



The Identification of Victims of Trafficking in The Asylum System

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Risk Profiles

**in European asylum
systems**

- Persons in need of international protection / **refugees smuggled** out of country of origin / first asylum who **fall prey to trafficking** in transit countries &/or in Europe
- Persons who were not in need of international protection and were **smuggled** out of country of origin and fall prey to trafficking in transit countries &/or in Europe and **fear return because of trafficking experience**
- Persons **trafficked into Europe [EU]** who escaped their trafficker(s) and seek international protection [in another EU MS and who become **subject to Dublin transfer**]

- Victims of trafficking **forced into asylum system** by traffickers and who present claims lacking in credibility
- Victims of trafficking who are **not in need of international protection** but whose **only access to protection** is through the asylum system
- **Vulnerable asylum-seekers** in EU asylum reception centres (or homeless) targeted by traffickers and who are at risk of trafficking
- **Unaccompanied and separated children** on the move across the EU - in asylum reception centres or not (victims or at risk of trafficking)
- Victims of trafficking in **need of international protection but outside asylum system** and **not advised about right to seek asylum/allowed to access asylum**

EU *Asylum acquis*



Asylum Procedures (recast) Directives

Recital 29: Some applicants in need of **special procedural guarantees** due to *i.a.* age, gender,... or **as a consequence of torture, rape or other serious forms of psychological, physical or sexual violence**

Art. 24 - Applicants in need of special procedural guarantees

- Obligation to **identify** applicants in need of special procedural guarantees **within reasonable period of time** after an application [art 24.1]
- **Adequate support including sufficient time (no acceleration)** to benefit from rights and comply with obligations APD [Art. 24.3]
- **Special procedural needs** also addressed if apparent at later stage [Art. 24.4]

Art.10(3) - Requirements for the examination of applications:

(d) Possibility to **seek advice from experts** on particular issues, such as medical, cultural, religious, child-related or gender issues

Art.15(3) - Requirements for a personal interview:

(a) Personnel **competent** to take account of personal and general circumstances surrounding application, incl. applicant's **vulnerability**

(b) and (c) **Same-sex interviewer and interpreter** wherever possible

Asylum Reception Conditions (Recast) Directive

Chap. IV – Provisions for vulnerable persons

- **Art.21:** Take into account specific situation of vulnerable persons *i.a.* **victims of trafficking**

- **Art.22:**

- (1) obligation to conduct **individual assessment** to identify whether special reception needs and indicate the nature of needs

- Obligation to **initiate within reasonable period** of time after application

- (4) Assessment shall be **without prejudice to assessment of international protection needs**

Holistic and Human Rights Approach

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Asylum acquis and **victim**
protection regime
in Europe

- **Obligation** to identify victims
- **Mechanisms for early identification** of victims (not asylum applications)
- Standard of proof : “**reasonable grounds**”
- **Expert** advice – with relevant support organisations
- **Same-sex interviewer** and **interpreter** wherever possible
- **Competent** (regularly trained) personnel
- Prevent **secondary victimisation**
- Individual needs assessment **without prejudice to assessment of international protection needs**

Credibility Assessment in Victim Identification

Evidentiary Matters & Victim Identification

- Low threshold approach for identification
“**reasonable ground**”
- Standard of proof: **NOT “beyond reasonable/any doubt”** – Not appropriate for asylum adjudication
- Art.4(1) EU QD - “duty to substantiate” - **NOT a matter of “proof” or search for truth**
- **Shared duty** to substantiate application
- Applicant’s statements = primary and may be only **source of evidence**
- Lack of documentary evidence

Individual, Objective and Impartial Assessment

- Other factors to take into account:
 - Impact of feelings of shame, stigma, fear of reprisals on **self-identification** & (late) **disclosure**
 - **Frailty of human memory, effect of emotion on memory**
 - Interviewer/Decision-Maker's **thinking processes, assumptions, expectations, misconceptions**
- Factors span disciplinary fields of neurobiology, psychology, anthropology, sociology, cultural & gender studies – **Multi-disciplinary approach**
- Training: Knowledge, Skills, **Attitude/Awareness**

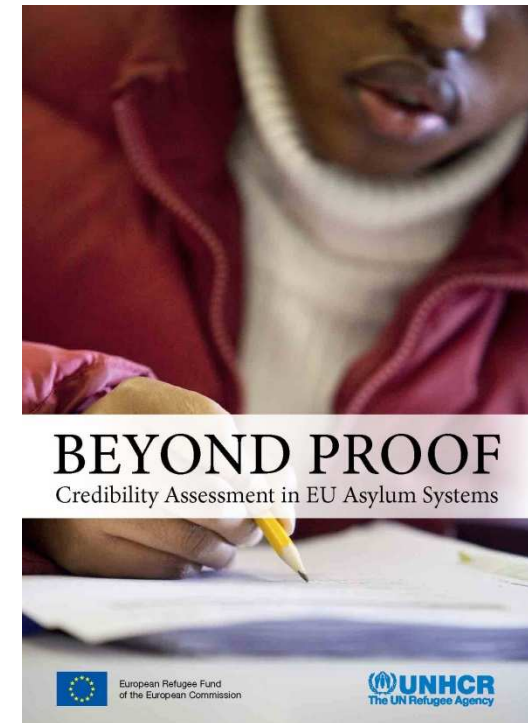
UNHCR

*“Beyond Proof –
Credibility Assessment in EU
Asylum Systems”*

Report & Checklists

available at: UNHCR Refworld

(ENG, FRE, GER, BUG, HUN, SLO, POL, ROM)



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