be secured without discrimination on any ground such sex, gender, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth, sexual orientation, gender identity, age, state of health, disability, marital status, migrant or refugee status, or other status.

In August 2020, the Federal Republic of Germany published its first report on the implementation of the Convention: *GREVIO. First State Report of the Federal Republic of Germany 2020* (hereinafter: *State Report*). First of all, it can be conceded that – as described there – there are many ambitious initiatives, plans and standards. Within Germany, measures to protect against violence are being promoted at government level, especially by the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth (BMFSFJ), and above all by civil society through numerous committed non-governmental organisations and local actors. These are positive developments, which show that the topic of protection against violence and vulnerability is becoming more of a focus, and that personnel and financial resources have been increased. However, since the implementation of the IC is “directed at a state party in all its parts” (Federal Government, Länder, municipalities), the implementation is complex, unclear and also incomplete in important places. De facto, there are gaps and differences in quality in the network of responsibilities and not all project interventions have been continued, so that in the end many women and girls can only benefit from the existing good ideas and initiatives at a late stage or not at all.

Ultimately, despite all positive aspirations, it is the legal, institutional and structural conditions of dealing with refugees which limit the possibilities of protecting against violence from the outset, and which are even characterised by or promote violence. This begins with the attempt to gain access to the asylum procedure in Europe. For example, it may be a traumatic experience of violence for women to undergo illegal “push-backs” at Europe’s external borders and forced transfer to Libyan detention camps or, if they are pregnant or have a baby, to be detained in overcrowded tent camps on the margins of Europe.

European refugee policy is often – at least indirectly – within the sphere of influence of the German government.

For refugee women and girls, the conditions marked by state violence do not end with their arrival in Germany. Even the comparatively better conditions within Germany, especially in accommodation centres, set and promote violent conditions, within which even good, well-meant measures to protect against violence, such as emergency plans for collective accommodation, must of necessity remain limited. In the following, we therefore repeatedly address the conditions and rules of refugee reception for which the state is responsible in Germany, which affect the rights and opportunities of women and girls in a specific way and often with more dramatic consequences.

In doing so, we focus on some key areas where women as (potential) victims of violence need support and where gender-based violence needs to be prevented and combated: **Accommodation and protection against violence** (chapter 1), **gender-sensitive asylum and reception procedures** (chapter 2), **health care** (chapter 3) and **counselling and support** (chapter 4). Finally, a short chapter takes a look at the **European dimension**, which we can only touch upon in this paper. It concludes with a summary of **recommendations and demands** drawn from the findings of the chapters.

The authors of this report are experts from refugee councils in the federal states of Bavaria, Brandenburg, Hesse, Lower Saxony and Saxony-Anhalt, from the nationwide organisation PRO ASYL and the research project “Gender, Displacement, Reception Policies” at the University of Göttingen.

This report is based on the diverse practical experiences and perspectives of institutions working with refugees, and from the field of psychosocial activity and women’s policy. The quotations are taken from a nationwide survey conducted in 2020 by the Refugee Councils among support and information structures for refugee women, such as women’s advice centres, psychosocial counselling centres and institutions working with refugees, with a total of 65 questionnaires returned from 16 federal states. It is a qualitatively designed and evaluated survey that allows insights into practice and checks the existing basic assessments, but no valid quantitative statements can be made about specific circumstances. In the main section, statements are illustrated with direct quotes from the survey, *marked in italics*. Demands and recommendations arising from the text are indented and marked with an arrow.

With regard to the entire area of migration and asylum policy, this report is neither a complete nor conclusive stocktaking of the German implementation of the Istanbul Convention. For example, the specific situation of LGBTI* people, who are unquestionably covered by the Istanbul Convention, is largely excluded. Their demands and needs

are likely to be similar to those described here. An explicit reference to this and possibly also to existing differences would have exceeded the scope of this work. A more intensive discussion of special reasons for fleeing and circumstances such as femicide, forced marriage, female circumcision, human trafficking etc. had to be omitted, as well as an explicit discussion of racist discrimination and violence and the situation of illegalised women and girls. We refer explicitly to the parallel report by LebKom, Lessan, Terre des Femmes and EndFGM on female circumcision (FGM/C)⁴, the report by the Istanbul Convention Alliance⁵ and the shadow report by DaMigra, whose assessments we largely share. This applies in particular to the appeal for the withdrawal of the German reservations to Article 59 (2) and (3).⁶

We thank GREVIO for the opportunity to bring forward our expertise and recommendations as an NGO so that refugee women and girls in Germany are also protected from violence in accordance with the Istanbul Convention.

4 LebKom / Terre des Femmes / Lessan / End FGM. 2020. Joint Shadow Report Germany. <https://rm.coe.int/shadow-report-germany/16809f9a2a>

5 Bündnis Istanbul-Konvention. 2021. Alternativbericht zur Umsetzung des Übereinkommens des Europarats zur Verhütung und Bekämpfung von Gewalt gegen Frauen und häuslicher Gewalt. <https://www.buendnis-istanbul-konvention.de/alternativbericht-buendnis-istanbul-konvention-2021/>

6 The problems addressed there also affect refugee women, for example when they are dependent on their violent partner's right of residence. However, since this situation differs little from the situation of other migrant women, such problems are excluded from this report.

1. ACCOMMODATION CENTRES AND PROTECTION AGAINST VIOLENCE

With the Istanbul Convention, the Federal Republic of Germany commits itself to do everything possible at all levels of government to combat violence against women, to offer protection and support to those affected and to prevent violence. From this point of view, refugee accommodation centres, which have been built in large numbers since 2015, are also in the spotlight. The Federal Ministry for Family Affairs, Senior Citizens, Women and Youth (BMFSFJ), in cooperation with civil society, has taken up the issue of protection against violence in accommodation centres as part of the “Initiative for the Protection of Refugees in Refugee Accommodation”. It has developed minimum standards and initiated and supported numerous pilot projects in the area of protection against violence.⁷

It is gratifying that the issues of protection against violence and vulnerability in connection with refugee women is receiving attention politically and that human and financial resources are being made available for active protection against violence. Nevertheless, the success and practice of protection against violence in accommodation centres for refugees must be critically examined. We are essentially looking at the following questions: What are the legal and administrative requirements to protect women and girls from violence in collective accommodation? Are there special protective spaces for refugee women? Are there

minimum standards, routine methods, or rules? Are these adhered to and is compliance monitored?

The framework for action should be kept in view: The fact that refugee women - many of whom have experienced severe human rights violations, survived torture, war and persecution or experienced sexualised violence – are obliged to live in collective accommodation at all is a political decision, not a natural necessity. If refugees were housed in flats instead, many questions about their protection against violence within the accommodation centres would not arise at all. Some incidents of violence would not even occur. It is only because of the existence of collective accommodation that we have to ask whether comprehensive protection against all forms of violence can be guaranteed in this structure at all and, moreover, what effects the conditions there have on the mental health of people who bring with them experiences of violence and have not yet been able to come to terms with these experiences.

Before we look at the practice of violence protection in collective accommodation, we will first explain that collective accommodation is not only a barrier to effective violence protection for refugee women, but even has the opposite effect, namely it promotes violence.

a) COLLECTIVE ACCOMMODATION AS A LEGALLY DESIRED FORM OF ACCOMMODATION

Like all asylum seekers, women refugees first have to go to **initial reception centres**, also called arrival centres or even ANKER centres (large set-ups for “arrival, decision, return”). There they are treated by staff of the federal states for identification purposes, receive initial medical care, are examined, and are housed in the same place on a mandatory basis. They live there on one site with several hundred to more than a thousand people.

The obligation of asylum seekers to live in the centralised initial reception facilities was initially extended in 2015 from a maximum of three to six months, and in 2019 to up to 18 months as a rule. This period can be extended once again to up to 24 months and is even to be completely waived for

certain groups. The latter concerns people with “manifestly unfounded” rejected asylum applications, those from “safe countries of origin” or people in the Dublin allocation procedure. Senegal, Ghana, Albania, Bosnia and Herzegovina, Kosovo, Montenegro, Northern Macedonia and Serbia are currently considered “safe” countries of origin. Women from these countries are more affected by permanent accommodation in the initial reception centre, but also those women whose experiences of violence could not be (sufficiently) addressed in the asylum procedure or were not believed (see in detail chapter 2). Only families with children under 18 are meant to be accommodated by the municipality after six months at the latest. However, this does not apply to single women or women without children.

⁷ The web address of the federal initiative: <https://www.gewaltschutz-gu.de/>

This accommodation in large initial reception centres is highly regulated: it is associated with a ban on working for at least nine months, and many women do not have access to education or German language courses (see chapter 4b). The possibility of self-sufficiency in food is severely restricted, and cooking for oneself is usually not allowed. The incapacitating conditions and the prescribed inactivity in the initial reception centre pose particular challenges to women affected by violence who are struggling to regain autonomy and normality against the backdrop of their experiences.

In an open letter, an asylum-seeker from a Bavarian ANKER centre describes her attitude to life:

“The accommodation in our centre is a horror, because we live with five women per room, without any privacy, with a very precarious sanitary situation, especially since some women have contracted contagious diseases during their time in Libya or Morocco as sexual slaves. ... The living conditions here are inhuman, too much stress combined with the difficulty for us to live in this “prison” for almost two years without doing anything, without working, without the opportunity to study or engage in other activities.”⁸

Even after leaving the initial reception centre, many refugee women continue to live in “shared accommodation”, which is the intention of the legislator (§ 53 Asylum Act). As a rule, the women no longer receive food from outside sources and are not necessarily prohibited from working. However, they also do not receive any systematic support in learning German, training or finding a job. Staying in municipal accommodation is accompanied by significantly reduced social benefits compared to the social assistance rates (SGB II, XII). It is not uncommon for the accommodation centres to be located in areas largely without infrastructure. The living conditions there have been massively criticised by NGOs and academia for many years.⁹ Especially for traumatised women, these circumstances lead to insecurity, strong fears and stress, induced by the inability to be alone due to shared rooms; living closely together or sharing of common rooms with men who are strangers to them; the lack of safe places of retreat because rooms cannot be locked or the staff does not respect this boundary; the lack of peace and quiet; poor hygienic conditions; openly acces-

sible sanitary facilities that potentially allow for assaults; and much more.

Some of this can undoubtedly be improved with money and commitment – moving out of the collective accommodation into a flat of one’s own would solve almost all the problems described at a stroke. However, as long as there is no right of residence, the immigration authority responsible often does not allow people to move out. If they do, finding a flat for a refugee woman is extremely difficult. The reasons for this are a lack of affordable housing and discrimination on the housing market.¹⁰

Even the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth (BMFSFJ) states in its minimum standard approach to accommodation that collective accommodation is structurally conducive to violence: *“For many asylum-seekers arriving in Germany refugee accommodations are central to their lives. Despite enormous efforts made by politicians, authorities and civil society, consideration for the rights and needs of refugees living in such accommodations is not yet sufficient. Refugees and migrants often live for very long periods of time in an environment that is neither humane nor child- and family friendly. They often remain exposed to violence, abuse and exploitation, and their participation in society, as well as their opportunities for development and integration, are considerably limited or non-existent.”¹¹*

The German Institute for Human Rights also writes: *“Inactivity and isolation lead to a tense situation. In the accommodation centres, women and girls have little protection or room to which they can withdraw. They have often lost women-specific social networks through fleeing. Family relationships and partnerships are under great strain in this context. These conditions contribute to women experiencing gender-based violence by partners, roommates, security guards or other staff.”¹²*

Problems are not necessarily only caused by large and confusing facilities with a lot of people, but also by smaller facilities that offer little space to avoid people who are accommodated with them, and where there are few support staff or contact persons. Especially in rural areas, where there are often no other meeting places, social isolation is higher and there are no partners to share their thoughts with, the situation for refugee women and girls is often very tense.

8 Anker Watch (website). 2020. Open letter from a resident of the Geldersheim ANKER centre. <https://www.anker-watch.de/brief-einer-bewohnerin-aus-dem-anker-zentrum-geldersheim/>

9 See e.g. Johansson, Susanne. 2016. Was wir über Flüchtlinge (nicht) wissen, 31 f. Forschungsbereich beim Sachverständigenrat deutscher Stiftungen für Integration und Migration (SVR). Berlin. https://www.svr-migration.de/wp-content/uploads/2017/07/SVR-FB_Fluechtlinge_wissen.pdf

10 Federal Anti-Discrimination Agency. 2020. Antidiskriminierungsstelle des Bundes. Rassistische Diskriminierung auf dem Wohnungsmarkt: Ergebnisse einer repräsentativen Umfrage. Berlin. https://www.antidiskriminierungsstelle.de/SharedDocs/Downloads/DE/publikationen/Umfragen/umfrage_rass_diskr_auf_dem_wohnungsmarkt.pdf;jsessionid=9B27EE0576BF86ECA7CF0C348C0C5B66.2_cid341?__blob=publicationFile&v=10

11 Federal Ministry for Family Affairs, Senior Citizens, Women and Youth (BMFSFJ), 2018. English version: Minimum Standards for the Protection of Refugees and Migrants in Refugee Accommodation Centres: <https://www.bmfsfj.de/blob/121372/ab3a1f0c235a55d3b37c81d71f08c267/minimum-standards-for-the-protection-of-refugees-and-migrants-in-refugee-accommodation-centres-data.pdf> p.3. See also Fn 9.

12 Rabe, Heike and Britta Leisering, 2018. Analysis: Die Istanbul-Konvention – Neue Impulse für die Bekämpfung von geschlechtsspezifischer Gewalt. Deutsches Institut für Menschenrechte, 31. Berlin. https://www.institut-fuer-menschenrechte.de/fileadmin/user_upload/Publikationen/ANALYSE/Analyse-Istanbul-Konvention.pdf

Protective spaces / extra facilities / alternative facilities

Because and as long as there are collective accommodation centres for refugees whose design does not meet the protection needs of many women, in particular, there must be special protective spaces in the sense of separate buildings or residential wings/corridors for female refugees.

Separate accommodation can strengthen the women's feeling of safety and freedom. In many places, such separate accommodation seems to exist; for example, it is prescribed in the violence protection strategy of the State of Lower Saxony for the initial reception centre, but only partially – and with insufficient security – implemented in the form of a separate floor.

However, they do not exist in all federal states and often not in the municipalities. Moreover, the problems of collective accommodation do not disappear in the defined "protective spaces". The advisors we interviewed mainly complain about a lack of capacity – too little protective accommodation, but also obviously inadequate approaches.

"There are women's accommodation facilities ... However, the capacities here are exhausted and waiting times are very long" (therapy facility, Bavaria).

"In cities rather than in rural areas. In Stuttgart, accommodation centres with security and women's corridors. ... Even in appropriate accommodation [there is] sometimes too little sensitivity for the issue of violence against women" (advice centre for refugee women, Baden-Württemberg).

"Yes, special accommodation areas, but they are poorly equipped and have men as security officers, for example" (therapy facility, Berlin).

"There is a 'protective building' with 215 places in the initial reception facilities. However, various groups of people in need of special protection are accommodated here, including, for example, mentally ill men or male family members of seriously ill women" (advice centre, Brandenburg).

There is a separate area for women in the initial reception centre, but they still have to go to the areas of the camp where men also live, for example, if they want to eat, collect their benefits, etc." There are also individual cases where security officers are in contact with people who pose a threat" (advice centre, Hesse).

Separation and expulsion of the offender

In the case of domestic violence, too, refugee accommodation centres show themselves to be spaces of reduced security. The situation in refugee accommodation mostly undermines the premises of the protection against violence when a spatial separation of perpetrator and victim becomes necessary for immediate and effective protection. Articles 52 and 53 of the Istanbul Convention clearly define measures to separate the perpetrator from the victim in cases of gender-based violence or to expel the perpetrator in order to effectively protect the woman concerned. Legal measures to this effect are already enshrined in the police laws of the Länder and the Federal Protection against Violence Act.

The expulsion of the offender also applies to persons in accommodation for refugees. The defined measures also offer staff members in shelters the possibility to ban violent persons from the premises within the framework of house rules. However, this is insufficiently defined in law, which leads to very different handling in practice and does not offer refugee women reliable protection.¹³ Success depends on the extent of support and resources for those concerned, as well as knowledge about the issue in the competent authorities and the accommodation centres:

"Prohibitions of contact and proximity for the perpetrators are sometimes difficult to implement in collective accommodation." (advice centre, Rhineland-Palatinate)

It happens that expulsions are only for a short period, or that separation is only carried out within the accommodation centre, with a great risk that perpetrators and victims will meet. Also, the anonymity of the women – and thus a safe place – is hardly guaranteed in the accommodation:

"If e.g. domestic violence has been identified, the experience is that action is taken very quickly with regard to joint accommodation. However, in some cases, after separation from the perpetrator, there are then acute situations of threat for the women who are not sufficiently protected because their whereabouts are known" (advice centre, Schleswig-Holstein).

"Accommodation staff not sufficiently trained, in some cases even protection of the perpetrator ... complicity (...) unlawful surrender of address (by staff, authorities etc.) (advice centre, Berlin)

Not only is keeping the perpetrator away difficult to implement in collective accommodation – the woman concerned

¹³ Rabe, Heike. 2015. Effektiver Schutz vor geschlechtsspezifischer Gewalt – auch in Flüchtlingsunterkünften. German Institute for Human Rights, 17. Berlin. https://www.institut-fuer-menschenrechte.de/fileadmin/user_upload/

is also prevented from moving to other, safe accommodation herself. The reason for this is that women who have not yet acquired a right of residence are mandatorily assigned to both the accommodation and the place of residence, and they must apply to the authorities for permission to move. This also prevents women affected by violence from accessing advice and help, and causes problems even when seeking protection in a women's refuge or a sheltered flat (see chapter 4 b for more details).

Collective accommodation in times of the coronavirus pandemic

The Corona pandemic has particularly aggravated the conditions for women in collective accommodation. The simplest hygiene rules cannot be observed there: "Those who live in shared rooms with many other people and share kitchens, washrooms and toilets are exposed to a massively increased risk of infection."¹⁴ A 17 % risk of infection in an accommodation centre from a first proven case of SARS-CoV-2 is to be classified as high.¹⁵

Contrary to scientific recommendations, especially those of the Robert Koch Institute, the responsible authorities in the federal states reacted in 2020/21 with collective quarantines, which included entire buildings, sometimes with several hundred residents.¹⁶ The quarantine regulations were experienced by the residents as non-transparent and incomprehensible, often led to chaotic conditions and did not appear to be effective from an epidemiological point of view. At the same time, the residents criticised the

internal hygiene protocols for fighting the virus as inadequate.¹⁷ Numerous centres were completely sealed off for several weeks – new infections repeatedly led to an extension of the collective quarantine. Due to this procedure, women affected by violence, like all residents of refugee accommodations, are exposed to a quarantine situation much more frequently and for long periods of time, with the associated psychological consequences.

Besides the increased risk of infection, the increased isolation and stress situation is worrying. During the pandemic, social services and volunteers were, and are, partially or completely denied access to the accommodation centres. For women affected by violence, this considerably reduces advisory services and the chance of finding trustworthy contact persons. The lack of childcare and the closing of schools mean further burdens on women, who are often assigned family work, in circumstances that make it difficult to bring up a child appropriately.¹⁸ Due to the lack of Wi-Fi coverage in the accommodation centres, online language and training courses could not be attended and home-schooling could not be implemented.¹⁹

Overall, the pressure on family relationships and partnerships is increasing: a whole-of-society study at the beginning of the pandemic points to an increased risk of domestic violence, being quarantined at home, financial worries or poor mental health (e.g. depression and anxiety) of one or both parents during COVID-19.²⁰ The annual report of the Help Line also refers to the increasing requests for advice and counselling.²¹

14 Bavarian Refugee Council. 4.2.2021. Press release: Corona Pandemie wütet in bayerischen Unterkünften. <https://www.fluechtlingsrat-bayern.de/corona-pandemie-wuetet-in-bayerischen-unterkueften/>

15 Kompetenznetz COVID-19. 2020. Factsheet: SARS-CoV-2 in Aufnahmeeinrichtungen und Gemeinschaftsunterkünften für Geflüchtete. <https://www.gewaltschutz-gu.de/die-initiative/details-2-08-2020/factsheet-sars-cov-2-in-aufnahmeeinrichtungen-und-gemeinschaftsunterkueften-fuer-gefluechtete-kompetenznetz-covid-19-2020>

16 Bavarian Refugee Council. 23.11.2020. Press release: Corona in Geflüchtetenunterkünften <https://www.fluechtlingsrat-bayern.de/corona-in-gefluechteten-unterkueften/> and 12.06.2020. Pressemitteilung: Robert-Koch-Institut empfiehlt Schutz Geflüchteter - nichts passiert. <https://www.fluechtlingsrat-bayern.de/robert-koch-institut-empfehl-schutz-gefluechteter-nichts-passiert/>

17 See e.g. a refugee's report on reception conditions, pandemic measures and collective quarantine on the website My home is not safe: <https://myhomeisnotsafe.wordpress.com/2021/01/20/even-animals-are-not-treated-like-that/>

18 See typical stories with photos from the initial reception centre in Ellwangen: UNICEF. 2020. Under quarantine: playing, eating, sleeping in a single room.

19 Refugee Council Lower Saxony. 2020. School computers for low-income households. <https://www.nds-fluerat.org/43650/aktuelles/schulcomputer-fuer-einkommensschwache-haushalte/>

20 Steinert Prof. Dr. , Janina. 2020. Gewalt an Frauen und Kindern in Deutschland während COVID-19-bedingten Ausgangsbeschränkungen: Zusammenfassung der Ergebnisse. Technischen Universität München (TUM) und Dr. Cara Ebert vom RWI – Leibniz-Institut für Wirtschaftsforschung. <https://www.hfp.tum.de/globalhealth/forschung/covid-19-and-domestic-violence/>

21 Nationwide helpline for women suffering violence. <https://www.hilfetelefon.de/index.php?id=318>

RECOMMENDATIONS Women refugees stay in collective accommodation for a long period of time. Both the initial reception facilities/ANKER centres and "shared accommodation" are structurally conducive to conflict and violence. Moreover, women are prevented from taking care of their own safety in an autonomous manner. Regardless of the efforts to improve protection against violence in collective accommodation, it is fundamentally not suitable as a compulsory form of housing for women affected by violence. We recommend:

- ❖ The time in the initial reception centre for refugees should be limited by law to a maximum of four weeks.
- ❖ Housing refugees in flats must have priority over collective accommodation. The legal mandate for collective accommodation must be lifted. Cities and municipalities must also create the conditions for this through general political measures (e.g. promotion of social housing).
- ❖ In existing collective accommodation, the responsible Länder or municipalities must ensure strategic move-out management that supports all residents in finding suitable housing.

b) STRATEGIES TO PROTECT AGAINST VIOLENCE AND MINIMUM STANDARDS IN THE FEDERAL STATES AND MUNICIPALITIES

As long as collective accommodation is the *modus operandi* for housing refugees, strategies to protect against violence and standards will be necessary. In recent years, the protection against violence in accommodation for refugees in Germany has developed significantly.

For example, the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth (BMFSFJ) launched the Initiative for the Protection of Refugees in Refugee Accommodation when, in cooperation with UNICEF and numerous organisations, it developed “Minimum Standards for the Protection of Refugees in Refugee Accommodation”.²² The aim is to implement these minimum standards in all accommodation centres for refugees in Germany. However, as “guidelines for the development, implementation and monitoring of protection plans in all refugee accommodations” and as “orientation for the development of protection plans for specific federal states and municipalities”, they are not legally binding and only have the character of recommendations.²³

With the Second Act to Improve the Enforcement of the Obligation to Leave the Country, federal regulations on the protection of vulnerable groups of persons in reception facilities and collective accommodation came into force in August 2019 in the form of section 44(2a) and section 53(3) of the Asylum Act (AsylG). The amendment to the law stipulates that the federal states are to take measures to ensure the protection of women and vulnerable persons when accommodating asylum seekers. The federal states arrange and implement the accommodation themselves, primarily in their own initial reception facilities. For the subsequent accommodation after allocation to the cities and municipalities, the states have often transferred the relevant tasks to the municipalities. Accordingly, the implementation is diverse and confusing in practice – and incomplete.

Some supra-regional initiatives can be seen as very positive and supportive developments for the protection of refugee women against violence. However, there is a lack of nationwide application and a corresponding obligation on the part of the federal states to make use of the opportunities

available.

One example is the “decentralised advice and support structure for the protection against violence in refugee accommodation” (DeBUG). Seven multipliers are funded by the Federal Government. They have an advisory function and do not develop protection strategies. Hence the task of developing and implementing plans for protection against violence depends mainly on the possibilities, the will and the competence of the employees in the individual facilities. This, in turn, varies against the backdrop of the state’s own legal or non-binding guidelines on protecting against violence.²⁴

Another example is beSAFE, a model project to develop and test a strategy for identifying special protection needs when receiving refugees.²⁵ It has been²⁶ developed by the nationwide Association of Psychosocial Centres for Refugees and Torture Victims (BAfF e.V.) in cooperation with the psychosocial counselling centre for LGBTI* persons “Rosa Strippe e.V.” This is also intended to be a non-binding offering that can be used at the level of the federal state.

An important component of violence protection concepts in accommodation centres is that they are linked to a low-threshold, functioning complaints procedure to which residents and staff have anonymous access. The women’s shelter coordinators have developed a very good handout based on a pilot project.²⁷ However, it is not (yet) possible to speak of widespread use.

Incidents of violence in practice

In our survey, almost all of the advisory centres surveyed knew about concrete incidents of violence in refugee accommodation. In their entirety, they make it clear that protection against violence often does not work in practice, even at present.²⁸ The following is a selection:

“Yes. [There are incidents of violence in the accommodation centres.] Domestic violence. And occasionally also sexualised violence” (therapy facility, Berlin).

22 BMFSFJ (ed.) 2018. Minimum Standards for the Protection of Refugees and Migrants in Refugee Accommodation Centres: <https://www.bmfsfj.de/blob/121372/ab3a1f0c235a55d3b37c81d71f08c267/minimum-standards-for-the-protection-of-refugees-and-migrants-in-refugee-accommodation-centres-data.pdf>

23 Ibid., 9

24 Information on the DeBUG project: <https://www.gewaltschutz-gu.de/projekte/debug>

25 Information on the besafe project: <https://www.gewaltschutz-gu.de/projekte/besafe-besondere-schutzbedarfe-bei-der-aufnahme-von-gefluechteten-erkennen>

26 Further projects of the federal initiative: <https://www.gewaltschutz-gu.de/projekte/uebersicht>

27 Frauenhauskoordinierung. 2019. Beschwerdeverfahren für geflüchtete Menschen in Unterkünften: Empfehlungen und Material zur Umsetzung. www.frauenhauskoordinierung.de/fileadmin/redakteure/Publikationen/Handreichung_BM/FHK_Handreichung_BM_fuer_gefluechtete_Menschen_web.pdf

28 Numerous incidents were also mentioned in the survey for this report. Another example: <http://www.truth24.net/frauen-in-fluechtlingsunterkueften-klagen-ueber-gewalt-und-willkuer/>

“On the ground floor, people knock on the window at night; threats and assaults by violent husbands and ex-husbands” (therapy facility, Baden-Württemberg).

“The number of unreported cases is very high. (...) Rapes, attempted rapes, sexual harassment & assaults, bodily harm of all kinds, domestic violence, psychological violence, stalking. There are also reports of assaults by security staff” (advisory centre, Brandenburg).

“Yes! Sexualised and domestic violence, we often hear of that. While Corona increases” (specialist advisory centre, Baden-Württemberg).

“Single women also frequently complain about lewd remarks and come-ons by residents” (therapy facility, Rhineland-Palatinate).

“Clients report unwanted intrusion of security staff into private rooms, as rooms cannot be locked; privacy cannot be maintained!” (therapy facility, Saxony).

“Various incidents known from the last few years in numerous collective accommodation centres (...) partly verbal violence by facility managers, often male residents use physical violence (beatings, threats of beatings, exposure of genitals, assaults in sanitary facilities, entry through open windows, etc.)” (Refugee Council Saxony-Anhalt).

“We know of one case where [a] woman suffered violence at the hands of her husband and another woman resident in the accommodation - she stated that security did not intervene even when she asked them for help; furthermore, clients report verbal violence due to religious affiliation and sexual violence by other residents, no statistics on the numbers” (therapy facility, Saxony).

“There are such cases (harassment, rape), we don’t know how frequently” (therapy facility, North Rhine-Westphalia).

“Yes, the following are known: domestic violence, prostitution, sexualised violence, psychological violence” (advisory centre, Bavaria).

“Frequency unclear, [there is] sexual harassment in any case, the women are very afraid of it, also in relation to their children, especially with communal showers, kitchens, toilets, sometimes shower rooms in the basement, not lockable....” (therapy facility, Rhineland-Palatinate).

Heterogeneous requirements in the federal states

However, the violence protection policies of the federal states vary greatly in quality and legal force. This is shown by a recent study by UNICEF and the German Institute for Human Rights: most of the federal states report that they have legally binding policies for protection against violence in state facilities. Some federal states have included violence protection requirements in their contracts with the operators. Others, however, (Baden-Württemberg, Hamburg, Saxony, Schleswig-Holstein and Thuringia) rely on facility-specific rules for violence protection and do not have any state-wide binding requirements.

With regard to municipal facilities for refugees, legally binding requirements to protect against violence exist only in Bavaria, Brandenburg and Thuringia. Baden-Württemberg and Bremen only specify minimum standards (especially for spatial requirements). Berlin provides for violence protection strategies as part of operator contracts, Hamburg is planning something similar. The remaining federal states refrain from legal regulation, but often at least support the municipalities specifically in the development of violence protection strategies.²⁹

The example of Bavaria: *The “Bavarian Protection Strategy of the Accommodation Administration to Prevent Violence” applies to all Bavarian accommodation centres for asylum seekers. However, it is only an administrative framework; the specifications and measures are to be implemented in a facility-specific manner. Such an internal strategy for preventing violence has already been developed in some ANKER facilities and nine collective accommodation centres by staff working in the field of violence prevention. These were listed in a written question to the Bavarian Parliament, but they are not publicly available. It was also not possible to find out which measures have already been implemented.³⁰ The Bavarian strategy for preventing violence itself is deficient, for example, in that assaults by staff are not addressed and it contains no corresponding protection plans or opportunities for complaint. If there are ombudspersons, they are often government employees and so not independent. Emergency plans are incomplete - for example, there is no plan of action in the event of sexualised violence in the accommodation. The minimum standards of the federal initiative are not specified. The implementation of monitoring remains unclear and without responsibilities.³¹ The Bavarian Refugee Council therefore rates the policy as vague and clearly insuffi-*

29 UNICEF and DIMR. 2020. Summary: Zusammenfassung: Gewaltschutz in Unterkünften für geflüchtete Menschen. Eine kinderrechtliche Analyse von UNICEF Deutschland und dem Deutschen Institut für Menschenrechte (DIMR) basierend auf einer Befragung der 16 Bundesländern, 3 https://www.gewaltschutz-gu.de/fileadmin/user_upload/PDFs/i0051-studie-text-data.pdf

30 Bavarian State Parliament. 2020. Inquiry http://www1.bayern.landtag.de/www/ElanTextAblage_WP18/Drucksachen/Schriftliche%20Anfragen/18_0012315.pdf

31 Bayerisches Schutzkonzept der Unterbringungsverwaltung zur Prävention von Gewalt: Handlungsgrundsätze und Maßnahmen. https://www.gewaltschutz-gu.de/fileadmin/user_upload/PDFs/2020-08-26_bayerisches_gewaltschutzkonzept_asylunterkuenfte.pdf

32 Bavarian Refugee Council. 2019. https://archiv.fluechtlingsrat-bayern.de/tl_files/We%20talk/Bericht%20Podiumsdiskussion.pdf and position paper on protection against violence for women. 2019. https://www.fluechtlingsrat-bayern.de/wp-content/uploads/2019/11/Positionspapier_Gewaltschutz.pdf

cient.³² The evaluation of an online survey by the Munich Action Alliance for Refugee Women, an association of about 20 social organisations, also showed that there were inadequate or non-existent plans for protection against violence. The majority of the accommodation centres surveyed had neither women's officers nor a complaints management system.³³

The example of Saxony-Anhalt: The "Guide to the Protection of Women and Children from Violence in Initial Reception Facilities in Saxony-Anhalt", published by the state government in 2018,³⁴ specifies framework conditions that are only binding for the state reception facilities (LAE) and the state administration authority. The guideline is intended to serve as a model for accommodation in the municipalities, but there are no binding requirements. Many municipalities and independent cities limit themselves to brief sketches, often with reference to cost reasons, or completely forego specifications on the protection against violence when awarding contracts for the operation of accommodation centres. In practice, the Refugee Council of Saxony-Anhalt observes, even existing arrangements are often not implemented.

A central complaints office does exist in Saxony-Anhalt. However, it does not specialise in the topic of protection against violence and is affiliated with the Ministry of the Interior and Sport. In the experience of the Refugee Council, the complaints management for the area of protection against violence is not functional in the facilities. Refugees often do not turn to the official complaints office of Saxony-Anhalt for fear that a complaint could negatively influence their asylum procedure or their residence permit.³⁵

The example of Lower Saxony: It has had a violence protection policy for the state's reception facilities since the end of 2015, which is comprehensive and in many areas very close to the minimum standards of the BMFSFJ and UNICEF. Some weak points remain - such as the fact that shared rooms for up to 10 people are still possible. In the practice of municipal accommodation, it can be seen that in some cases the buildings are unsuitable for gender-sensitive accommodation and gender-specific protection, there are savings on staff and training and awareness-raising opportunities for staff are lacking. House rules in the accommodation centres sometimes deeply interfere with the privacy of the residents and are at least questionable from a human rights perspective.³⁶ Furthermore, there is a lack of com-

plaints offices as provided for in the minimum standards. For the municipalities, the state's violence protection policy remains non-binding: although the state suggested that they use it, the municipal umbrella organisations rejected a voluntary commitment in a discussion with the Refugee Council. Individual municipalities have developed their own approaches. Overall, the Refugee Council of Lower Saxony is aware of very few municipal violence protection policies.

Monitoring, evaluation and further development of standards

Effective implementation of protection against violence for refugee women in accordance with the Istanbul Convention includes not only policies but also their implementation in practice, regular evaluation, necessary corrections and further development. In our survey, a glaring deficiency becomes apparent at this point.

"There are violence protection policies and a violence protection coordinator, but there is no systematic implementation. Internally, the work of violence protection coordinators is made more difficult, e.g. due to conflicts of interest (provider, state directorate)" (therapy facility, Saxony).

"The advisors have protection policies but this has little influence on the accommodation centre (social counselling centre for refugees, Bavaria).

"On paper it should be like that, but we often hear other things from our clients" (therapy centre, Rhineland-Palatinate).

"Very dependent on the organisation sponsoring it (...) In addition, staff turnover is often very high, especially in refugee accommodation centres, which makes consistent attention to the issue difficult.

We experience that due to the high workload in such centres, decisions are often made over the heads of the people concerned, e.g. when it comes to reporting people to the police / separation / taking into custody / expulsion etc." (psychosocial counselling for refugee women, Baden-Württemberg).

A regular review of policies and their application could prevent practice from failing to live up to theory – for whatever reason. However, UNICEF's and DIMR's analysis of 2020 shows that there has been neither systematic monitoring nor evaluation processes in the federal states so far.

33 Münchner Aktionsbündnis für geflüchtete Frauen. 2020. Gewaltschutz in Unterkünften: Auswertung der Erhebung zur Lebenssituation von geflüchteten Frauen in Bezug auf Schutzstandards in bayerischen Unterkünften und Ankerzentren. <https://www.condrobs.de/aktuelles/offener-brief-muenchner-aktionsbuenndnis-fuer-gefluechtete-frauen>

34 Leitfaden zum Schutz von Frauen und Kindern vor Gewalt in Erstaufnahmeeinrichtungen des Landes Sachsen-Anhalt. 2018. https://mi.sachsen-anhalt.de/fileadmin/Bibliothek/Politik_und_Verwaltung/MI/MI/1_Ministerium/Pressereferat/Leitfaden_zum_Schutz_von_Frauen_und_Kinder_vor_Gewalt_in_Erstaufnahmeeinrichtungen_des_Landes_Sachsen-Anhalt_09_05_18.pdf

35 Flüchtlingsrat Sachsen-Anhalt. 2020. Stellungnahme zum Stand des Gewaltschutzes in Gemeinschaftsunterkünften in Sachsen-Anhalt. <https://www.fluechtlingsrat-lsa.de/2020/06/stellungnahme-zum-stand-des-gewaltschutzes-in-gemeinschaftsunterkueften-in-sachsen-anhalt/?highlight=gewaltschutz>

36 On the subject of the illegality of house rules, see e.g.: <https://www.aktion-bleiberecht.de/blog/wp-content/uploads/2020/09/Rechtsgutachten-Hausordnung-LEA-FR-final.pdf>; Or: https://www.institut-fuer-menschenrechte.de/fileadmin/Redaktion/Publikationen/Analyse_Studie/Analyse_Hausordnungen_menschenrechtskonform_gestalten.pdf

In the *State Report*, the Federal Government refers to the fact that the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth has been funding a project on monitoring and evaluating protection policies in refugee accommodation since 2019. This project is developing an online monitoring tool for voluntary self-evaluation, which will be available free of charge to refugee accommodation operators and sponsoring organisations from 2021. The developer is the German Centre for Integration and Migration Research (DeZIM). In 2021-2022, the Violence Protection Monitor is to be made available to interested state authorities for refugee accommodation centres; in addition, further evaluations on specific aspects of violence protection are to be carried out.³⁷

The online tool, which was presented to the public as a prototype in December 2020, appears to be a valid content-based approach for monitoring and self-monitoring. It may be a valuable aid for committed and motivated actors on the ground. However, it will hardly be able to guarantee a comprehensive inspection of facilities with regard to their safety for refugee women, as there is a lack of commitment

in this area as well. Even the best voluntary monitoring and evaluation instrument on offer can only be as good as the voluntary cooperation of the responsible actors in the Länder and municipalities.

It should be borne in mind that checking on the protection against violence must not take place exclusively “behind closed doors”.

In Saxony-Anhalt, for example, monitoring of refugee accommodation only takes place internally in the Ministry of the Interior and Sport, and the result is not published. Concrete problems are in danger of remaining unaddressed. This makes it difficult for the critical public and non-governmental organisations such as the Refugee Council to analyse cases across the board and they are not able to contribute to dealing with problematic situations.

In many cases, there is a lack of both internal and external evaluation. The policies also lack participatory elements, i.e. the inclusion of the views of the people accommodated there.

RECOMMENDATIONS In Germany’s federal system the implementation of violence protection policies depends on the political will of the actors (state, municipality, operators of facilities). Practical experience shows that violence in accommodation centres is a current problem. Despite exemplary initiatives, many centres lack a binding implementation of violence protection. There is no effective checking and monitoring of violence protection by the federal and state governments. As long as collective accommodation for refugees exists, comparable, binding and functioning standards of protection against violence are needed in all of them. We recommend:

- ❖ The legal mandate of the federal states to ensure the protection of women, among others, when providing accommodation (§44(2a) Asylum Act and §53(3) Asylum Act) must be changed into a legally binding obligation (implementation provision).
- ❖ The federal must ensure that legally binding and effective protection policies are in place for all refugee accommodation - regardless of the provider - and that these are also included in the operator contracts.
- ❖ To ensure a minimum level of quality, the minimum standards of the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth should be binding for all facilities.
- ❖ The federal states must ensure that they receive reliable information about the situation of protection against violence in all accommodation centres in the country and that the implementation and effectiveness of protection policies is regularly reviewed externally and internally.
- ❖ For consistent enforcement of measures to protect against violence, the federal government and the federal states must provide sufficient staff capacity and appropriate financial resources.

37 Dezim Institute. 2020. Projekt: Monitoring und Evaluierung eines Schutzkonzeptes für geflüchtete Menschen in Flüchtlingsunterkünften. <https://www.dezim-institut.de/das-dezim-institut/abteilung-konsens-kon->

[flikt/drittmittelprojekt-monitoring-und-evaluierung-eines-schutzkonzeptes-fuer-gefluechtete-menschen-in-fluechtlingsunterkuenften/](https://www.dezim-institut.de/das-dezim-institut/abteilung-konsens-kon-flikt/drittmittelprojekt-monitoring-und-evaluierung-eines-schutzkonzeptes-fuer-gefluechtete-menschen-in-fluechtlingsunterkuenften/)

2. GENDER-SPECIFIC RECEPTION AND ASYLUM PROCEDURES

In the Istanbul Convention, the signatory states explicitly commit themselves to refugee protection as guaranteed above all in the Geneva Refugee Convention. According to Articles 60(1) and (2) of the IC, violence against women based on gender is to be recognised both as a form of persecution within the meaning of the Geneva Refugee Convention and as a form of serious harm, giving rise to complementary or subsidiary protection. Article 68(3) IC calls for gender-sensitive reception procedures and assistance services, on the one hand, and gender-sensitive asylum procedures, on the other. The aim is to ensure that women affected by violence are informed about their options and rights, that gender-specific reasons for persecution are recognised and that appropriate rights are made accessible. In its comments on gender-sensitive asylum procedures, the Council of Europe lists concrete requirements, including providing women with information on the asylum procedure, the possibility of a personal, one-on-one interview and the option of choosing the gender of the interpreter or interviewer.³⁸

Article 60 IC – Gender-based asylum claims

- (1) Parties shall take the necessary legislative or other measures to ensure that gender-based violence against women may be recognised as a form of persecution within the meaning of Article 1(A)(2) of the 1951 Convention relating to the Status of Refugees and as a form of serious harm giving rise to complementary/subsidiary protection.
- (2) Parties shall ensure that a gender-sensitive interpretation is given to each of the Convention grounds and that where it is established that the persecution feared is for one or more of these grounds, applicants shall be granted refugee status according to the applicable relevant conventions.
- (3) Parties shall take the necessary legislative or other measures to develop gender-sensitive reception procedures and support services for asylum-seekers as well as gender guidelines and gender-sensitive asylum procedures, including refugee status determination and application for international protection.

In Article 61 (1) and (2), the States Parties once again expressly acknowledge the principle of **non-refoulement under** international law and reaffirm it with regard to women refugees.

Article 61 – Non-refoulement

- (1) Parties shall take the necessary legislative or other measures to respect the principle of non-refoulement in accordance with existing obligations under international law.
- (2) Parties shall take the necessary legislative or other measures to ensure that victims of violence against women who are in need of protection, regardless of their status or residence, shall not under any circumstances be returned to a State where their lives would be at risk or where they might be subjected to torture or inhuman or degrading treatment or punishment.

With regard to these commitments, the following questions now arise: (How) Are women in need of protection identified? (How) Are they informed and advised regarding the asylum procedure? How is it ensured that refugee women and girls who have experienced violence receive an appropriate and sensitive asylum assessment? Do those in need of protection eventually receive the protection status to which they are entitled?

³⁸ Cf. Council of Europe. Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence and Explanatory Report 2011. note 317. p.109. Istanbul. <https://rm.coe.int/1680462535>

a) IDENTIFYING SPECIAL PROTECTION NEEDS IN THE INITIAL RECEPTION CENTRE

In order to provide refugee women who have experienced or are threatened by violence with access to refugee protection, information, care and support, it is first necessary to recognise the threat or experience of violence. In this regard, the Federal Government refers in its State Report to the validity and implementation of the EU Reception Conditions Directive (2013/33/EU). The facilities of the federal Länder (initial reception facilities) are meant to identify vulnerable persons in accordance with Art. 22 of the EU Reception Conditions Directive and ensure that their concerns are taken into account. This also includes “that these facilities inform the Federal Office for Migrants and Refugees (BAMF), insofar as their findings are relevant for the hearing in the asylum procedure” (*State Report* p. 69). It is already evident from the statements of the federal states in the annex to the State Report that there are no uniform policies and standards agreed by the federal states for identifying persons in need of protection.

The example of Bavaria: *Here there is no method for identification so far.³⁹ Since the end of 2020, the identification of persons in particular need of protection and the obligation from Art. 22 of the Reception Conditions Directive 2013/33/EU has been assigned to the accommodation administration. Administrative staff have no corresponding qualification for this sensitive task. Further training is not included in the Bavarian protection policy. Nor is it explained what measures follow the “task of identifying and recording” a special need for protection.⁴⁰*

The example of Brandenburg: *During the registration process in the initial reception centre, an attempt is made here to clarify the need for protection by means of a 1.5-page form on which people can tick off if they have been “victims of torture, rape or other serious forms of psychological, physical or sexual violence”.⁴¹ Such a procedure does not meet the psychological standards for initial care of refugees⁴² due to the fact that it deals with very personal and often shameful issues. Moreover, some of the women who have fled are not literate and therefore cannot be reached with a written document. In its explanations on the Istanbul Convention, the Council of Europe explicitly points out the need to maintain confidentiality,⁴³ which cannot be achieved through the procedure in Brandenburg.*

Some more positive examples can be found in Lower Saxony, where the advantages and disadvantages of the structures are⁴⁴ explained in the study by the Federal Association of Psychosocial Centres for Refugees and Torture Victims (BAfF e.V.).

Based on practical experience, many of the experts we interviewed made it clear that systematic identification does not take place, at least no results are known. The unanimous opinion of the advisers was that the number of undetected cases is very high and that many women who come to the advisory centres talk about their experiences of violence for the first time. It becomes clear that these have not played a role in the reception process so far, let alone been given special consideration.

“We are not aware of any uniform procedures within the reception and asylum procedure” (therapy facility, Baden-Württemberg).

“There is no systematic identification, especially not in the initial reception facilities [...] [The] number or [the] proportion is not known to us; however, the serious individual cases later on make it clear that no systematic identification can have taken place” (therapy facility, North Rhine-Westphalia).

“Only women who explicitly tell the staff about their experiences of violence or who may be psychologically conspicuous are recognised. Especially if the perpetrator also enters the country, the number of undetected women in need of protection (women affected by violence) is very high” (advisory centre for refugees, Brandenburg).

“However, since [women with experience of violence] are not screened for their experience of violence and need for support on the part of state government employees (e.g. state social workers), their special need for protection usually remains unidentified. There is also no particular need to identify this experience, as it is repeatedly emphasised that only emergency mental/psychiatric care⁴⁵ is provided in the initial reception situation, and only after allocation can concrete work be done on mental impairments” (Refugee Council of Hesse).

39 BAfF. 2020. Identifizierung besonderer Schutzbedürftigkeit am Beispiel von Personen mit Traumafolgestörungen, 24ff. http://www.baff-zentren.org/wp-content/uploads/2020/11/BAfF_Reader_Identifizierung.pdf

40 Bavarian State Ministry of the Interior, for Sport and Integration. Bayerisches Schutzkonzept der Unterbringungsverwaltung zur Prävention von Gewalt: Handlungsgrundsätze und Maßnahmen, 6 https://www.gewaltschutz-gu.de/fileadmin/user_upload/PDFs/2020-08-26_bayerisches_gewaltschutzkonzept_asylunterkünfte.pdf

41 https://www.kooperation-für-flüchtlinge-in-brandenburg.de/wp-content/uploads/2020/02/Ersterfassungsbogen.relevantePassagen._englisch-002.pdf

42 Demir, Serifaz. 2015. Beratung nach Flucht und Migration. Ein Handbuch zur psychologischen Erstbetreuung von Geflüchteten. Hg. Ricarda Mewes und Hanna Reich. WeltTrends: Potsdam.

43 Explanatory Report to the Council of Europe Convention on preventing and combating violence against women and domestic violence: Istanbul 2011. Note 317. <https://rm.coe.int/16800d383a>

44 BAfF. 2020. Identifizierung besonderer Schutzbedürftigkeit am Beispiel von Personen mit Traumafolgestörungen, 24ff. http://www.baff-zentren.org/wp-content/uploads/2020/11/BAfF_Reader_Identifizierung.pdf

45 For more on the lack of health care, see chapter 3.

The BAfF e. V. also comes to the same conclusion.⁴⁶ Despite the legal requirements, there is no comparable identification procedure nationwide with a claim to special procedural guarantees. The lack of identification by the federal state authorities means that facts relevant to asylum are not passed on and hence are not taken into account in the decisions of the BAMF. Women are denied protection under asylum law and there is a risk of refoulement. Another consequence of non-identification is that the women concerned do not receive appropriate psychosocial and medical care and are not connected to support structures.

Another complicating factor is that non-governmental services do not have opportunities everywhere to compensate for deficits on the ground. This is because access to advice and counselling, especially for initial reception by relevantly qualified, independent organisations in state-run accommodation centres, may be severely restricted – again, depending on the federal state.

The example of Bavaria: *The State Report lists offers and counselling by independent organisations for Bavaria, namely SOLWODI and Jadwiga. In fact, however, such services are only available to a limited extent. Especially in ANKER institutions in Bavaria, access for non-governmental organisations is severely limited. For example, the advice bus of Amnesty International and the Munich Refugee Council was suddenly denied access after years of advisory service.*⁴⁷

If the authorities do not recognize the need for protection, individual counselling and other necessary measures, such as health care, are not provided. In the worst case, the problems are even exacerbated, e.g. by inappropriate accommodation:

“Municipalities were not informed in advance with regard to special protection needs, they again place the persons concerned in collective accommodation without further support; sometimes women with special experience of violence and protection needs are accommodated alone (!) in a room of a hotel where only men are accommodated on the same floor” (therapy facility, North Rhine-Westphalia).

The subsequent identification of victims of gender-based violence in the municipal collective accommodation centres depends, among other things, on the commitment and possibilities of the staff there:

“Usually [gender-based violence is recognised] yes, depending on how committed the team is in the transitional hostel. However, since the supervision ratio is very low, this cannot always be done fully for every person. It also depends on the independence of the person concerned and whether they are willing or able to cooperate” (specialist advisory centre, Bremen)

RECOMMENDATIONS In the practice of initial reception, there are no systematic, uniform detection procedures for vulnerability. The methods used regionally are not transparent and the results are not reliable. Therefore, a high number of undetected vulnerable persons may be assumed. As a result, the care of particularly vulnerable women is not guaranteed across the board. We recommend:

- ❖ **The nationwide introduction of a transparent identification procedure by specially trained personnel is necessary. Women in particular need of protection and those affected or threatened by violence must be identified. Access to professional, independent advice and support must be opened up.**
- ❖ **Identifying a need for protection must be followed by providing appropriate care, also by independent specialist advice centres. In addition, there must be a right to appropriate guarantees in the asylum procedure (e.g. use of special representatives, access to medical specialists).**

46 BAfF. 2020. Identifizierung besonderer Schutzbedürftigkeit am Beispiel von Personen mit Traumafolgestörungen. Status quo in den Bundesländern, Modelle und Herausforderungen, 58 <http://www.baff-zentren.org/produkt/identifizierung-besonderer-schutzbeduerftigkeit/>

47 <http://muenchner-fluechtlingsrat.de/unsere-politische-arbeit/aktuelle-themen/zugang-zu-rechtsberatung/>

b) STATE-RUN ASYLUM PROCEDURE ADVISORY SERVICES

The research has established that refugee women lack a protective space and in many cases do not feel sufficiently (well) informed about their gender-specific rights in the proceedings.⁴⁸ Since violence, especially domestic or sexual violence, is a highly shameful topic, it requires a relationship of trust and encouragement for those affected. Some things are repressed, others are so traumatic that they cannot be talked about (soon afterwards). Misinformation may also prevent women from speaking up about the facts.

“Women affected by violence often do not initially report sexual violence in the proceedings, among other things out of shame or post-traumatic symptoms (e.g. avoidance, dissociation). Victims of domestic violence often do not report their experiences because they are afraid of losing their children” (therapy facility, Baden-Württemberg).

Welfare organisations and NGOs in Germany have been providing extensive advisory services for refugees for many years – mostly from their own funds, donations and project funds. The state-funded individual asylum procedure advice has only been legally established since 2019 – however, this in no way safeguards the long-standing work of civil society in this field. On this basis, the Federal Office for Migration and Refugees (BAMF) itself is gradually introducing “asylum procedure advice” in the initial reception centre as a two-stage procedure. First, asylum seekers are to be informed about the process and content of the asylum procedure in group discussions before filing an application. In addition, individual advice sessions (second stage) are to be offered. According to the State Report, the asylum procedure adversary service “hereby contributes to the early identification of vulnerabilities”.⁴⁹

According to the Federal Government, the introduction of the asylum procedure advisory service was completed across the nation in November 2020. At all 44 locations, the procedure is carried out with “at least two” employees, but only at three locations are “regularly more than two” employees deployed.⁵⁰ In view of these capacities, it can be assumed that many refugees go to the asylum interview without the individual conversations offered in this context. The Federal Government has made it clear that there is no entitlement to this service.⁵¹

The BAMF’s advisory service has several serious weaknesses. A standardised information event by the BAMF is clearly to be welcomed as an official, mother-tongue explanation of the asylum procedure. However, the BAMF’s advisory service is no substitute for quality counselling for those seeking protection, especially vulnerable persons.

According to the BAMF, the advisory service takes on the task of “voluntary, independent, state advice on the asylum procedure”.⁵² However, it is the decision-making authority itself that is giving advice. This means that the advice is not independent, even if the advisory and decision-making areas are organisationally separate within the BAMF. The establishment of trust, which is necessary for the disclosure of sensitive personal information, is naturally more difficult for those affected if their own future is dependent on the state contact point to which they are supposed to disclose themselves. To make matters worse, previous negative experiences with authorities in their countries of origin can cause reservations and mistrust on the part of those seeking protection. Truly independent advisory institutions have better access here from the outset and often find that they are the first to which women affected by violence open up.

“As a psychosocial counselling centre for refugees, we have the impression that about 15 % of the women who come to us are talking about experiences of violence for the first time, i.e. they have not been identified before; we think that this has to do with the appreciative atmosphere and the time we devote to the clients (therapy facility, Saxony).

In addition, there is a clear restriction in terms of content: although the BAMF is prepared to explain the asylum decisions to the persons concerned, it explicitly does not provide advice in the sense that the chances of an individual procedure or options for legal action are discussed on a partisan basis and advice is given on legal recourse. Nor do BAMF employees accompany asylum seekers to hearings or arrange for legal assistance - and this could probably not be done by public servants involved in the proceedings.

The shortcomings of state-run advisory services are therefore obvious and continue to make truly independent, partial legal advice necessary. Whether and how the Federal Government and the Länder want to (continue to) guarantee the advisory services not covered by the BAMF

48 There were several complaints about this in participatory conversations that Johanna Elle and Katrin Hille 207/2018 conducted with refugee women. See <https://www.frauen-gegen-gewalt.de/de/broschueren-und-buecher/brosch%C3%BCre-wir-wollen-sicherheit.html>

49 Ibid.

50 Answer by the Federal Government to the question of the Linke party, Bundestag document 19/24098 of 16.12.2020, 3.

51 “The corresponding amendment to Section 12a of the Asylum Act 2019 does not establish a subjective public entitlement to the granting of access to AVB and is not a mandatory component of the asylum procedure.” This is how the Federal Government answers a question on independent asylum procedure advice. Bundestag document 19/19535 of 26.5.2020, 7

52 <https://www.bamf.de/DE/Themen/Asyl/Fluechtlingsschutz/AVB/avb-node.html>

in the long term, on the other hand, is an open question. The federal budget for 2020 and 2021 does not contain any funds for independent advice on the asylum procedure. The associations had estimated a need of about EUR 30 million annually. A projected financing of comprehensive asylum procedure advisory services, such as various NGOs had already provided for years, for example through the EU's AMIF fund, is ruled out due to the risk of overlapping with the BAMF advisory service. Most of the federal states are still maintaining their funding or support for individual advice on the asylum procedure by welfare associations and independent organisations – but this is not assured for the future. There is a danger that structures of independent advice on the asylum procedure that have been tried and tested for years will have to be cut back or discontinued in view of the now existing - incomplete – state-run advisory service structure.

In addition, the time factor should be mentioned with regard to asylum procedure advice. In principle, speedy asylum procedures are to be welcomed so that refugees receive clarity about their prospects of gaining legal residence. At the same time, women affected by violence often need some time to gain trust and to be able to disclose traumatising events. In contrast to other European countries, such as the Netherlands or Switzerland, there is no rest period in the German asylum procedure before the hearing, which could be used e.g. for reflection, getting advice or finding a lawyer. The importance of such “deceleration phases”,⁵³ especially before the asylum interview has been explicitly pointed out by the expert Prof. Dr. Uwe Berlit, among others.

RECOMMENDATIONS The current state-run asylum procedure advice is not suited to encouraging women to recount their experiences of violence in the hearing. Nor is there any proactive, systematic screening or recognition of violence at the beginning of “processing the case” at the Federal Office. It is likely that a relevant proportion of women in need of protection are not recognised as such and that gender-specific reasons for fleeing do not find their way into the asylum procedure. We recommend:

- ❖ The Federal Office for Migration and Refugees (BAMF) should remain obliged to provide all applicants with general explanations of the procedure. In addition, there must be individual, independent procedural advice given by welfare organisations or NGOs before the asylum hearing and for the whole of the remaining asylum procedure. The federal and state governments must ensure that this is provided throughout the country and that it is financed on a permanent basis, both in the initial reception centres and in the municipalities.
- ❖ If it turns out in the individual procedural advice session that a woman needs a longer preparation time to obtain evidence or to prepare emotionally for the hearing, the BAMF must take this into account when allocating appointments.

⁵³ Minutes of the 51st meeting of the committee on internal affairs, 6 May 2019, 18. <https://www.bundestag.de/resource/blob/653298/fe4c464966b5b-dee9cdbcaf4af4ac135/Protokoll-06-05-2019-14-00-data.pdf>

c) GENDER-SENSITIVE CONSULTATION

In the context of gender-sensitive asylum procedures, the State Report refers to the BAMF's Special Representatives, who are involved in handling cases "when they are aware" of gender-specific persecution. It also speaks of the use of female interpreters, to guidelines and instructions for staff on the hearing and legal assessment of gender-specific human rights violations. Finally, it mentions training courses on "anti-discrimination and awareness-raising on diversity".⁵⁴ In practice, however, there are still considerable hurdles that sometimes lead to gender-specific reasons for fleeing not being presented, identified and so ultimately not recognised as grounds for asylum.

Special representatives and female interviewers

The State Report of the Federal Government says that, depending on the needs of the asylum applicants, it has recourse to special representatives for unaccompanied minors, for gender-specific persecution, for victims of torture and trauma or for victims of human trafficking. In fact, in the interview, the core of the asylum procedure, a trained "special representative for gender-specific persecution" can be called in as the interviewer at the hearing.

However, this presupposes an application to this effect by the person concerned (or information from the federal state). In the advisory centres, victims of gender-specific persecution repeatedly state that they did not know about the possibility of a special representative before the hearing. Moreover, refugee women are not entitled to a hearing by a special representative, but only to a female interviewer – this also presupposes that the women are informed and come forward themselves. An application for a hearing by a special representative can be rejected both for reasons of content and simply due to a lack of staff. Practical experience suggests that not enough special representatives are available, or that they are not available everywhere. The persons concerned do not always know until the time of the hearing whether their request has been granted.

"In some cases, the special representatives for gender-specific persecution are involved as well as female interpreters, but not systematically and it happens again and again that female interpreters or special representatives are refused or not summoned" (counselling Centre, Brandenburg).

"The possibility to call in a special representative or female interpreter exists; however, this must be firmly demanded and is not a matter of course (therapy facility, Saxony).

"There is also always a need for advice and communication from third parties with the BAMF in order to assert the rights of those in particular need of protection (e.g. gender of the hearing officer, interpreter or special representative as the hearing officer, or the organisation of the day of the hearing, e.g. if the appointment takes place very early and this is not feasible for a pregnant woman) (counselling centre for refugee women, Baden-Württemberg).

If gender-specific grounds for asylum are presented in the hearing, the special representatives must be involved in the procedure according to the BAMF guidelines⁵⁵ – not necessarily as hearers or decision-makers, but only in the preparation or review of the decision. This is also not explicitly stated in the notification of the decision for the persons concerned.

For those concerned, who merely make a request, the procedure for the participation of "special representatives" remains intransparent due to all these circumstances and appears to be hard to influence.

There is no official information on the number of cases in which special officers are deployed or called in. The BAMF's service instructions, which are supposed to contain guidelines on how to proceed in the case of certain acts of violence such as female genital mutilation or human trafficking, are not public. Hence it is also not clear to what extent the BAMF follows up on indications of violence. It would make sense to involve a special representative, for example, if the questioning about the journey – which precedes the hearing – reveals that a woman had to flee via Libya. The conditions for refugees in Libya are well known and the probability that a woman has suffered sexual violence at the hands of the militia there is extremely high.⁵⁶ The involvement of a special representative is therefore more than obvious.

The BAMF explains that the special representatives are decision-makers who are selected on the basis of their personal suitability and undergo multi-stage training procedures and professional development before they are appointed to this function – for a limited period of time. The advice centres are positive to some extent, but they

⁵⁴ BMFSFJ. GREVIO - Erster Staatenbericht der Bundesrepublik Deutschland, 2020, 68. <https://www.bmfsfj.de/resource/blob/160138/6ba3694cae22e5c9a6645f7d743d585/grevio-staatenbericht-2020-data.pdf>

⁵⁵ DA Asyl - Dienstabweisung Asylverfahren - Sonderbeauftragte des BAMF, status 12/2018, 1f.

⁵⁶ There are now many reports on this, e.g. the current WDR radio report "Refugee in Libya - from the search for help and helpless helpers" from 8.5.2021, in which women also speak up: <https://www1.wdr.de/mediathek/audio/wdr5/wdr5-dok5-das-feature/audio-fluechtling-in-libyen---von-der-suche-nach-hilfe-und-hilflosen-helfern-100.html>

also point out that the use of special representatives does not guarantee a gender-sensitive procedure:

“Sometimes the special representatives are male, e.g. for female victims of human trafficking, which is inappropriate. If decision-makers are sensitive and trained, help and support is offered directly to those in need of protection (moving to a women’s refuge, flyers, reporting to the police). However, we often experience that they do not react at all to the need for protection” (advice centre, Schleswig-Holstein).

“Sometimes positive in the sense of ‘sensitive’, often not trained at all and insensitive. Expert opinions are not obtained first or are interpreted from a cultural perspective” (advice centre, Berlin).

“Partly positive: the special interviewer gives the interviewees the names of advice/counselling centres. Pauses and calm enquiries are possible. However, in some cases [there is] no special consideration on the part of the special interviewers: violent incidents have to be explicitly described, there is little cautious questioning/understanding of memory gaps, even if the women are traumatised” (therapy facility, Bavaria).

Interpreters

Whether a woman who has experienced violence can open up in confidence during the hearing also depends on the quality of the communication with the interpreter and the trust in this person. This aspect should not be underestimated. The explanatory notes to the Istanbul Convention therefore also mention the freedom to choose the gender of the interpreter as a criterion for gender-sensitive asylum procedures.

According to the BAMF, the asylum-seeking woman’s wishes regarding the gender of the interpreter should be taken into account “as far as possible”. The staff of the authorities should follow “explicitly expressed wishes as far as possible”, “insofar as these are actually based on the persecution experience”.⁵⁷ This regulation opens up room for manoeuvre, which in practice means that women are not interviewed by women as a matter of course.

“Women who have women-specific reasons for fleeing have the right to be heard by a female interviewer and a female interpreter. In practice, however, even after expressing this wish, this repeatedly fails because there is no female interviewer or interpreter available (asylum procedure advice centre, Hesse).*

Women affected by violence usually need female interpreters and those who make them feel well understood. Interpreters must have a culturally sensitive vocabulary, and speak impartially and without bias even about sensitive issues and refrain from any personal interference. Unfortunately, problems arise again and again in practice.

“Some women, however, fear that interpreters will not respect the confidentiality of the community and prefer to conduct the advice session in English or German. Unfortunately, we have already had cases of interpreters refusing to translate experiences of violence (in the asylum hearing) (educational institution, Lower Saxony).

The question of the qualification and professionalism of the interpreters at the hearing is therefore of great importance. The Federal Office is responsible for using only competent and trained persons and paying them appropriately. The freedom of choice with regard to gender must be implemented more effectively and problem reports must be taken more seriously.

Presence of family members

According to information from some advice centres, it sometimes happens that the children and/or the husband are present at a woman’s hearing. It is obvious that women in such a situation can be inhibited when it comes to describing experiences of violence in the required clarity. This is even more true with regard to the husband if he is part of an oppressive family or social structure or even a perpetrator of violence.

In its explanatory notes to the Istanbul Convention, the Council of Europe calls for the possibility of a personal individual interview. However, as the example of the Special Representative shows, actively requesting an individual interview can be difficult for the women concerned. In order for gender-based violence to be discussed in the asylum hearing, a private individual interview should be standard for women seeking asylum, and not only if the women insist on it in advance - without family members, but including the assurance of confidentiality. Since women are often assigned family responsibility for the children and children are not always in good hands in the initial reception centre, childcare is also needed for the time of the hearing.

⁵⁷ BAMF, DA-Asyl. Dienstabweisung Sonderbeauftragte, status 12/2018, 7.

Addressing women-specific violence in the hearing

It is widely known in professional circles that information gaps and shame barriers are problems.

“Many women open up in the counselling situation at the independent advice centre or to volunteers in the initial reception centre. Others, however, first have to be specifically addressed about gender-specific violence they have suffered before what they have experienced comes to light” (Refugee Council, Hesse).

The BAMF is also well aware that many women do not know that they can claim circumcision as a ground for asylum. For this reason, and for reasons of preventive protection of minors, the interviewers are required to address this topic proactively in the interview.⁵⁸ The term “circumcision” should be used in a culturally sensitive way to inform and warn them that this is a punishable act in Germany – women are therefore explicitly given the opportunity to state that they are affected.

However, this welcome proactive approach only applies to women from certain countries of origin with a high prevalence of FGM/C and not in the same way to women from countries of origin classified as safe. Although the latter may also be made aware of FGM/C, they do not have to be. Women, for example, from the supposedly “safe” countries of Senegal and Ghana, which themselves have a high prevalence of FGM/C according to the BAMF, continue to be subject to the fast-track procedures and need to proactively overcome the official assumption that they have no grounds for asylum.⁵⁹ Secondly, women lawyers complain that the BAMF’s instructions are not applied consistently enough in many cases.⁶⁰ Thirdly, the rule on addressing victims does not apply to other forms of gender-based violence, although the advantages for the identification of victims as well as the “education” of victims, e.g. telling them that domestic violence is punishable, are just as obvious here as in the case of FGM/C.

The example of addressing the topic of FGM/C makes it clear that more can be done within the framework of the hearing to individually record gender-specific reasons for fleeing. Fast-track procedures for safe countries of origin are obviously not compatible with this requirement.

It would make sense to include questions about gender-specific violence as standard questions in the questionnaire for interviewing women. Possible questions could be:

“Were you discriminated against in your country of origin because you were a woman?”; “Were you affected by violence - including sexual violence – in your country of origin or when you fled?”; “Are women in your country of origin genitally circumcised?”

Credibility and obligations to provide evidence

In the asylum procedure, a persecution, threat or danger does not have to be proven, but must be made credible. It is an indication of the distrust that women still feel towards the authorities that the BAMF regularly demands proof in addition to credible evidence in cases of violence.

However, the women affected often lack knowledge, time, money and resources, support or access to qualified persons to make gender-based violence credible in the hearing through expert opinions or the like.

“Seriously traumatised women who have been victims of human trafficking/massive violence/rape etc. in the past are often doomed by the fact that they cannot present their case without contradictions in the asylum procedure. We know of many cases in Hesse, including current ones, in which the subsequent court proceedings, often years later, failed because no psychiatric reports/specialist medical opinions could be presented that could refute the accusation of untrustworthiness by explaining incomplete remembering as a classic consequence of a trauma disorder. Expert opinions are extremely expensive and usually have to be financed by the refugees themselves, experts are very difficult to find and waiting lists ... are endlessly long” (Refugee Council, Hesse).

In the case of genital circumcision, for example, the decision-makers are obliged to require proof even if the claim is credible. The underlying reason is that the type of circumcision is relevant for the granting of protection.⁶¹ In an open letter, lawyers have pointed out the difficulties in finding qualified experts who can make a classification on the basis of a gynaecological examination.⁶²

The obstacles to obtaining evidence have increased even more in recent years: With the Second Act on Better Enforcement of the Obligation to Leave the Country, stricter requirements for medical certificates came into force most recently in August 2019. The certificates of psychologist psychotherapists have been excluded for the assertion of health-based prohibitions of deportation – they must now be issued by a licensed psychiatrist. Moreover, the short deadlines set for women to provide

58 BAMF. 2018. DA-Asyl. Dienstanweisung Flüchtlingsschutz nach § 3 Abs.1 AsylG, status 8/2018, 11.

59 Ibid.

60 Ronte, Lena et al. 2021. Open letter to the Federal Minister for Family Affairs dated 7.3.2021. <https://www.proasyl.de/wp-content/uploads/Offener-Brief->

[zu-den-Pressemitteilungen-des-BMFSFJ-und-des-HMSI-zum-Internationalen-Tag-gegen-Genitalverstuemmelung-jeweils-vom-05.02.2021.pdf](https://www.proasyl.de/wp-content/uploads/Offener-Brief-zu-den-Pressemitteilungen-des-BMFSFJ-und-des-HMSI-zum-Internationalen-Tag-gegen-Genitalverstuemmelung-jeweils-vom-05.02.2021.pdf)

61 Ibid.

62 Ibid.

evidence at the hearing have made it much more difficult to obtain serious medical reports.

If women do not succeed in raising the gender-specific persecution they have experienced “in time”, i.e. at the hearing, due to the hurdles described above, they can submit a supplementary letter to the BAMF or – as a supplementary statement of reasons in the legal proceedings – to the court. However, they must then expect their sub-

mission to be regarded late or as an increased, procedurally adjusted submission. This has the consequence that their credibility is immediately called into question. The women thus find themselves in a situation in which they not “only” have to make the experience credible, but must first overcome the mistrust against them caused by the belated submission of the argument. The greater the trauma, the more difficult it will be to counter this mistrust.

RECOMMENDATIONS The overall view of the BAMF's measures for the gender-sensitive implementation of asylum procedures shows that the guidelines and measures are not sufficient [for the interviewer] to recognise and acknowledge experienced or threatened violence as having occurred while on the move or as a ground for asylum in the hearing. We recommend:

- ❖ In order to lower the barriers to naming gender-specific reasons for fleeing, female interviewers should be provided as a matter of course for all women. In order for women to be able to assert their right to choose the gender of the interviewer, they should be personally informed of this beforehand (e.g. directly when applying for asylum) and asked about their preference, as well as being given the opportunity to choose an interviewer of a certain gender.
- ❖ The same applies to female interpreters, who should be provided as a matter of course for women's asylum procedures. Asylum seekers should also have freedom of choice regarding the gender of the interpreter. Only accredited interpreters may be used in asylum procedures. They must be trained in gender sensitivity and gender-based violence as well as in cultural and trauma sensitivity. They must have a clear command of the spoken language or dialect and demonstrate a professional attitude with regard to neutrality and confidentiality. Complaints about translation problems during the asylum interview must be followed up immediately, and the interview must be continued with a new interpreter if necessary.
- ❖ All women must receive the same procedural guarantees for their protection in order to be able to exercise their individual right to asylum. The special arrangements for "safe countries of origin" cannot be reconciled with this; this construct must be abolished.
- ❖ Every case – without exception – must be actively examined by the authorities in the asylum procedure with regard to possible gender-specific grounds for asylum. This includes the BAMF giving the persons concerned clear indications of asylum-relevant circumstances within the framework of the procedural information. In the individual interview, possible gender-specific arguments for persecution should be part of the regular list of questions. Subsequent submissions must not be assessed to the detriment of the persons concerned.
- ❖ The hurdles introduced into the law in 2016 regarding the consideration of health-related obstacles to deportation should be withdrawn. This includes the re-admission of certificates from psychologist psychotherapists, dispensing with excessive requirements for certificates and taking their submission seriously at any point in the asylum or aliens law procedure.

d) RECOGNITION OF GENDER-SPECIFIC GROUNDS FOR ASYLUM

A look at the main countries of origin of refugee women in Germany shows that these are primarily war and crisis zones where violence, terror and arbitrariness have existed for a long time and where unstable, patriarchal and sometimes authoritarian political conditions correlate with structural violence against women. In 2019, around 20,000 asylum-seeking women and girls came from Syria alone. They are followed, in terms of the number of female applicants, by Iraq, Nigeria, Afghanistan, Turkey, Iran, Eritrea and Somalia. The proportion of women recorded by the BAMF is between 44 % and 50 % for all of these main countries of origin except Turkey, and slightly above the average of 43 % in each case.⁶³

Knowledge of the conditions in the main countries of arrival suggests that the proportion of women who have experienced violence must be very high among the refugees: Somalia and Eritrea are among the countries with the highest rates of female genital mutilation (FGM/C) – in Eritrea the prevalence for FGM/C is over 80 %, in Somalia even over 98 %.⁶⁴ In hardly any other country in the world do women live more dangerously than in Afghanistan, where committed women's rights activists are threatened with death, girls and women are forcibly married and murdered, and rape victims are imprisoned for "immoral behaviour". In Nigeria, too, women are threatened with violence on a large scale: from genital circumcision, forced marriage as children, abduction as schoolgirls, rape by militias in the war zone to becoming victims of human trafficking and forced prostitution in Europe.

The proportion of cases in which women receive refugee protection on gender-specific grounds should therefore be high – but it is not. The Federal Office for Migration and Refugees (BAMF) points out that in 2019 around 2,400 people were recognised as refugees due to gender-specific persecution. This corresponds to 28.7% of the decisions in which the material requirements for refugee recognition (excluding those with family refugee protection) were established.⁶⁵ What sounds like a lot is, on closer inspection, merely a larger percentage of a smaller proportion of decisions in asylum procedures. Counting all the substantively examined applications, refugee protection on the grounds of gender-specific persecution was ultimately granted in only between 1 % and 6 % of cases in recent years.⁶⁶

Some of the women affected by gender-specific persecution receive at least subordinate protection: subsidiary protection or a national ban on deportation. Their number is not known - the BAMF has not yet published corresponding statistics, and women-specific grounds for fleeing are not recorded at this point. Another disadvantage for the women concerned is that subsidiary or complementary protection does not confer the same rights as refugee protection, for example in terms of family reunification. Accordingly, women with gender-specific grounds for persecution with subsidiary protection not only remain largely invisible in the (professional) public perception, but also experience discriminatory disadvantages compared to those with refugee protection.

Rejections

The total number of women who receive some form of protection based on gender-specific grounds is just as difficult to estimate due to a lack of data as the number of those who fall through the cracks of the asylum procedure altogether due to a lack of identification. Staff interviewed about the asylum procedures of their clients at the specialist counselling and refugee advice centres, and therapy facilities, overwhelmingly indicate that, in their experience, many women affected by violence do not receive protection in the asylum procedure:

"This depends on the country of origin, but almost all asylum applications on grounds of gender-specific persecution are rejected. ... Time and again, reference is made to the alternative of fleeing within the country and seeking support from the police in the country of origin. Women from Kenya, in particular, are denied the credibility of their accounts and they are therefore rejected on the grounds that their application is 'manifestly unfounded'" (counselling centre, Brandenburg).

"It depends on the gender-specific reasons for persecution and on nationality: homosexuality (often rejected), family violence in the home country, especially Nigeria (often rejected), forced prostitution in Europe (often rejected), danger of FGM, especially Nigeria, Ethiopia, Sierra Leone (often rejected)" (therapy centre, Bavaria).

63 The figures for 2020 have not yet been published, but they are likely to have limited significance due to the severely restricted travel routes as a result of the coronavirus pandemic in 2020.

64 [https://www.frauenrechte.de/unser-arbeit/themen/weibliche-genitalverstuemmelung-in-afrika/fgm-in-afrika/1427-eritrea](https://www.frauenrechte.de/unser-arbeit/themen/weibliche-genitalverstuemmelung/unser-engagement/aktivitaeten/genitalverstuemmelung-in-afrika/fgm-in-afrika/1427-eritrea); [https://www.frauenrechte.de/unser-arbeit/themen/weibliche-genitalverstuemmelung-in-afrika/fgm-in-afrika/1430-somalia](https://www.frauenrechte.de/unser-arbeit/themen/weibliche-genitalverstuemmelung/unser-engagement/aktivitaeten/genitalverstuemmelung-in-afrika/fgm-in-afrika/1430-somalia)

65 BAMF, 2020. Bundesamt in Zahlen, 2019, 59. <https://www.bamf.de/Shared->

[Docs/Anlagen/DE/Statistik/BundesamtZahlen/bundesamt-in-zahlen-2019.pdf?sessionid=3F2B85CAB609B113F3EF61CCEDFBE9FE.internet531?__blob=publicationFile&v=5](https://www.bundesamt.de/Shared-Content/DE/Statistik/BundesamtZahlen/bundesamt-in-zahlen-2019.pdf?sessionid=3F2B85CAB609B113F3EF61CCEDFBE9FE.internet531?__blob=publicationFile&v=5)

66 Notably in 2015-2018. Calculated were the shares of women granted refugee protection according to section 3 I AsylG due to gender-specific persecution in all decisions made by women over those three years. Source: Question by the Linke party, Bundestag document 19/10341 of 19.5.2019 – our own calculation. The figures for 2019 and 2020 have not yet been published.

Often individual stories about why women fled are not recognised as persecution on gender-specific grounds and credibility is doubted (as in the case of genital mutilation, victims of human trafficking)" (therapy facility, Baden-Württemberg).

"We know of many rejections in practice from our counselling; however, most of them reach us because there is an increased need for counselling" (therapy facility, Thuringia).

"Depending on the country of origin, here, as with all asylum applications, the classification of the country seems particularly relevant; if it has been classified as a "safe country of origin", it is almost impossible to get recognition, even on grounds of gender-specific persecution" (therapy facility, Baden-Württemberg).

"Particularly in the case of what are called safe countries of origin, there are not enough checks, and the rejection rates are very high" (advice centre, Lower Saxony).

"In my opinion, it depends on the country of origin: Eritrea / Somalia, the chances are good for girls born in Germany (especially with regard to FGM) - this also used to apply to Nigeria, but now it is almost no longer a reason for recognition – not at the BAMF anyway, if at all then at the administrative court" (asylum advice centre, Bavaria).

"In our counselling centre [there is a] very low recognition rate, they are hardly noticed, not considered sufficient or not credible." (specialist counselling centre, Berlin).

"Our impression is that more women who have been affected by violence are now being rejected. The reason given is that the women's stories are often similar and thus do not seem credible" (specialist advice centre, North Rhine-Westphalia).

"Gender-specific persecution is increasingly rarely seen as a reason for fleeing. This concerns women who have fled violence (in marriage, police violence in prison, etc.) and prostitution, and women who want to protect their daughters from circumcision. The decisions mostly refer to internal systems and possibilities of assistance" (specialist advice centre, Bavaria).

"The recognition rate is very low. There are many rejections. These are often justified by the fact that the material submission is considered to be untrustworthy. The characteristic "social group" is seen as not given or the BAMF/ Administrative Court assumes an apparently existing alternative of fleeing within the country" (specialist counselling centre, Baden-Württemberg).

Persecution as a social group

In fact, it has been explicitly enshrined in German refugee law for more than fifteen years that gender-specific reasons for fleeing can lead to refugee protection under the Geneva Refugee Convention. The connecting factor for refugee recognition on the basis of gender-specific persecution is membership of a particular social group.

Section 3b (1) no. 4 of the Asylum Act (AsylG) lists some criteria that may be decisive in the examination of the particular social group, but clarifies in the 2nd half-sentence: **"There may also be persecution on account of membership of a particular social group if it is linked solely to gender or gender identity"** (Section 3b (1) no. 4 AsylG, 2nd half-sentence).

This is regularly the case with women-specific persecution: it is linked solely to being a woman. Women experience gender-specific persecution - FGM/C, forced marriage, domestic violence and other types - precisely **because they are women** (or are perceived as such), i.e. because they belong to the particular social group of women.

However, this is precisely what is repeatedly misjudged in practice. For example, in cases of domestic violence, forced marriage, rape, honour killing or bride robbery, the BAMF states that gender alone is not sufficiently concrete to assume membership of a certain social group as a possible reason for persecution. The BAMF fails to recognise that these forms of violence are an expression of power relations in which women are discriminated against and persecuted because they are women, i.e. they are linked to gender as a reason for persecution and thus *ipso iure* constitute persecution on the basis of membership of a certain social group.

It is also repeatedly argued that further characteristics must be added in order to belong to a certain social group. In this context, the BAMF and the courts refer to the criteria for a social group as mentioned in section 3 (1) no. 4 a) and b) of the Asylum Act, such as a "distinguishable identity" or "otherness".

If these criteria are additionally applied to cases of gender-specific persecution of women, this leads to complicated, contradictory constructions, some of which are questionable under international law, and often results in the negation of the social group characteristic. The woman concerned is then denied recognition of women-specific persecution.⁶⁷

In the case of women affected by family violence, for example, it is often argued that the connecting factor "social group" is lacking because there is no definable identity or

⁶⁷ For more details, see: Giesler, Susanne / Hoffmeister, Sonja. 2019. Anerkennung frauenspezifischer Verfolgung. In: Informationsverbund Asyl und Migration e. V. (ed.), Asylmagazin 12/19.

otherness. It is not seen that persecution on the basis of “gender” alone is sufficient for the assumption of a social group and so for recognition.

Some of the BAMF assessments are corrected by the courts. In the case of forced marriages in Iraq, Afghanistan and Pakistan, among other countries, the courts generally affirm the “social group” criterion and grant refugee protection.⁶⁸

However, the misunderstanding of the criterion of gender-specific persecution (in the form of persecution on the basis of belonging to a certain social group) is also shown in some positive decisions in which the BAMF – but also many courts – reach the conclusion that the criterion is fulfilled and the woman can be granted asylum; they do so by themselves forming “sub-groups”, e.g. “the group of Somali women who fled a forced marriage” or “the group of unmarried women in Iran”.

More precise – and perhaps also legally more accurate – guidelines are likely to emerge from the BAMF’s country of origin guidelines. However, as these are classified information they are subject to secrecy, so that it is not possible for the public to monitor the BAMF’s knowledge and assessments of individual persecution on gender-specific grounds in certain countries of origin or situations.

Structural violence against women as a private matter

Furthermore, there are cases in which gender-specific persecution is still regularly classified as non-political and thus irrelevant to asylum.⁶⁹ In particular, domestic violence

still seems to be perceived in asylum decisions as a private problem within the family. In this context, refugee protection explicitly applies even if the perpetrator is not a state, provided that the state is not able or willing to provide protection. In cases of domestic violence that go hand in hand with a lack of state protection, case law seems to mostly – but not always – correct negative decisions by the BAMF.⁷⁰

“It depends on the country, but subjectively [I would say that there are] more rejections than recognitions, as the reason often given is that it is a matter of inner-family conflicts” (therapy facility, North Rhine-Westphalia).

“Domestic violence is often not recognised as a ground for asylum, difficult to justify” (therapy facility, Saxony).

Reason for excluding: the internal displacement alternative

Refugee recognition often fails in Germany not because persecution or the risk of persecution is denied, but because of “internal protection” (§3e AsylG). Women who are persecuted in a family context, for example, are often told that they could settle in another part of their country of origin and then enjoy protection from persecution. The prerequisite is that the woman can travel safely and legally to this part of the country, is accepted there and can reasonably be expected to live there.

RECOMMENDATIONS Gender-specific persecution does not lead to recognition in the asylum procedure to the extent that it exists. Women who have put forward persecution on gender-specific grounds are repeatedly rejected. In some cases, women are only granted subsidiary protection or a ban on deportation, which offers less protection and prospects. The Federal Office for Migration and Refugees in particular lacks valid data on this complex of issues. A violation of the non-refoulement principle through unjustified rejections in the asylum procedure cannot be ruled out. We recommend:

- ❖ The recognition practice of the BAMF and the courts must change with regard to the interpretation of the social group so that women can get their rights. Women are a group affected by discrimination and persecution solely because of their gender. This must be recognised and adopted in decision-making practice.
- ❖ The BAMF should collect and publish the type of reasons for persecution given, the gender indicated, the number of applications in which gender-specific persecution was indicated, as well as statistics on decisions in these cases (refugee protection, subsidiary protection, ban on deportation, rejection).

68 Ibid. 407.

69 Prof. Dr Marei Pelzer in Rüssmann, Ursula: Schutzgrund Geschlecht, Frankfurter Rundschau, 22.1.2021. <https://www.fr.de/politik/schutz-zweiter-klasse-90178182.html>

70 Giesler/Hoffmeister. 2019. Ibid., 408.

3. HEALTH CARE

In addition to immediate injuries, becoming a victim of gender-based violence can also have long-term negative consequences for women's psychosocial health. The health care of refugee women therefore plays an important role from the beginning of their stay. It is addressed in particular in Art. 20 of the Istanbul Convention, which deals with comprehensive assistance for recovery. Paragraph 2 provides that all those affected by gender-based violence have access to health services – in accordance with the target group of the IC regardless of their origin and residence status. Article 25 explicitly deals with the support of victims of sexual violence.

There are no statistics on the specific care for women or victims of violence. The *State Report* barely addresses the topic of health – in connection with an act of violence, it only says: "Many women need support in obtaining competent assistance, including help in deciding whether to report an act. Therefore, it is particularly important that these women encounter trained staff with the necessary awareness in the medical care system."

In addition to the Istanbul Convention, refugee women who are victims of violence can refer to the directly applicable EU Reception Conditions of (2013/33/EU), which guarantees medical care and meeting other needs of vulnerable persons in Article 19 (2) and Article 21. In practice, however, as described above, victims of violence are by no means always recognised as such at an early stage, if at all. Also, the transposition of the EU Reception Conditions Directive has not been rendered substantive in German law. Therefore, what the reception and health system as a rule provides for women who are potentially in need of protection is also an important practical question for victims of violence.

With a view to practice, the following questions arise: How is health care for refugee women generally guaranteed so that they can also be adequately cared for in the event of violence suffered in the country of origin, during their journey or in acute incidents of violence in Germany? Is there appropriate, barrier-free access to health care for the women concerned and what (still) needs to be done to achieve this?

Article 20 IC – General support services

- (1) Parties shall take the necessary legislative or other measures to ensure that victims have **access to services** facilitating their recovery from violence. These measures should include, when necessary, services such as legal and psychological counselling, financial assistance, housing, education, training, and assistance in finding employment.
- (2) Parties shall take the necessary legislative or other measures to ensure that victims have access to health care and social services and that services are adequately resourced and that professionals are trained to assist victims and refer them to the appropriate services.

Article 25 IC – Support for victims of sexual violence

Parties shall take the necessary legislative or other measures to provide for the setting-up of appropriate, easily accessible rape crisis or sexual violence referral centres for victims in sufficient numbers to provide for medical and forensic examination, trauma support and counselling for victims.

a) THE ASYLUM SEEKERS' BENEFITS ACT AS A RESTRICTIVE LAW

As long as refugee women have not yet acquired a right of residence, they are subject to the Asylum Seekers' Benefits Act (AsylbLG) and as such are not members of the statutory health insurance. During the first 18 months of residence, the AsylbLG formulates limited entitlements in §§ 4 and 6 AsylbLG compared to normal social benefit recipients. Section 4 of the AsylbLG only provides for a kind of emergency treatment: the assumption of costs for the "necessary" treatment of "acute illnesses and painful conditions". Explicit provision is also made for the assumption of costs for the usual services during pregnancy and childbirth, the recommended preventive medical check-ups as well as protective vaccinations. For all benefits that go beyond the emergency care in §4, a discretionary approach is set out in §6 AsylbLG: "Other benefits can be granted in particular if they are indispensable (...) in the individual case to secure (...) health".

After being in Germany for 18 months, medical benefits for recipients under AsylbLG are generally no longer granted according to §§4 and 6 AsylbLG, but within the framework of normal social assistance and statutory health insurance.

Limited benefits under Asylum Seekers' Benefits Act

Particularly for victims of violence and other vulnerable persons, limited health care through the AsylbLG contradicts the minimum requirements of the EU Reception Conditions Directive and the specifications of the Istanbul Convention. An interpretation of the AsylbLG in conformity with the constitution and international law must lead to the level of health care benefits stipulated under §§ 4 and 6 AsylbLG corresponding to that of statutory health insurance.⁷¹ Unfortunately, practice often looks different: from the beginning of their residence in Germany, refugee women are confronted with the fact that important health benefits according to the letter of the AsylbLG are questioned and in practice are often difficult and sometimes impossible to obtain.

"Health care for victims of gender-based violence is limited by the AsylbLG. Medical services are not very cooperative" (advice centre, Schleswig-Holstein).

"The restrictions imposed by the AsylbLG are massive. Health services are also affected by cuts. It is often necessary to write appeals. Health measures often have

to be enforced in the long term and are then subject to an additional examination by health authorities, which are supposed to assess their necessity. So women are forced to describe to yet another institution what is at stake" (advice centre, Lower Saxony).

"Emergency care is ensured, all other care must be approved by the health authority" (welfare association, North Rhine-Westphalia).

Psychosocial counselling and therapies are among the most important forms of assistance for women affected by violence. But of all things, they are difficult to obtain through the AsylbLG:

"The cost of psychotherapies or the treatment of psychosomatic illnesses are often not financed, only in "emergencies". As a result, women affected by violence do not have the chance to receive appropriate and lasting care for their trauma and/or psychosomatic symptoms caused by the violence" (advice centre, Baden-Württemberg).

"Longer-term psychiatric treatment is often refused on the grounds that such treatment is only intended after allocation (or worse: after [asylum] recognition) and is not permitted beforehand, is not expedient, etc. The list of reasons - both from initial reception centres and from social services in the districts - is long" (Refugee Council, Hesse).

The Federal Association of Psychosocial Centres for Refugees and Victims of Torture (BAfF) states that the social security offices reject 41% of applications for psychotherapy for refugees - compared to an average rejection rate of 5.9% for patients with statutory health insurance in standard care.⁷² The representative study of the Berlin Charité Hospital warns of the negative consequences: "As long as psychotherapy is not included in the catalogue of standard care for refugees, considerable consequences may be assumed in the case of non-treatment, especially for the extremely vulnerable group of refugee women we studied."⁷³

Heterogeneous practice

Whether the woman concerned receives appropriate assistance for recovery also depends on which federal state or municipality she is in. This is because the enforcement of

71 See e.g. Der PARITÄTISCHE. 2020. Soziale Rechte für Geflüchtete, 44f. https://www.der-paritaetische.de/fileadmin/user_upload/Publikationen/doc/sozialleistungen-fluechtlinge-2019-auf3_web.pdf

72 BAfF, 2020. Versorgungsbericht, 6. Auflage, November 2020, 7. https://www.gewaltschutz-gu.de/fileadmin/user_upload/PDFs/BAfF_Versorgungsbericht-6_Fact-Sheet.pdf

73 Schouler-Ocak, Meryam and Kurmeyer, Christine. 2017. "Study on Female Refugees. Repräsentative Untersuchung von geflüchteten Frauen in unterschiedlichen Bundesländern in Deutschland". https://female-refugee-study.charite.de/fileadmin/user_upload/microsites/sonstige/mentoring/Abschlussbericht_Final_-1.pdf

the AsylbLG is the responsibility of the federal states, which also results in heterogeneous practice in this area. Holleder (2020) found an extraordinarily wide range between the services provided by the federal states. The percentage of asylum benefit recipients who received out-patient or in-patient health services was compared: it ranged from 76.3 % in Saxony-Anhalt to 11.8 % in Hamburg. The differences within the districts are similarly large. In 17 districts, no out-patient or in-patient treatment cases at all were reported for the benefit recipients at the end of the year.⁷⁴

Sickness certificates and health card

One obstacle to the utilisation of health services is the fact that in many places the social security office issues health insurance vouchers for the assumption of costs for asylum seekers, which are sometimes issued on a quarterly basis, but sometimes have to be applied for separately for each treatment. The advice centres interviewed describe the practice of issuing health insurance vouchers as an obstacle to women's access to the health system.

"Yes, those affected have access to care, but there are mainly 'bureaucratic hurdles' on the way there ... (e.g. because there is no health insurance card, first going to the social security office, then to the family doctor, then again to the social security office and only then to the medical specialist)" (therapy centre, Rhineland-Palatinate).

Because the decision on a benefit is not made by the statutory health insurance, but by the social security office – possibly via the involvement of the health authorities – it is often not a doctor who ultimately decides on the granting of a medical benefit but an administrative officer.

In some federal states or municipalities, refugees receive an electronic health card under the AsylbLG. This makes it possible to claim health services without the 'official hurdle' of the social security office. Despite the improved catalogue of benefits, there are still restrictions on dentures, rehabilitation measures and psychotherapy in some federal states.⁷⁵ Overall, the electronic health card nevertheless leads to more in-patient health services being granted. A nationwide introduction of the health card would consequently improve access.⁷⁶

Lack of health care in the initial reception centre

Refugees are subjected to a health examination at the initial reception, which is primarily aimed at combating communicable diseases (§62 Asylum Act). In the interest of

the persons concerned, however, the medical care needs of refugee women are not systematically recorded. This is particularly disadvantageous with regard to combating violence. After all, medical examinations are often the place where violence suffered can be seen and addressed.

With regard to further health care, the advice centres describe restrictions, especially in the initial reception centres:

"There is no access to regular health care in the initial reception centre. The medical service is responsible for general medical questions; for special issues, an application must be made in each case that a visit to a specialist is necessary. The regional council often decides negatively" (advice centre, Hesse).

"Access [to health care] in initial reception facilities and collective accommodation is highly regimented and financially restricted" (therapy centre, North Rhine-Westphalia). "We find the treatment practice in Eisenhüttenstadt is restrictive" (advice centre, Brandenburg).

"With regard to the state accommodation centres, our experience is that it is only if someone presses ahead, with a lot of work from the outside, that urgently needed benefits are granted - if no one takes up individual cases, necessary benefits are usually withheld" (psychosocial centre, North Rhine-Westphalia).

"The health care of refugee women is sometimes very difficult, especially since there is often no language mediation in the infirmary. In addition, the infirmary often does not offer the setting to address sensitive issues such as (sexualised) violence against women in a suitable atmosphere. In some cases, affected women are not referred to vulnerability-oriented assistance and care according to their increased needs (psychosocial counselling centre, Rhineland-Palatinate).

In his statistical study, Holleder states that the AsylbLG leads to significantly reduced benefits, especially in initial reception centres: "In the reception centres, as well as generally with supra-local providers, there is a far below-average granting of out-patient or in-patient benefits in case of illness. This is noteworthy because other data sources have found that refugees in such facilities suffer more frequently from mental illness than in decentralised forms of housing".⁷⁷

74 Holleder, Alfons. 2020. Die Gewährleistung von Krankheitshilfen bei asyl-suchenden Menschen: Zweiklassenmedizin in Deutschland? In: Bundesgesundheitsblatt – Gesundheitsforschung – Gesundheitsschutz Volume 63 / Issue 10 (2020-09-22), 1203-1218. EISSN 1437-1588 https://kobra.uni-kassel.de/bitstream/handle/123456789/11936/Holleder2020_Article_DieGewahrleistungVonKrankheits.pdf?sequence=1&isAllowed=y

75 See in detail the health portal of the free medical offices/medinets: <http://gesundheit-gefluechtete.info/gesundheitskarte/>

76 Holleder, Alfons. 2020. op. cit.

77 Ibid.

RECOMMENDATIONS According to the Istanbul Convention, women who are affected by violence are entitled to health care services, but in practice these are often denied due to the application of the AsylbLG. This is especially true for the stay in the initial reception centre and the use of psychosocial care and therapy. We recommend:

- ❖ Refugee women must be covered by statutory health insurance from the beginning of their stay and thus have access to all health services to which statutory health insurance recipients in Germany are entitled.
- ❖ All refugee women must be given the opportunity to address any health consequences of violence in the context of health checks and preventive medical examinations in the initial reception centre. To this end, it is necessary to oblige all medical personnel in the initial reception centre to offer this service, to promote the necessary awareness and to train them to deal competently with those concerned. Referral to further services (medical specialists, hospitals, psychosocial centres, etc.) must be guaranteed.

b) DEFICIENCIES IN SPECIAL AND STANDARD CARE

Lack of capacity in psychological care

The Council of Europe (2011) called for the expanding of psychosocial support, counselling in crisis situations and trauma therapies in its explanatory report for the Istanbul Convention.⁷⁸ Nevertheless, almost all counselling centres and psychosocial centres currently complain about a lack of capacities for refugee women in the field of mental health care. Women affected by violence often have to wait many months for a place for counselling or therapy.

"Psychological care is only rudimentarily covered by free drop-in centres. Appointments often take months, e.g. initial appointments (without emergency) in (partially) in-patient psychiatric facilities" (counselling centre, Schleswig-Holstein).

"In general, there is a lack of therapeutic capacities" (therapy centre, North Rhine-Westphalia).

"... limited offer of trauma therapy for women affected by violence" (doctor at the treatment centre, Baden-Württemberg).

"Even for redistributed refugees, especially outside the big cities, there is often no possibility of accessing appropriate psychological or psychiatric assistance. The staff resources of our drop-in centre, for example, are also not sufficient to cover the counselling needs" (psychosocial drop-in centre, Schleswig-Holstein).

The Federal Working Group for Refugees and Victims of Torture (BAFF) writes in its annual report 2020 that the centres specialising in refugees were only able to cover 6.1 % of the potential need for care.⁷⁹ The waiting time for a therapy place is on average 7 months, which is significantly higher than in regular care. Moreover, each centre had to turn away an average of more than 200 clients per year.⁸⁰

Also due to the refusal of funding by the social services, the psychosocial centres have been dependent on their own constant – and successful – initiative for years: in 2020, 94% of the psychotherapies in the psychosocial centres were financed by project funds, state or federal funds and donations.⁸¹

Deficiencies in standard medical and psychological care

Regular care by doctors and psychotherapists in private practice is also difficult for women and victims of violence. Among other things, this is due to a lack of knowledge about FGM/C and language barriers:

"... culturally sensitive treatment by doctors is very rare; a lack of knowledge about the meaning of illness and health in different cultures is the rule. There is often a lack of understanding for the behaviour of patients (e.g. on the subject of FGM/C - some doctors do not know the different forms, some cannot understand why the woman concerned does not talk about it, etc.)" (women's advice centre, Baden-Württemberg).

The doctors are not always prepared to deal with the special billing modalities or the questioning of benefits under the AsylbLG. The advice centre staff notice discrimination and resistance from the regular medical services:

"... in general, the problem when you call regular services from the social service unit in an accommodation centre is that you first have to tear down a wall of structural racism because many are afraid of being overwhelmed with refugees" (social advice for asylum-seekers, Bavaria).

"There are many prejudices against women ('men don't do housework'). In the case of pain, there is first the assumption of psychosomatic causes – an examination takes place only after the persons concerned have been persuaded" (Refugee Council, Saxony-Anhalt).

A specific problem of victims of violence in the health care system is the issuing of certificates that are necessary in the context of the asylum examination, for reasons of residence law or for reasons of protection against violence. Victims of FGM/C, for example, regularly have to prove this by means of an official medical certificate in order to receive refugee protection or protection from deportation. In practice, it is not only difficult to find appropriately qualified doctors, but it also presents the victims with considerable costs. Only in some cases does the BAMF, as the contracting authority, cover the costs for certificates – for example, if a woman states during the procedure that she has been circumcised. In many cases, however, the costs for medical certificates and expert opinions are borne by the applicant.

78 Explanatory Report to the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence, Istanbul, 11.5.2011, note 315. "This could include taking measures such as providing additional psycho-social support and crisis counselling, as well as medical care for survivors of trauma since, for example, many female asylum-seekers have been exposed to sexual and other forms of abuse and are therefore particularly vulnerable."

79 Assuming a potential need for clarification or treatment in the case of 30 % of refugees, according to the study's findings. BAFF. 2020. Versorgungsbericht, 6th edition, November 2020, 7. https://www.gewaltschutz-gu.de/fileadmin/user_upload/PDFs/BAFF_Versorgungsbericht-6_Fact-Sheet.pdf

80 Ibid.

81 Ibid.

The Federal Association of Psychosocial Centres states that referrals to special counselling centres are increasing, while referrals to regular psychological services are becoming much more difficult: “Low capacities in private practices, bureaucratic hurdles or the lack of cost coverage for language mediation and therapies mean that in some places only very few clients can be referred to regular services.⁸² The Refugee Council of Saxony-Anhalt also describes the problems to the effect that not enough psychiatrists are open to language mediation-supported treatment.⁸³

Further obstacles to accessing mainstream care are caused by the restrictive allocation and housing policies for refugees. If, for example, medical specialists in violence are not nearby and a federal state border may have to be crossed, the women concerned must first obtain a permit to leave from the competent authority. Isolated, rural accommodation may entail high travel costs, which the

women concerned have to apply for – and justify – at the social security office.

In addition to all the negative experiences and shortcomings, there are also actors who are driving positive developments.

The centres for sexual health and family planning in Berlin, which are financed by the health authorities, are mentioned as a good practice example:

These district centres offer basic gynaecological examinations, issuing of maternity passes, preventive examinations, social worker inquiries, etc. This offer is independent of residence status and health insurance and very helpful because many colleagues there are sensitive and experienced in dealing with refugee women (specialist counselling, Berlin).

RECOMMENDATIONS Regular medical services are inadequately adapted to refugee women. Specialist psychosocial services lack the capacity (and multilingualism) to meet the needs of all women affected by violence. We recommend:

- ❖ Care capacities must be expanded in order to guarantee comprehensive and needs-based health care for all women affected by violence. In particular, more capacities in the area of psychosocial care must be created and financed in the long term with state funds. The federal and state governments must provide the corresponding funding and structural resources.
- ❖ The specific health risks and injuries of refugee women caused by violence must be included in medical and psychological training. Training courses, practice manuals, etc. must focus on refugee women as a specific patient group and also include culturally sensitive / language-sensitive information.

82 BAfF (2020), *ibid.*

83 Salzwedel encounter cafés and Sachsen-Anhalt Refugee Council. 2020. Open letter. <https://www.fluechtlingsrat-lsa.de/2020/12/offener-brief-psychische-versorgung-gefluechteter-gutachten-durch-psychologisches-fachpersonal/>

c) LANGUAGE BARRIERS IN HEALTH CARE

Language barriers are a major hurdle in health care, making language mediation an important issue. Problems in this area relate first to the lack of interpreters in the regular structure:

“Since hospitals and doctors generally work without language mediators, health care is limited by communication difficulties. Women sometimes report that they have not been able to get an appointment because they do not speak German well enough” (therapy centre, North Rhine-Westphalia).

The consequence of a lack of professional language mediation is the recourse to insufficiently qualified or aware language mediators or voluntary ‘stopgap solutions’:

“In medical services, interpreters cannot be chosen and are often male (an issue e.g. with FGM/C or domestic violence)” (counselling centre, Schleswig-Holstein).

“In practice, there is a lack of interpreters, which makes access to appropriate care even more difficult. Often medical facilities expect that interpreting relatives are brought along, which is hardly possible for many refugee women affected by violence. In addition, male and/or unqualified staff are often called in to translate, so that the women affected cannot describe their concerns properly (treatment centre, Berlin).

Cost coverage for language mediation

Such situations are also based on the delayed or lack of cost coverage by the authorities. Language mediation costs are not provided for in the catalogue of benefits of the health insurance funds and, according to the highest court rulings, are not covered by the claim in the statutory health insurance fund.⁸⁴ It is therefore up to the refugee women to apply to the social security authorities for the costs of interpreters in the context of out-patient treatment or to pay for them themselves – which is not possible for many refugee women in the first place.

In the meantime, the Federal Government has confirmed that in the case of traumatised asylum seekers, the use of an interpreter will also become a compulsory benefit under the Asylum Seekers’ Benefits Act (AsylbLG) through a discretionary reduction to zero – the social security office must bear the costs.⁸⁵ In practice, however, language

barriers cause lengthy application processes and rejections – especially in the context of the AsylbLG, but not only.

“Since interpreter funding often does not take place or is not offered (e.g. for outpatient psychotherapy with psychotherapists in private practice), no treatment or counselling can take place” (treatment centre, Baden-Württemberg).

“The assumption of costs for language mediators in psychotherapy involves considerable bureaucratic time. A positive decision on covering costs is highly dependent on the respective case worker and the service-providing authority. There is no uniform case law” (staff member of a therapy centre, North Rhine-Westphalia).

The PARITÄTISCHE Baden-Württemberg writes, referring to the AsylbLG as well as to “normal” social assistance and unemployment benefit: “However, the possibility of costs being covered by the social security authorities is not practicable, as the application is very time-consuming, the processing time is several months and the applications are often rejected”.⁸⁶

Interpreter pools

There are promising approaches and practices in some places to remedy the lack of language mediation in the entire field of medical care for refugee women, but they are not established nationwide and not known to all.

For example, the introduction of telephone and video interpreting as a standard for medical treatment, in public authorities and in counselling centres, was successfully tested in Hamburg. In Thuringia, too, a programme financed by the state has been in place since 2019 that entitles counselling centres, collective accommodation centres, doctors, midwives, hospitals, women’s refuges and others to access audio and video interpreting services in over 50 languages. In practice, there are indications that this service is used a lot by counselling centres, but not as often by specialist physicians or hospitals for regular care. In the Lower Saxony project “Words Help Women”, facilities that provide counselling on women-specific issues can call up interpreting services in 12 languages via mobile phone and have the costs billed through the project. The women’s refuges in Lower Saxony have been equipped with appropriate mobile phones for this purpose. The service can potentially be used in collective accommodation, as well.

⁸⁴ German Bundestag: Wissenschaftliche Dienste. 2017. WD 9 - 3000 - 021/17: Sachstand: Dolmetscher im Rahmen der gesundheitlichen Versorgung. Ansprüche und Kostenübernahme, 5f.

⁸⁵ Bundesministerin für Arbeit und Soziales. 2011. Ursula von der Leyen an die Präsidentin der Freien Wohlfahrtspflege Donata Freifrau Schenk zu Schweins-

berg, letter dated 21.2.2011. http://ggua.de/fileadmin/downloads/tabellen_und_uebersichten/Brief_von_der_Leyen_dolmetscherkosten.pdf

⁸⁶ Der Paritätische Baden-Württemberg: <https://paritaet-bw.de/leistungen-services/faq/flucht-und-asyl/wie-ist-die-uebernahme-von-dolmetscherkosten-geregelt> Retrieved on 16.3.2021

RECOMMENDATIONS Language mediation is an essential necessity for the perception of medical services. Despite some good beginnings, it cannot be used nationwide as there are still far too many gaps. We recommend:

- ❖ There must be a legally binding entitlement to professional language mediation in health care. The costs incurred must be recognised as a necessary part of health care and financed by the state.
- ❖ Pools of language and cultural mediators should be set up in all federal states, which counselling centres, women's refuges, initiatives and accommodation centres can access free of charge. Those concerned should be allowed to choose the language and gender of the language mediator.
- ❖ State-supported training campaign and promotion of corresponding training courses: Women in particular should be motivated to undergo training and continuing education to become professional language and cultural mediators, especially with regard to professional support in the area of fleeing and violence.

d) FURTHER ISSUES REGARDING THE HEALTH OF REFUGEE WOMEN

The described obstacles in access to health care do not remain without consequences for women who have experienced violence. They can lead to misdiagnoses, increased hospital treatment or the illness can even become chronic and so ultimately worsen the situation of the women affected. This is also fatal with regard to the further prevention of violence against women.

Finally, in the context of health, it should also be pointed out that refugee women live as protection seekers under legal and politically responsible conditions that are not only *not* conducive to health - they also have negative effects on it. Some of these will be briefly mentioned here without going into the far-reaching consequences:

- **Accommodation conditions:** We have described the situation in detail in the chapter "Accommodation". According to scientific findings, the poorer psychosocial health of refugees is related to a worse living situation in the accommodation facilities as well as their uncertain future prospects. With regard to the health situation, the *Süddeutsche Zeitung*, for example, writes about the Funkkaserne in Munich: "Mould in shared bathrooms, water damage in the doctor's room, families in cramped quarters".⁸⁷ In the ANKER Centre in Manching/Ingolstadt, the organisation *Ärzte der Welt* (Doctors of the World) ended its activities because they could no longer take the responsibility for their patients under the "living conditions that constantly make them ill".⁸⁸ In the Corona pandemic, residents of refugee accommodation centres are more exposed to a high risk of infection than other residents.
- **Family reunification:** Even if victims of violence have a legal right to be reunited with their family members, family reunification procedures take years rather than months. The separation of family members, especially children, not only leads to severe psychological stress for women here, but may even threaten women and girls in the country of origin or in refugee camps in a third country. There, women and children in particular often endure difficult political, social and health conditions. With the usual waiting times of two to four years, adolescent girls are at risk of being circumcised, which could have been avoided if the authorities had acted more quickly.⁸⁹
- **Racism and discrimination:** These are also forms of violence that can additionally end up by making those concerned ill in body and soul. Women are specifically at risk and at the same time doubly discriminated against as women, for example in the search for accommodation and work.
- **Temporary right of residence / threat of deportation:** With a right of residence that is not or only temporarily secure, the fear of possible deportation creates very strong psychological stress, which considerably impairs the women's capacity to stand on their own feet and can even lead to suicidal tendencies.

87 Anlauf, Thomas. 2019. "Die Regierung muss hier sofort einschreiten". *Süddeutsche Zeitung*: Munich. <https://www.sueddeutsche.de/muenchen/funkkaserne-die-regierung-muss-hier-sofort-einschreiten-1.4383916>

88 *Ärzte der Welt*. 2019. Wir können die Verantwortung nicht länger tragen. <https://www.aerztederwelt.org/presse-und-publikationen/presseinformationen/2019/09/26/wir-koennen-die-verantwortung-nicht-laenger-tragen>

89 Lawyers working in this field know of such tragic cases – see, for example, the Open Letter of the lawyers Ronte et al.

4. ADVICE AND SUPPORT

Article 22 of the Istanbul Convention stipulates “specialist support services” that must be accessible to all victims of gender-based violence. This refers in particular to specialist counselling centres for women and girls affected by violence. Women’s shelters and refuges are explicitly required as “shelters” in Article 23.

Article 22 IC – Specialist support services

- (1) Parties shall take the necessary legislative or other measures to provide or arrange for, in an adequate geographical distribution, immediate short- and long-term specialist support services, to any victim subject to any of the acts of violence covered by the scope of this Convention.
- (2) Parties shall provide or arrange for specialist women’s support services to all women victims of violence and their children.

Article 23 IC – Shelters

Parties shall take the necessary legislative or other measures to provide for the setting-up of appropriate, easily accessible shelters in sufficient numbers to provide safe accommodation for and to reach out pro-actively to victims, especially women and their children.

In its approach to assistance, the Istanbul Convention goes far beyond direct support in urgent situations of violence. In addition to legal and psychological counselling, Article 20 explicitly addresses support processes with regard to finances, education and employment:

Article 20 IC – General support services

- (1) Parties shall take the necessary legislative or other measures to ensure that victims have access to services facilitating their recovery from violence. These measures should include, when necessary, services such as legal and psychological counselling, financial assistance, housing, education, training and assistance in finding employment.

Here, the holistic approach of the Istanbul Convention becomes clear once again. The signatory states see a general obligation, among other things, that the measures to be taken by the states “aim at the empowerment and economic independence of women victims of violence” (Article 18). For refugee women, non-discriminatory access (Article 4) to these rights also plays a special role.

With this in mind, the following questions now arise: Are there sufficient specialist care and support structures? What general support services and assistance do the women concerned need? Do refugee women have appropriate access to them? What obstacles stand in the way of refugee women’s access to general and specific support services?

a) BARRIERS TO ACCESSING SPECIALIST AND REGULAR SERVICES

Lack of capacity in the specialist services

With mobile and outpatient services, specialist counselling centres, women’s refuges and shelters, the network of qualified and specialist services against violence in Germany appears to be dense and well established. For several years now, various actors at the federal and state level have been trying to make the system more needs-

based, also with regard to refugee women.⁹⁰ Nevertheless, the current situation is not satisfactory. Comprehensive and barrier-free provision is not guaranteed everywhere – the differences in services between and within the federal states are great. In 2020, the State Report itself points out that there are weaknesses in the assistance system that have become apparent due to the increase in the number of refugees in recent years. According to the State Report,

⁹⁰ For example, the Federal Government stated in its answer to the question from the Linke party of 20.5.2019: "At the Round Table, which began its work on 18 September 2018, the Federal Government, the Länder and the municipalities are working together, but each in their own area of responsibility, on how they can advance the further development of the support system. With the federal funding programme "Together against Violence

against Women"... the Federal Government wants to support the closing of the known gaps in the support system within the scope of its funding competences. This includes improving access to the assistance system and care for target groups that have not been adequately reached so far, such as refugee women affected by violence, among others". Bundestag document 19/10341, <https://dserver.bundestag.de/btd/19/103/1910341.pdf>

these should be addressed and the system expanded and developed in line with needs. Specifically, the report holds out the prospect of permanently stable funding for women's refuges and specialist counselling centres, as well as the introduction of a federal legal right to protection and assistance for women affected by violence (*State Report*, p. 34).

Currently, there is still a clear urban-rural divide with regard to the existence of specialist services, as the research report by Zoom (2020) points out.⁹¹ Offers of targeted counselling and support are often found in large cities. The Federal Association of Women's Counselling Centres and Women's Emergency Centres (Bundesverband Frauenberatungsstellen und Frauennotrufe, BFF) states a "serious under-supply" in many rural regions with specialist counselling centres and other support services.⁹² Recent media reports show that there are thousands of places lacking in women's refuges nationwide. Some refuges have had to turn away hundreds of women, also because of a lack of money.⁹³

Funding

The gaps in the health care structure are largely because funding is not consistently secured. We described this for the area of psychosocial care in the context of health in chapter 3. The same applies to outpatient counselling services, women's refuges and other specialist services. The outpatient specialist counselling centres receive very different levels of public funding from municipalities, districts and/or the federal states. In addition, they usually have to raise considerable funds of their own through donations or project grants. The BFF complains that the majority of outpatient counselling centres are "massively underfunded and often not secured beyond the current financial year". Most of the funding is provided within the framework of voluntary services and has to be applied for again and again. The duration of the counselling services is "usually far below the needs of those affected".⁹⁴

As far as the measures as a whole are concerned, the State Report says that there is a large package of different measures. However, these are often (pilot) projects or small amounts of funding for a limited period of time. This is not the way to ensure a sustainable supply and support structure.

Shelters such as women's refuges also complain that they are often not adequately funded and staffed. It should be noted that many specialist services in the field of combating violence have a very good overview of women with a migration background and refugee women in particular. For example, the BFF and the Women's Refuge Coordination have a valuable FAQ on protection against violence and refugee concerns.⁹⁵ As in the psychosocial centres, refugee women also make up a relevant proportion of those in the women's refuges. The awareness of the necessity of multilingualism and language mediation is very present in many places – the commitment is limited by funding.

Multilingualism/language mediation

Article 19 IC declares that victims of violence must receive "adequate and timely information on available support services and legal measures in a language they understand".

The *State Report* mentions numerous support services for women affected by violence, such as websites that provide information in German, English and Spanish. These sites are very valuable, but their usefulness for refugee women is often limited simply because of the limited choice of languages.

As set out in detail in Chapter 3 for psychosocial support, the lack of multilingualism and interpreting – despite good initiatives in a few Länder – is also described in practice as a central shortcoming in counselling for other special services. The possibility of providing multilingual information and using interpreters is often simply not possible for financial reasons: "In many cities, there are basically no funds available for interpreting (no matter into which language). This makes counselling women with a migration history and refugee women more difficult."⁹⁶

Outreach activities

The need of refugee women for outreach services is not met. Information and counselling services made available to refugee women in the context of outreach work are not only able to provide low-threshold information about the rights and opportunities of women affected by violence and have a preventive effect - they also pave the way for

91 See inter alia: Zoom – Gesellschaft für prospektive Entwicklungen e.V. 2020. Unterstützungsbedarfe gewaltbetroffener Frauen in Frauenhäusern, Befragung von Frauenhausbewohninnen und Fachkräften in Niedersachsen - Methoden, Befunde und Ansätze zur Weiterentwicklung des Hilfesystems. http://prospektive-entwicklungen.de/pdfs/Frauenhaeuser_Nds_Bedarfsanalyse_Zoom_Jan2020.pdf

92 Bundesverband der Frauenberatungsstellen und Frauennotrufe (bff), 2017. Statement on the draft bill. <https://www.bmfsfj.de/resource/blob/118992/4fdc04ccad3a7043359499d04c7483f8/bff-data.pdf>

93 Frankfurter Rundschau. 2021. Corona-Pandemie. Häusliche Gewalt: Frauenhäuser an der Belastungsgrenze. <https://www.fr.de/rhein-main/landespolitik/corona-frauenhaus-gewalt-haeusliche-ehe-frauenhaeuser-kinder-90197679.html>

94 Bundesverband der Frauenberatungsstellen und Frauennotrufe. 2017. *ibid.*
95 Bundesverband der Frauenberatungsstellen und Frauennotrufe und die Frauenhauskoordinierung. 2020. FAQ zum Gewaltschutz geflüchteter Frauen. <https://www.frauenhauskoordinierung.de/arbeitsfelder/flucht-und-gewaltschutz/faq-flucht-und-gewaltschutz/faq-deutsch/>

96 Bundesverband der Frauenberatungsstellen und Frauennotrufe, 2017, 8.

direct access to support. In practice, it becomes clear that women's counselling centres (can) only offer outreach counselling or specific group services to a very limited extent.

"Many women remain invisible, services do not reach them. To our knowledge [there are] no local services that educate about violence and proactively reach out to women about it. Women have to approach counselling services themselves" (Refugee Council, Saxony-Anhalt).

"The violence protection measures (of the city) function as emergency measures. However, there is a lack of a longer-term counselling process in which the women are empowered to deal with violence (...). It would be necessary for the city's women's counselling centre to regularly offer counselling/information events in the collective accommodation and thus build up a relationship of trust" (counselling centre, Hesse).

Low-threshold accessibility

When it comes to issues such as domestic and sexualised violence, which are fraught with fear and shame, many women have great inhibitions about seeking support. There is a great need for action with regard to non-discriminatory access (IC Art.4 (3)).⁹⁷ Multilingualism and outreach services could play an important role here, too.

Zoom's research report makes it clear that many women do not turn to the specific services themselves, but first more to private confidants or the police.⁹⁸ Refugee women are initially unfamiliar with the German support system, their own rights and conditions such as confidentiality and partiality. Social networks (e.g. for support when leaving a partner) are often still lacking, as well. There is uncertainty and lack of knowledge, which severely restricts access to support services. Mistrust of authorities and the police, which may have been 'brought along' from the country of origin, can also be a hurdle. Consequently, there is a need to actively make the offer of specific services known to refugee women in their languages of origin and also to make the professionals in the general system aware of the problem.⁹⁹

Barriers to access in regular social services

It is important that refugee women are also given the opportunity to participate fully and equally and to use helpful infrastructure. For this, they need access to the thematically specialist, general services: tenants' association, pregnancy counselling, unemployment advice, etc. They need to understand the structures, rely on partiality and confidentiality, be able to express themselves in their own language and, if necessary, receive outreach services. The services must be more aware of refugee women as a target group for their work and continue to update themselves with regard to any legal particularities. This is often not the case in many regular services, which have far less to do with refugee women than women's refuges and psychosocial centres. Greater promotion of multi-professional networking, commitment and coordination seems necessary.

Social worker support for refugees

The social workers who work in the collective accommodation centres or in a decentralised manner are the first point of contact in cases of violence and can also play an important role in the (subsequent) identification of those in need of protection. In order to ensure good professional social work in collective accommodation, the existing caseloads would have to be drastically reduced.

In a joint position paper by numerous professors of social work, a minimum of one social worker per 50 adults or 1:20 for vulnerable people and 1:10 for children is specified for appropriate work in refugee accommodation centres.¹⁰⁰ The reality is far away from this, as the overview in a study by UNICEF and the German Institute for Human Rights (DIMR) at the end of 2020 shows: According to this study, nine federal states have fixed social worker-client ratios of between 1:75 and 1:100 in their violence protection policies, which is significantly higher than the values recommended in academia and practice. Bavaria, Berlin, Thuringia, Saarland, Schleswig-Holstein and Saxony do not have any generally defined care ratios.¹⁰¹

⁹⁷ According to the Istanbul Convention, the prohibition of discrimination must be applied beyond obvious exclusions, wherever applicable standards of protection are lowered for certain groups.

⁹⁸ Ibid., 102.

⁹⁹ Ibid., 109.

¹⁰⁰ "In order to provide adequate support and counselling, a minimum staff ratio of 1:50 for social work with adult refugees, 1:20 in the case of particularly vulnerable persons and 1:10 in the case of children should be ensured." Alice Salomon University of Applied Sciences. 2016. Position Paper: Social

Work with Refugees in Refugee Accommodation Centres - Professional Standards and Socio-political Basis. http://www.fluechtlingssozialarbeit.de/Position_Paper_Social_Work_with_Refugees.pdf

¹⁰¹ UNICEF und DIMR. 2020. Zusammenfassung: Gewaltschutz in Unterkünften für geflüchtete Menschen-Eine kinderrechtliche Analyse von UNICEF Deutschland und dem Deutschen Institut für Menschenrechte (DIMR) basierend auf einer Befragung der 16 Bundesländern, 5. https://www.gewaltschutz-gu.de/fileadmin/user_upload/PDFs/i0051-studie-text-data.pdf

RECOMMENDATIONS The specialist support system is underfunded and needs to be expanded, especially with regard to multilingualism and outreach services, in order to reduce access barriers for refugee women. We recommend:

- ❖ The federal and state governments must ensure that the support system for women affected by violence is in a position to also offer refugee women help that meets their needs. To this end, these agencies need permanent funding for specific counselling and continuing education, multilingualism and interpreting services.
- ❖ Successful model projects for specific target groups should be transferred to regular funding and established nationwide. This includes the targeted and long-term funding of outreach, low-threshold approaches and services for refugee women.

b) SPECIFIC LEGAL OBSTACLES

In the following second part of the chapter “Counselling and Support” we want to look at some legal framework conditions that limit the scope of refugee women for counselling, support, but also the possibilities for self-help, and which consequently reduce the overall effect of violence protection measures. What applies to the form of accommodation, which can promote violence, applies in a similar way to some legal and administrative arrangements, which will only be touched upon in the following.

Allocation system

As long as women do not yet have a secure protection status, they are assigned to a place of residence within Germany by a computer programme, according to quotas. Care is taken to ensure that families are accommodated together; no consideration is given to other family members. The women’s wishes and needs can be expressed, but do not have to be taken into account in the distribution. There is no systematic clarification of whether the services needed are covered in the allocated location or at least within reach: It is not only about counselling centres, psychological or medical care, but also about the availability of friends, relatives, support in the language of origin, helpful communities or other necessary infrastructure.

Not even for women who have already been identified as vulnerable is there a binding procedure to ensure their allocation to places where protection and treatment options are available. In individual cases, dedicated social workers or other staff in the initial reception centre make an effort to provide support in the future place of residence and may even establish a contact – but in practice this often does not happen.

“Municipalities were not informed in advance with regard to special protection needs, they again place the persons concerned in collective accommodation without further support; sometimes women with special experience of violence and protection needs are accommodated alone (!) in a room of a hotel where only men are accommodated on the same floor” (therapy facility, North Rhine-Westphalia).

“In one of our cases, however, the advanced pregnancy was not taken into account for the client; she was transferred to different accommodation centres several times at short intervals and shared a room with many other people. The frequent transfer and the lack of predictability were physically and psychologically very stressful for the heavily pregnant patient” (therapy facility, Baden-Württemberg).

The allocation system, which is not tailored to the women in need of protection, has negative consequences for the utilisation of support services. Often there is no social connection, the nearest trauma centre is far away, or the relatives who could provide emotional and practical support live in another province. Again and again, women affected by violence are also assigned to small places without any infrastructure. Remote locations – on the outskirts of towns, in industrial areas or in old barracks – contribute to poor accessibility. This creates a social and spatial distance from support structures.

Against this background, cooperation between refugee accommodation centres and women’s counselling centres is also difficult. The Istanbul Convention Alliance writes: “In most accommodation centres, representatives of women’s counselling centres have only very limited or no access and the women who have fled often lack the financial means or transport to visit the nearest counselling centre”.¹⁰² Where there are no outreach services and the women lack money and mobility, many remain (initially) without support.

Residence requirement and residence obligation

Moving to another municipality or even to another federal state is practically impossible during the ongoing asylum procedure and after a rejection. Applications to this effect are almost always rejected.

Even after recognition in the asylum procedure, refugees are subject to a **residence “obligation” for three years (§12a AufenthG)**, which does not refer to a specific accommodation, but to the respective federal state. In addition, recognised refugees may be obliged within these three years to take up residence in a certain place (positive residence obligation) or not to move to certain municipalities (negative residence obligation). They are only allowed to move to another city if they can support themselves there from their own means or are entitled to do so for other legal reasons (e.g. because of marriage).

This legal situation can have serious consequences for women affected by violence.

“Residence obligations are rarely lifted, even in the case of special burdens or circumstances, [there are] many negative examples ...” (Health Service, North Rhine-Westphalia)

102 Bündnis Istanbul-Konvention. 2021. Alternativbericht zur Umsetzung des Übereinkommens des Europarats zur Verhütung und Bekämpfung von Ge-

walt gegen Frauen und häuslicher Gewalt, 77. <https://www.buendnis-istanbul-konvention.de/alternativbericht-buendnis-istanbul-konvention-2021/>

“Redistribution requests only work in isolated cases when it comes to accommodation in women’s refuges. The residence obligation or requirement [for recognised or non-recognised refugees] plays an important role in accommodation ... The Hamburg women’s shelters generally do not have sufficient capacity to take in those in need of protection. Often they have to switch to other federal states. Experience has shown that the processing time at the foreigners’ authorities regarding applications for reallocation is very long (in some cases more than a year)” (counselling centre, Hamburg).

“If, as a result of a separation, there is an acute situation of danger from the husband because the whereabouts are known, in many cases a redistribution, e.g. to another federal state, would be necessary to protect the woman concerned and / or her children. In our experience, this is often not possible or at least a very lengthy process (psychosocial counselling centre for refugees, Schleswig-Holstein).

In order to protect against violence, it has been possible since 2020 to suspend the residence obligation upon application for a short period of time. It is not yet clear to what extent these instructions by the Federal Government¹⁰³ have led to relief in practice. There were no indications of a positive development in our survey (yet):

“Despite instructions from the Federal Ministry of the Interior, reallocations during and after violence are very difficult to achieve – despite family connections in the new place of residence or connections to a counselling centre” (specialist counselling for refugees, Baden-Württemberg).

Another problem is associated with the change of residence. The previously responsible social security office regularly remains responsible according to the law, but often refuses to grant benefits because the woman is not staying in the assigned municipality. Women’s refuges regularly have to struggle with this problem. If the women’s refuge does not receive an assurance of cost coverage from the responsible social security office at short notice, it finds itself in an uncertain financial situation. Against the background of their own financial difficulties, women’s refuges repeatedly turn away refugee women who have been assigned to another municipality under residence law.¹⁰⁴

“The reception of women who are in the asylum procedure is usually accompanied by an increased administrative burden. The decisive factor for this is that suspending the

residence requirement is not a matter of course for all districts; covering the costs with a change of districts is also difficult. One of the greatest difficulties is that the woman’s file has to be sent from one foreigners’ authority to another, which can take up to six months” (women’s counselling centre, Hesse).

In addition to the residence obligation (Wohnsitzauflage) for recognised asylum-seekers, there is another restriction. The **residence requirement** (Residenzpflicht) also makes temporary residence in another federal state (in some cases even another municipality or accommodation) dependent on official permission. In the area of the initial reception centre, the movement radius of those concerned is limited to the municipal district in which the facility is located (section 56 (1) Asylum Act). Even though the permission of the authority is to be granted as a compelling reason in the case of violence (section 57 (1) Asylum Act), in practice it represents a hurdle - also for access to counselling. For example, it is a considerable problem for women in Brandenburg that they can no longer visit the psychosocial counselling centre in nearby Berlin at short notice.¹⁰⁵ A leave of absence is granted for important, verifiable appointments. What is considered “important”, however, is at the discretion of the foreigners’ authority. If the residence requirement is violated, a fine may be imposed.

To quote the *State Report*: “In principle, women’s refuges and specialised counselling centres are open to all women regardless of their residence status (...)” (*State Report*, 33). It should be noted that open access to support services is significantly impeded by residence constraints and social assistance regulations.

German courses

Article 20 of the Istanbul Convention sets out the obligation to provide “education and training and assistance in finding employment”. German language courses should be seen in this context. They are an important resource for women affected by violence to act independently, offering the possibility to get necessary help, and an indispensable step for a professional future.

For refugee women, the road is often long: they often have lower educational qualifications than men, and there is a great need for literacy training. Participation in courses is also sometimes difficult or impossible, for example when women take on family work and there is no childcare available during the course hours. For women who have

¹⁰³ Joint circular of the Federal Ministry of the Interior and the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth on the residence regulation pursuant to Section 12a of the Residence Act in cases of protection against violence, dated 14.2.2020.

¹⁰⁴ Bündnis Istanbul-Konvention. 2021. Alternativbericht zur Umsetzung des Übereinkommens des Europarats zur Verhütung und Bekämpfung von Gewalt gegen Frauen und häuslicher Gewalt, 84.

¹⁰⁵ Previously, the federal states Berlin and Brandenburg had each agreed to waive the residence restriction for each other, but this arrangement was not extended.

experienced violence, the psychological demands of successful course participation should also not be underestimated. Psychological symptoms such as nightmares or sleeping disorders can detract from successful participation in the language course. Special consideration is required here.¹⁰⁶

The BAMF runs “integration courses” in Germany, which consist of a German language course and an orientation course. Special, low-threshold “women’s integration courses” and literacy courses are also offered within this framework. However, refugees are only entitled to participate in these courses once they have been recognised in the asylum procedure. Many refugees are never entitled to a BAMF course. During the asylum procedure, which often drags on for months or years, only refugees with allegedly “good prospects of staying” are allowed to participate. By definition - as of March 2021 - this applies to people from Syria, Eritrea and Somalia. Refugees who are only subject to a deportation ban, as well as those with exceptional leave to remain (“toleration visas”), have no entitlement and mostly no chance of being admitted if places become free. Those who have an admission entitlement sometimes have to wait a very long time for a place.

The women concerned often only have the chance to find a German course on their own initiative on the free market or to benefit from a voluntary offer¹⁰⁷ close to home. This is often not successful: remote accommodation or long distances, as well as courses without childcare at the same time, lead to women staying away from German courses more often than men do.

As a general measure along the lines of the Istanbul Convention, a German language course could be an important support for many women affected by violence right at the beginning of their stay. However, access to such an offer is so severely restricted from the outset that quite a few of the women concerned are inevitably excluded for a long time.

Education and the labour market

Article 20 of the Istanbul Convention explicitly stipulates “assistance in finding employment”. The Explanatory Report calls for “combating unemployment” and for “public education and training services”.¹⁰⁸ However, the possibility of gainful employment and training is legally restricted for refugee women: During the time in the initial reception, there is a ban on working (section 61 (1) Asylum Act).

Women from the “safe countries of origin” who do not receive protection status remain there for a very long time – according to the will of the legislator indefinitely until deportation, if the asylum application is not successful. Under certain circumstances, work bans can be imposed even outside the initial reception centre.

In the Charité study, 38% of the refugee women interviewed named working and studying as central personal goals, also with a view to independence from their husbands or other men and from state aid. But even with a work permit, the path of refugee women into the labour market is difficult. Women more often work part-time or with “mini-jobs” and tend to earn less. A recent analysis by the Institute for Employment Research (IAB) shows that the labour force participation and employment of refugee women is significantly lower than that of refugee men.¹⁰⁹ The IAB explains this primarily with the devaluation of their prior qualifications, which affects women more, as well as with the more difficult access for refugee women to language courses and vocational training programmes, as they more often do the care work in the family. Networks that increase the chances of participation in the labour market are often less accessible to women. The BAMF came to similar conclusions back in 2017.¹¹⁰

Social benefits

As long as refugee women do not have a secure residence permit and cannot secure their livelihood independently or through their husbands, they are dependent on social benefits. The Asylum Seekers’ Benefits Act (AsylbLG) has been in force since 1993 as a special law for refugees. It contains significantly reduced benefits compared to the “normal” social benefits. The difficulties arising from the AsylbLG for the practice of health care and trauma therapy are described in detail in chapter 3.

The cash amounts at free disposal are very low. Especially in the initial reception centre, basic needs are largely covered by benefits in kind (e.g. food). The social participation of refugee women is thus severely limited – also with regard to their self-help options. When looking for and contacting support services, the women are therefore repeatedly confronted with smaller and larger financial hurdles: there is no free internet access in the accommodation; the fare to the counselling centre is (too) expensive. In their search for protection, the women are literally penniless.

106 Schouler-Ocak, Meryam and Kurmeyer, Christine. 2017. “Study on Female Refugees. Repräsentative Untersuchung von geflüchteten Frauen in unterschiedlichen Bundesländern in Deutschland”. https://female-refugee-study.charite.de/fileadmin/user_upload/microsites/sonstige/mentoring/Abchlussbericht_Final_-1.pdf

107 Only in a few federal states (e.g. in Lower Saxony) does the state provide supplementary funding for language courses for refugees regardless of their residence status.

108 Explanatory Report to the Council of Europe Convention on preventing

and combating violence against women and domestic violence, Istanbul, 11.V. 2011, note 126. <https://rm.coe.int/16800d383a>

109 Institute for Employment Research, 2021. Institut für Arbeitsmarkt- und Berufsforschung. 2021. Geflüchtete Frauen müssen viele Hindernisse überwinden. IAB-Kurzbericht 8/2021.

110 BAMF Brief Analysis. 2017. Issue 1|2017 of the Brief Analyses of the Research Centre Migration, Integration and Asylum of the Federal Office for Migration and Refugees. Refugee women in Germany: “Language, education and labour market.” Nuremberg.

RECOMMENDATIONS The access of refugee women to support services and hence to protection against violence is significantly impeded by regulatory measures such as allocation of the place of residence, the obligation to stay there after recognition and the residence requirement (restricting freedom of movement). The far-reaching exclusion from state BAMF German courses and insufficient support for labour market integration leaves women in a situation in which they can hardly achieve emancipation - even from their violent partner. We recommend:

- ❖ In principle, refugee women should be able to freely choose their place of residence and where they stay. After all, they can - supported by counselling centres and authorities - best decide for themselves where they are in good hands, where they can receive counselling or therapeutic assistance, and where they have opportunities and possibilities for development.
- ❖ As long as the state reserves the right to assign a specific place of residence to women in need of protection, it is also obliged to find a place with a suitable infrastructure, to provide the women with appropriate information about it and, if necessary, to directly ensure a connection to the specific support system. The wishes of the women concerned must be given greater consideration when choosing a place of residence.
- ❖ As long as the state determines the place of residence of refugee women, it must be ensured that in cases of violence, perpetrators and victims are separated quickly and without great administrative effort. The Protection Against Violence Act must also be fully enforced in refugee accommodation centres.
- ❖ In the case of moving to a women's refuge and other protection facilities, the financing of the stay and the social benefits must be ensured immediately and effectively. A possible change of the competent cost-bearing authorities must be carried out unbureaucratically so that no gaps in care and protection occur.
- ❖ For better participation in education and employment, specific and needs-oriented German courses are essential, as well as targeted training and further education opportunities for all refugee women. These measures must be equally open to all refugee women from the first day of their stay, without discriminating according to their country of origin. In parallel, a childcare infrastructure for families must be provided.
- ❖ The discriminatory unequal treatment of refugees through the lower social benefits of the Asylum Seekers' Benefits Act must be abolished. Instead, the social benefits must correspond to the normal standard and the counselling and support systems for women affected by violence must be geographically and legally accessible without difficulty and free of charge.

5. WOMEN ON THE MOVE AND AT EUROPE'S BORDERS

The stated purpose of the Istanbul Convention is “to protect women from all forms of violence, and to prevent, prosecute and eliminate violence against women and domestic violence” (Article 1a) and to “design a comprehensive framework, policies and measures for the protection of and assistance to all victims of violence against women and domestic violence” (Article 1c). The signatory states take action “aspiring to create a Europe free from violence against women and domestic violence” (Preamble). In view of this objective, we cannot avoid concluding this report by addressing the fact that refugee women had already experienced considerable violence before their arrival in Germany, on European soil and directly in this context, and continue to do so every day. This is about the structural, violent conditions that are – also – attributable to Germany as an important actor in the EU and generally at the European level, and for the elimination of which the Federal Republic bears a responsibility within the framework of the Istanbul Convention.

These conditions in which refugees experience violence do not only affect women and girls, but they are the ones who are particularly vulnerable and affected in a special way. They are often exposed to violence in their country of origin and/or on their travel route.¹¹¹ There is an increase in severe mental illness and trauma among female refugees, as they are affected to a greater extent by physical and psychological violence, sexual assault, traumatisation and family separation before, during and often even after they fled. The routes taken by refugees, which are usually very long, dangerous and stressful, pose a great risk of women experiencing gender-specific violence by fellow travellers, traffickers, customs and police officers, family members, prison staff or NGO employees.

For example, the situation of women in civil war-torn Libya, which is part of the main travel route for refugees, is characterised by massive sexual violence.¹¹² The detention camps there have been denounced for years for their devastating conditions: “Torture, violence, abuse, slavery and exploitation are part of the everyday life of refugees”.¹¹³ The German Foreign Ministry even spoke of “concentration camp-like conditions” in Libyan camps in 2017.¹¹⁴ In “pull-backs”, the so-called “Libyan Coast Guard” intercepts people who are trying to flee to the EU. It drags them back to Libya, where they are usually immediately detained again. In its operations, the “Libyan Coast Guard” is ruth-less and violent. Firearms are used.¹¹⁵ The EU finances the “Libyan Coast Guard”, trains the group consisting of militias and criminals and, in so doing, deliberately strengthens actors who are responsible for massive human rights violations.¹¹⁶

At Europe’s land and sea borders, violent “push-backs” (refoulements) in violation of international law are part of everyday life. The uninhibited violence of border guards is well documented. A recent report documenting violations of the law by state officials in Italy, Greece, Croatia, Slovenia and Hungary describes the procedure as sadistic, merciless, humiliating and degrading.¹¹⁷ It is directed against men, women and children alike. The external border states such as Greece and Croatia receive support from the European Commission and the member states, explicitly also from the German government.¹¹⁸

Camps within Europe, in ‘gateway’ countries like Greece, generate a particularly unsafe situation and protection risks, especially for women and girls. Arriving asylum seekers are forced to stay on the Greek Aegean islands, where the asylum procedure conducted is geared towards deportation to Turkey.¹¹⁹ While there, they do not have adequate

111 This was pointed out in 2015 by UNHCR, UNFPA, Women’s Refugee Commission (2015), Shreeves (2016) as well as: European Parliament Think Tank. 2016. Gender aspects of migration and asylum in the EU: An overview. [https://www.europarl.europa.eu/RegData/etudes/BRIE/2016/579072/EPRS_BRI\(2016\)579072_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/BRIE/2016/579072/EPRS_BRI(2016)579072_EN.pdf).

112 See WRC IN THE NEWS. Refugees face routine sexual violence in Libyan detention centres – report, <https://www.womensrefugeecommission.org/wrc-news/refugees-face-routine-sexual-violence-in-libyan-detention-centres-report/>

113 Der Standard. 2020. Libyen: Libysche Flüchtlingslager: Wo das Elend zu Hause ist. <https://www.derstandard.at/story/2000122707937/libysche-fluechtlingslager-wo-das-elend-zu-hause-ist>

114 FragDenStaat Exklusiv. 2018. Interner Diplomatenbericht zu “KZ-ähnlichen” Verhältnissen in libyschen Flüchtlingslagern. <https://fragdenstaat.de/blog/2018/libyen-fluechtlingslager/>

115 United Nations Support Mission in Libya. Office of the High Commissioner for Human Rights. 2018. Desperate and Dangerous: Report on the human rights situation of migrants and refugees in Libya. <https://www.ohchr.org/Documents/Countries/LY/LibyaMigrationReport.pdf>

116 Amnesty International. 2020. ‘Between life and death’ Refugees and migrants trapped in Libya’s cycle of abuse. <https://www.amnesty.de/sites/default/files/2020-09/Amnesty-Bericht-Libyen-Flucht-Asyl-Mittelmeer-Folter-Misshandlung-September-2020.pdf>, 16ff.

117 <https://www.borderviolence.eu/launch-event-the-black-book-of-pushbacks/#more-16565>

118 Pro Asyl. 2021. News: No rescue in sight: Protection seekers stranded in Bosnian transit. <https://www.proasyl.de/news/keine-rettung-in-sicht-schutzsuchende-gestrandet-im-bosnischen-transit/>

119 See Riba, Monica Costa. 2018. Women face daily dangers in Greek refugee camps. Amnesty International. <https://www.amnesty.org/en/latest/campaigns/2018/10/women-daily-dangers-refugee-camps-greece/>

access to vital services and often not even the most rudimentary accommodation. They are at increased risk of sexual and gender-based violence (SGBV). There are no appropriate support structures at the local level to ensure the safety of these vulnerable groups.¹²⁰

The lack of adequate sanitation, segregated areas, lighting and security guards becomes a particular danger for women and children, who avoid the toilets or go into the sea to wash for fear of assault. Many report a persistent state of fear. There is no separate area for victims of gender-based violence in the new tent camp built on Lesbos after fires in 2021.¹²¹

The dramatic violence inherent in European refugee policy cannot be ignored in view of the claim and scope of the

Istanbul Convention. The obligations under the Istanbul Convention do not begin with the allocation of refugees to the member states, but at any point within the scope of the Convention – i.e. already at Europe's external borders. The Federal Republic of Germany bears responsibility for this task as a signatory state of the IC itself and within the framework of its European Union membership and leadership role.

The European Union itself has so far only signed the IC and not ratified it. Nevertheless, the EU Reception Conditions Directive, inter alia, provides binding guidelines for the treatment of vulnerable persons which do not tolerate state violence against women at Europe's borders and internally.

RECOMMENDATIONS The migration policy of the European states cannot be reconciled with adequate and non-discriminatory protection of refugee women from (further) violence. Achieving the Istanbul Convention's aspiration to create a Europe free from violence against women and domestic violence¹²² does not seem possible without fundamental changes in European asylum policy, for which Germany shares responsibility. We recommend:

- ❖ **Asylum seekers who apply for asylum at the border of an EU state are protected against refoulement by the Geneva Refugee Convention (Art. 33(1)) and the European Convention on Human Rights (Art. 3). Breaches of international law must be consistently punished - by no means only, but also within the meaning of the Istanbul Convention (Art. 61).**
- ❖ **The EU and the German government must make their cooperation with third countries conditional on respect for human rights. Cooperation and partnerships that involve human rights violations must be terminated.**
- ❖ **The systematic deprivation of rights, isolation and detention of protection seekers at the EU border must end. The German government must work for unhindered access to a fair, regular asylum procedure in the EU.**
- ❖ **Women who are found to have fled via Libya or other contexts where they are believed to have experienced extraordinary violence or are traumatised must be considered vulnerable and treated and protected accordingly from the outset.**

120 See Cone, Devon. 2020. Seeking asylum in Greece: Women and unaccompanied children struggle to survive. Refugees international. <https://reliefweb.int/report/greece/seeking-asylum-greece-women-and-unaccompanied-children-struggle-survive>

121 <https://rsaegean.org/en/moria-2-0-trapped-refugees-at-the-mercy-of-winter/>

122 Final recital, Istanbul Convention.

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