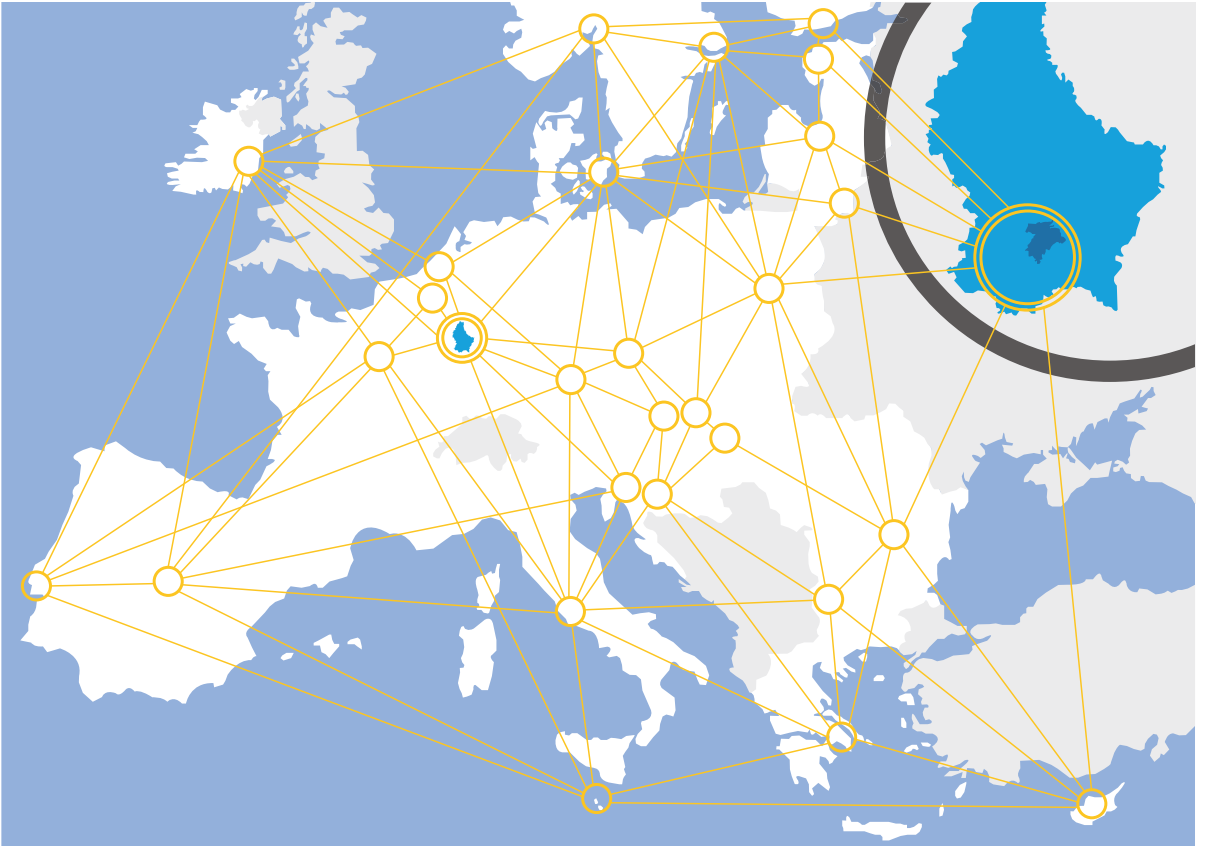


# EMN

European Migration Network



LËTZEBUERG



## Detection of vulnerabilities in the international protection procedure

October 2021

## Key points to note

- The **most common vulnerabilities** Member States detect in the international protection procedure relate to the applicants' **age, family composition, psycho-medical conditions, gender, and sexual orientation**. Some Member States do not specifically register data on vulnerabilities.
- In nearly all Member States, the **Asylum Law of the Immigration Law/Aliens Act**, together with related legal provisions if applicable, **primarily regulate the detection of vulnerabilities** of applicants for international protection, both with regard to the asylum procedure and reception. Some Member States have also adopted a **Reception Law** regulating the detection of vulnerabilities during reception. In addition, internal guidelines, standard operating procedures, as well as dedicated questionnaires or forms complement the legal framework in a number of Member States.
- In all Member States, it is **primarily the responsibility of the respective authority in charge of asylum and/or reception to detect and identify vulnerabilities of applicants**. In some Member States, additional stakeholders may be in charge as well, such as authorities in charge of immigration, the Police and/or State Border Guard, medical professionals or other relevant stakeholders, particularly in the field of reception.
- A **first assessment** of vulnerabilities is generally made **during the registration of the application** for international protection, when the responsible authorities take note of any (visible) indications for vulnerabilities. However, the detection of vulnerabilities may take place **at any stage** of the asylum procedure, including during the **general medical examination** foreseen in a number of Member States, during the **reception phase**, during the **asylum interview(s)** as well as during the **examination of the application**.
- In almost all Member States, officials involved in the registering and processing of international protection applications and in the reception of applicants receive **specialised training on the detection and identification of vulnerabilities**. This specialised training is usually organised in the form of internal trainings organised by the respective State, or by national, European or international external experts.
- In nine Member States, the **medical examination to detect vulnerabilities** takes place in the form of the medical examination concerning signs that might indicate past persecution or serious harm, arranged and paid for by the respective Member State, as foreseen by Article 18(1) of the Recast Asylum Procedures Directive (Directive 2013/32/EU). Eight Member States indicated that the medical examination to detect vulnerabilities does not take place on the basis of Article 18 of the aforementioned directive.
- The **majority of Member States** have a **procedure in place to guarantee the follow-up of the detection of vulnerabilities**. In more than half of these Member States, the analysis seems to indicate that this follow-up procedure is more formalised, whereas in other Member States the follow-up is assured on a less formalised and case-by-case basis.
- Many Member States reported on **special procedural guarantees** that are in place for specific groups of vulnerable applicants, especially **victims of trafficking in human beings and unaccompanied minors**. More generally, many Member States apply special procedural guarantees when **preparing, proceeding with, and following-up on a vulnerable applicant's asylum interview(s)**. Such guarantees include, among others, a more adapted location, time, and setting of the interview, including in the reception centre or in writing. The interview may also be shortened, split into multiple hearings, or postponed until the situation of the applicant allows for the interview to take place. Moreover, the examination of applications made by vulnerable persons may be prioritised.
- The detection of a vulnerability of an applicant for international protection has **generally no direct impact on the assessment of the application itself**; the respective impact on the decision on

the application depends entirely on the individual circumstances of each applicant.

## 1. Introduction, aim and scope<sup>1</sup>

The vulnerability of applicants for international protection<sup>2</sup> is a key component of the EU *acquis* on asylum, with both the Recast Asylum Procedures Directive (2013/32/EU)<sup>3</sup> and the Recast Reception Conditions Directive (2013/33/EU)<sup>4</sup> providing special provisions for vulnerable persons with regard to the procedure for international protection (i.e. special procedural guarantees) and reception (i.e. special reception needs), respectively. Hence, in order for Member States to be able to provide and guarantee these special provisions for vulnerable applicants, it is essential that a potential vulnerability is detected and identified at an early stage in the international protection procedure.

It is in this context that EMN Luxembourg decided, in consultation with the Luxembourgish authorities and national stakeholders, to launch a request for information to Member States via the EMN ad-hoc query system. As a consequence, the aim of this Inform is to map how vulnerabilities of applicants for international protection are detected in the international protection procedure in EU Member States and how the follow-up of this detection is guaranteed by the authorities and stakeholders involved, including spe-

cial procedural guarantees.

The information for elaborating this Inform was collected through two EMN ad-hoc queries<sup>5</sup> highlighting specific aspects of the detection of vulnerabilities in the international protection procedure. The first ad-hoc query focuses on the legal and procedural framework, the follow-up of the detection of vulnerabilities, the special procedural guarantees provided to vulnerable applicants, as well as the impact of the detection of vulnerabilities on the application for international protection. The second ad-hoc query focuses more in detail on the medical examination concerning signs that might indicate past persecution or serious harm of applicants for international protection and provides information on which vulnerabilities are most commonly detected in the Member States. The same 23 Member States answered the two respective ad-hoc queries.<sup>6</sup> In addition, in some cases and if indicated as such by the Member States in their answers to the two abovementioned ad-hoc queries, relevant information provided in an earlier EMN ad-hoc query from 2019<sup>7</sup> on the same topic is referenced in this Inform.

At the same time, it should be noted that related aspects, such as specific information with regard to the detection during border or return procedures, in detention, or the medical examinations to determine the age of an unaccompanied minor, are not within the scope of this Inform. Furthermore, this Inform does not specifically address the impact of COV-

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<sup>1</sup> DISCLAIMER: The responses of the Member States regarding these EMN ad-hoc queries have been provided primarily for the purpose of information exchange among the EMN NCPs in the framework of the EMN. The contributing EMN NCPs have provided information that is to the best of their knowledge up-to-date, objective and reliable. However, the information provided in the present summary is produced under the exclusive responsibility of EMN Luxembourg and does not necessarily represent the official policy of an EMN NCP's Member State.

<sup>2</sup> Henceforth, the terms 'applicant for international protection' and 'applicant' are used interchangeably.

<sup>3</sup> Directive 2013/32/EU of the European Parliament and of the Council of 26 June 2013 on common procedures for granting and withdrawing international protection (recast).

Available at: <https://eur-lex.europa.eu/legal-content/en/TXT/?uri=celex%3A32013L0032>.

<sup>4</sup> Directive 2013/33/EU of the European Parliament and of the Council of 26 June 2013 laying down standards for the reception of applicants for international protection (recast). Available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32013L0033>.

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<sup>5</sup> Ad-hoc queries 2021.28 and 2021.29 on Detection of vulnerabilities in the international protection procedure (Part 1 and 2), launched on 27 April 2021 by EMN Luxembourg.

<sup>6</sup> AT, BE, BG, CY, CZ, DE, EE, ES, FI, FR, HR, HU, IE, IT, LT, LU, LV, MT, NL, PL, SI, SK, SE. The answers of LT to ad-hoc query 2021.29 (Part 2) were marked as not for wider dissemination and were therefore not used for this Inform.

<sup>7</sup> Ad-hoc query 2019.70 on Actions undertaken in the EU Member States to improve consideration of asylum seekers' and refugees' vulnerabilities throughout their migratory pathway, launched on 12 July 2019 by EMN France. This ad-hoc query was answered by AT, BE, BG, CY, CZ, DE, EE, EL, FI, FR, HR, HU, IE, IT, LV, LT, LU, MT, NL, PL, SK, SE, UK, plus NO. The answers of AT, IE, LT and UK to ad-hoc query 2019.70 were marked as not for wider dissemination and were therefore not used for this Inform.

Available at: [https://ec.europa.eu/home-affairs/system/files/2020-01/201970\\_actions\\_undertaken\\_in\\_the\\_eu\\_member\\_states\\_to\\_improve\\_consideration\\_of\\_asylum\\_seekers.pdf](https://ec.europa.eu/home-affairs/system/files/2020-01/201970_actions_undertaken_in_the_eu_member_states_to_improve_consideration_of_asylum_seekers.pdf).

ID-19, as no question in this respect was included in the ad-hoc queries.

## 2. Who is considered as a vulnerable person?

As indicated in the introduction, EU legislation provides for special provisions for vulnerable persons in the asylum system, which are specified in the Recast Asylum Procedures Directive and in the Recast Reception Conditions Directive. The following will provide a brief overview of these provisions in the two directives.

### Recast Asylum Procedures Directive (2013/32/EU)

The Recast Asylum Procedures Directive stipulates in its recital 29 that certain **applicants** may be **in need of special procedural guarantees** due, inter alia, to their age, gender, sexual orientation, gender identity, disability, serious illness, mental disorders or as a consequence of torture, rape or other serious forms of psychological, physical or sexual violence. Article 2(d) of the directive defines an applicant in need of special procedural guarantees as *“(...) an applicant whose ability to benefit from the rights and comply with the obligations provided for in this Directive is limited due to individual circumstances.”*

Article 24(1) of the directive obliges Member States to assess within a reasonable period of time after an application for international protection is made, and before a first instance decision is taken<sup>8</sup>, whether the applicant is in need of special procedural guarantees. Those applicants should be provided with adequate support, including sufficient time, in order to create the conditions necessary for their effective access to procedures and for presenting the elements needed to substantiate their application for international protection.<sup>9</sup> Moreover, Member States are required to ensure that the need for special procedural guarantees is also addressed if such a need becomes apparent at a later stage of the procedure, without necessarily restarting the procedure.<sup>10</sup> The provisions of these special procedural guarantees are stipulated in Article 24 for applicants in general and in Article 25

for unaccompanied minors applying for international protection (see section 6 for more information on the special procedural guarantees).

### Recast Reception Conditions Directive (2013/33/EU)

The Recast Reception Conditions Directive in its Chapter IV lists detailed provisions for vulnerable persons in the framework of their reception in the Member States. The directive defines an **applicant with special reception needs** as *“(...) a vulnerable person, in accordance with Article 21 [of this Directive], who is in need of special guarantees in order to benefit from the rights and comply with the obligations provided for in this Directive.”*<sup>11</sup> Article 21 provides a non-exhaustive list of who is to be considered as vulnerable persons in this context, namely minors, unaccompanied minors, disabled people, elderly people, pregnant women, single parents with minor children, victims of human trafficking, persons with serious illnesses, persons with mental disorders and persons who have been subjected to torture, rape or other serious forms of psychological, physical or sexual violence, such as victims of female genital mutilation.

Article 22 is of key importance in this regard, as it requires Member States to assess the special reception needs of vulnerable persons within a reasonable period of time after an application for international protection is made. Moreover, those special reception needs should also be addressed if they become apparent at a later stage in the asylum procedure.<sup>12</sup> In this context, Member States shall ensure that the support provided to applicants with special reception needs takes into account their special reception needs throughout the duration of the asylum procedure and shall provide for appropriate monitoring of their situation.<sup>13</sup> In addition to these more general

<sup>8</sup> Recital 29 of the Recast Asylum Procedures Directive.

<sup>9</sup> Article 24(3) subparagraph 1 of the Recast Asylum Procedures Directive.

<sup>10</sup> Article 24(4) of the Recast Asylum Procedures Directive.

<sup>11</sup> Article 2(k) of the Recast Reception Conditions Directive.

<sup>12</sup> Article 22(1) subparagraph 2 of the Recast Reception Conditions Directive.

<sup>13</sup> Article 22(1) subparagraph 3 of the Recast Reception Conditions Directive.

provisions, Chapter IV of the directive also lists specific provisions for minors (Article 23), unaccompanied minors (Article 24) and victims of torture and violence (Article 25).

In summary, the EU acquis provides for a list of non-exhaustive examples of who is to be considered as a vulnerable person in the context of the asylum procedure and in the context of reception. As this brief overview has shown, these listed examples are not identical but provide for slightly different categories of vulnerable persons in the respective contexts. For instance, the factors ‘gender’, ‘gender identity’ and ‘sexual orientation’ are only explicitly mentioned in the Recast Asylum Procedures Directive and not in the Recast Reception Conditions Directive, whereas ‘victims of human trafficking’ are only explicitly referenced in the Recast Reception Conditions Directive. Furthermore, the EU acquis does not indicate a precise timeframe within which the assessment of vulnerabilities shall be conducted. Instead, both directives require Member States to conduct this assessment ‘within a reasonable period of time’.

### 3. What are the most commonly detected vulnerabilities?

The most common vulnerabilities Member States detect in the international protection procedure relate to the applicants’ age, family composition, psycho-medical conditions, gender, and sexual orientation. It is worth noting that, generally speaking, this situation is very similar to the state of play reported in the answers to the EMN ad-hoc query requested by EMN France in 2019.<sup>14</sup>

Many Member States indicate vulnerabilities related to an applicant’s **age and family composition**. The majority reported that unaccompanied minors are among the most common vulnerable groups detected in their respective country.<sup>15</sup> Moreover, six Member States indicated that single parents with minor children are among the most common detected vulnerabilities.<sup>16</sup> Poland and Slovenia noted that also accompanied minors more generally are among the

most common vulnerable groups, while Ireland indicated that one of the most common vulnerabilities identified was minors more generally.<sup>17</sup> Croatia, Estonia and the Slovak Republic further reported that elderly applicants, especially when infirm or at the age of retirement, are among the most detected vulnerable groups.

A second significant vulnerability detected in the Member States is the **psychological and medical condition** of an applicant for international protection. For 13 Member States, mental health issues are one of the most commonly detected vulnerabilities.<sup>18</sup> Belgium, France, Hungary and Luxembourg mentioned traumatism or post-traumatic stress disorder (PTSD) in particular, which may be the consequence of severe physical or psychological violence. Several Member States reported that applicants may have been victims of human trafficking, torture and/or other forms of violence.<sup>19</sup> Austria, Germany, Ireland, Latvia and the Slovak Republic indicated that special medical needs or serious illnesses are the reason for increased vulnerability among many applicants, and the Czech Republic, France and the Slovak Republic reported that persons with disabilities make up one of the most common vulnerable groups.

A third main category of vulnerability relates to **gender and sexual orientation**. Six Member States specifically mentioned female applicants for international protection as particularly vulnerable, especially single and pregnant women.<sup>20</sup> Many Member States reported victims of rape, gender-based or sexual violence, human trafficking for sexual exploitation, or domestic violence within asylum-seeking families as major causes for increased vulnerability.<sup>21</sup> Wom-

<sup>14</sup> Ad-hoc query 2019.70 on Actions undertaken in the EU Member States to improve consideration of asylum seekers’ and refugees’ vulnerabilities throughout their migratory pathway, launched on 12 July 2019 by EMN France.

<sup>15</sup> AT, BE, BG, CY, DE, HR, IT (EMN ad-hoc query 2019.70), LV, LT, LU, SE, SI and SK.

<sup>16</sup> CZ, EE, HR, LV, SI, SK.

<sup>17</sup> Ireland responded in relation to most common vulnerabilities identified within the Recast Reception Conditions Directive 2013/33/EU.

<sup>18</sup> BE, CY, DE, EE, FI, FR, HU, IE, LV, LU, SI, SK, SE.

<sup>19</sup> CY, DE, IE, LU, PL, SI.

<sup>20</sup> AT, EE, FR, HR, LV, SK.

<sup>21</sup> BE, CY, DE, FR, IE, LU, SE, SI.

en are generally more likely to be exposed to such threats. Finally, Austria, Germany, France and Sweden reported that members of the LGBTQI community are among the most common vulnerable groups. Some Member States provide specific housing and reception conditions to this population.

In addition to the above, a number of Member States provided additional information in this context. Belgium highlighted the fact that applicants can have several vulnerabilities, which can further strengthen their need for special procedural guarantees. Belgium is currently considering and developing ways to better identify mental health issues and their possible negative impact on the asylum procedure in a timely manner, ways to provide adequate support where needed, as well as ways to better evaluate the possible consequences of these issues in relation to the need of international protection. Finland reported that basically every form of vulnerability has been detected in their national context, but that they most commonly relate to mental health problems and vulnerabilities related to age, gender and family composition. Furthermore, it was highlighted that the percentage of mental health problems seems to be rising steadily in Finland. Various studies carried out by NGOs on the ground in France tend to suggest that situations of vulnerability can persist or arise for some groups once arrived in France. Some studies showed that women asylum seekers and women refugees could remain exposed to various situations of violence once on the national territory, such as sexual assaults, sexual exploitation, arranged marriages or pregnancies in order to facilitate the allocation of accommodation places or domestic violence from their partners.<sup>22</sup>

Lastly, it should be noted that in a number of Member States, data on vulnerabilities is not specifically registered.<sup>23</sup> As a consequence, either no data was reported by the respective Member State<sup>24</sup> or more general data was provided and included in this section (see above).<sup>25</sup> Croatian authorities, on the other hand, started to collect statistical data on vulnerable persons since the beginning of 2019.

## 4. What is the legal and procedural framework?

### 4.1. Legal framework

In nearly all Member States<sup>26</sup>, the **Asylum Law or the Immigration Law/Aliens Act**, together with related legal provisions if applicable, primarily regulate the detection of vulnerabilities of applicants for international protection, both with regard to the asylum procedure and the reception of the applicants.<sup>27</sup> Ireland is not bound by the Recast Procedures Directive (2013/32/EU) but remains bound by the 2005 Procedures Directive (2005/85/EC). The legal framework for processing protection applications in Ireland is the International Protection Act 2015. The International Protection Office does not have a separate administrative procedure for identifying vulnerable applicants – this is integrated into existing procedures.

Belgium, Finland, Ireland and Luxembourg have also adopted a **Reception Law** regulating the detection of vulnerabilities during reception, thereby providing the respective national authorities in charge of reception with responsibilities in the matter. In Ireland, the detection of vulnerabilities is primarily the responsibility of the reception authority.<sup>28</sup> The European Communities (Reception Conditions) Regulations 2018, which implement the Recast Reception Conditions Directive, provide for an assessment of special reception needs within 30 days of reception or application. In Spain, the Organic Law on Legal Protection of Children and the Law on Protection

<sup>22</sup> Ad-hoc query 2019.70, launched on 12 July 2019 by EMN France.  
<sup>23</sup> DE, IT, MT, NL, PL, SE.

<sup>24</sup> MT and NL. Furthermore, ES did not provide an answer to this question in ad-hoc query 2021.29 (Part 2) and did not respond to ad-hoc query 2019.70.

<sup>25</sup> DE, IT, PL and SE. Sweden reported that the Swedish Migration Agency has no legal possibility to seek out statistics and profiles about persons found to be vulnerable in the Swedish asylum process. Instead, it was possible to draw some more general conclusions from the questions that have required legal solutions during the last years.

<sup>26</sup> BE, BG, CY, CZ, DE, EE, ES, FI, FR, HR, HU, LT, LU, LV, MT, NL, PL, SI, SK.

<sup>27</sup> In BE, FI, FR, LT and NL, the provisions with regard to international protection are regulated by the Immigration Law/Aliens Act.

<sup>28</sup> Department of Children, Equality, Disability, Integration and Youth.

against Gender Violence complement the Asylum and Refugee Law with regard to the detection of vulnerabilities. Moreover, every autonomous community in Spain has specific legislation on this matter, as some of the competences are transferred to those administrations.

Only Italy and Sweden did not make reference to the Asylum nor the Immigration Law in this context. In Italy the legislative framework only foresees a single identification procedure of unaccompanied minors.<sup>29</sup> Specific operational guidelines have been adopted for other forms of vulnerabilities, such as victims of trafficking in human beings or gender-based violence. These guidelines set out the standard operating procedures (SOP) to be adopted during the procedure for international protection, which takes place at the Territorial Commissions, in order to facilitate the emergence and identification of special needs and vulnerabilities to allow applicants to take advantage, where possible, of appropriate assistance and protection measures. Italy also reported that the UNHCR collaborates with the Italian authorities in defining standard procedures for the identification, referral and care of people with special needs, such as, for example, people who survived shipwreck, torture and extreme trauma, sexual violence and gender, single-parent families, disabled persons, the elderly and members of the LGBTQI community.

Sweden, on the other hand, reported not to have a specific legal framework in place regarding the assessment of vulnerabilities. Instead, the Swedish Migration Agency assesses vulnerabilities of applicants for international protection by making use of internal instructions describing a standard for identification and documentation of special needs.<sup>30</sup> These instructions have been implemented in the digital modules within the IT-system used by the caseworkers in the international protection procedure.

In addition to the above, **internal guidelines and/or standard operating procedures** complement the legal framework regarding the detection of vulnerabilities in a number of Member States.<sup>31</sup> Furthermore, **dedicated questionnaires or forms** are used in order to register any relevant information regarding vulnerabilities of the applicant.<sup>32</sup> For example, in Germany, the internal guidelines of the Federal Office for Migration and Refugees (BAMF) refer to the Recast Asylum Procedures Directive and the Recast Reception Conditions Directive (see section 2 above). These guidelines stipulate that it is the duty of all staff members to make every effort to identify vulnerable persons at any stage of the international protection procedure and to provide any necessary and possible help to applicants. Estonia noted that in 2020, the Police and Border Guard Board, as the responsible authority, started to use an additional assessment tool that includes control questions in order to facilitate the assessment of potential vulnerabilities. In Ireland, the vulnerability assessment is undertaken by the reception authority once the person lodges their application for international protection with the International Protection Office. A list of standard questions is available to assessors to focus the vulnerability assessment undertaken under the Reception Conditions Regulations. As part of preparation for the international protection interview, the interviewer examines the international protection questionnaire and any documentation, including medical reports, submitted by the applicant. The questionnaire contains a number of questions that would assist in identifying possible vulnerable applicants.

As a consequence, **in all Member States, it is primarily the responsibility of the respective authority in charge of asylum and/or reception to detect and identify vulnerabilities of applicants.** In some Member States, additional stakeholders may also be in charge of the detection, such as authorities

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<sup>29</sup> Law no. 47/2017 on the Provisions on the protection of foreign unaccompanied minors.

<sup>30</sup> KCI 78/2017 + 103/2017.

<sup>31</sup> BE, CY, DE, FR, HR, IE, IT, NL, SE, SI, SK.

<sup>32</sup> BE, BG, EE, FR, CY, HR, HU, LT, SK.

in charge of immigration<sup>33</sup> (if different from the authority in charge of asylum), the Police and/or State Border Guard<sup>34</sup> (when in charge of the initial asylum procedure), medical professionals<sup>35</sup> or other relevant stakeholders<sup>36</sup>, particularly in the field of the reception. For example, in Estonia, all the administrative authorities and persons who are in contact with an applicant shall observe the special needs of the applicant and consider them systematically and on an individual basis throughout the entire international protection procedure, including if the special needs become evident at later stages of the procedure. In such cases, the relevant information shall be communicated from the Police and State Boarder Guard to the other administrative authorities and persons who are in contact with the applicant<sup>37</sup>, and vice versa.

More generally, it is ensured that the necessary information is transferred to the authorities responsible for the reception of applicants and/or for the processing of their application for international protection, with the consent of the applicant pursuant to national legislation.

## 4.2. Procedural framework

From a procedural point of view, the detection of vulnerabilities may take place at any stage in the asylum procedure. A **first assessment** of vulnerabilities is generally made **during the registration of the application for international protection**, when the responsible authorities take note of any (visible) indications for vulnerabilities, such as the age of the applicant, their family composition or their medical or psychological state. This first assessment may take the form of a specific interview to detect possible vulnerabilities, such as in Cyprus or France, or is conducted by the officer of the Immigration or Asylum authority during the registration of the application. As mentioned in the previous section, some Mem-

ber States make use of dedicated questionnaires or forms in this context. Moreover, applicants may submit medical certificates or any other relevant documents that could highlight their need for special procedural guarantees or reception needs. This information is then registered in the applicants' file.

In Belgium, officers of the Immigration Office indicate such (visible) indications on a special registration form. This form includes a free space which the officers use to specify if an applicant should be considered as 'very vulnerable' based on acute needs, such as women who are in last months of their pregnancy or applicants who have immediate medical needs. The completed registration form, with the indication of vulnerabilities, is then added to the administrative file of the applicant and transferred to the Office of the Commissioner General for Refugees and Stateless Persons (CGRS), responsible for the assessment of the application. Every file arriving at the CGRS is then screened for vulnerabilities and possible special procedural needs. Moreover, the Dispatching Department of the Federal Agency for the Reception of Applicants for International Protection (Fedasil), responsible for the allocation of reception places, also receive a copy of the file and will take into account the registered vulnerabilities when allocating a reception facility, based on an assessment of criteria such their family situation, their state of health, the knowledge of one of the national languages or the language in which the procedure is conducted.

Similarly, in France, the French Office for Immigration and Integration (OFII) is in charge of the assessment of vulnerabilities and special needs of applicants upon the registration of their application at the single desk for asylum seekers (GUDA) of the Prefectures. Any information regarding vulnerabilities of applicants collected by the OFII is subsequently transmitted, upon agreement by the applicant, to the French Office for the Protection of Refugees and Stateless Persons (OFPRA), the responsible authority for the refugee status determination. Due to the federal system, the identification and detection of vulnerabilities in Germany is a shared responsibility be-

<sup>33</sup> BE, FR, PL.

<sup>34</sup> HR, IT, LV, LT, PL, SI.

<sup>35</sup> EE, HR, HU, IE, LU, SI, SK.

<sup>36</sup> BE, CY, CZ, HR, LU, SK, SI.

<sup>37</sup> To the extent which is necessary for taking into account a special need of an applicant.



tween the Federal Office for Migration and Refugees, in charge of the asylum procedure, and the Federal States, who are responsible for the reception of applicants for international protection.

In Ireland, the Department of Justice has responsibility for asylum and the Department of Children, Equality, Disability, Integration and Youth has responsibility for reception. Responsibility for identification of vulnerabilities falls under the remit of the reception authority. In the International Protection Office, the identification of vulnerable applicants is integrated into operational procedures and can occur at any stage of the international protection procedure. Early identification of vulnerability could arise at reception, for example, in the case of unaccompanied minors, who are referred to the Child and Family Agency (Tusla). It can also apply when key documents such as the International Protection Questionnaire are being triaged for interview prioritisation purposes, or on the basis of the reading of medical reports submitted by applicants. Vulnerability is also looked for at the interview stage.

In addition to the registration of first (visible) signs of vulnerabilities by the authorities in charge of the registration of the application, applicants are generally required or offered to undergo a **medical examination**, which Member States may require on grounds of public health concerns.<sup>38</sup> The examining doctor, psychologist or other specialised medical practitioner prepares a medical report which also includes the signalling of any (visible) signs of vulnerability and which shall be transmitted to the responsible authorities, upon consent from the applicant.

Vulnerabilities may also be detected during the **reception** of the applicant, either, as mentioned above, by the respective authority in charge of reception or by the staff working in the reception centres. Also in such cases, it is generally assured, upon agreement

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<sup>38</sup> Article 13 of the Recast Reception Conditions Directive (2013/33/EU). For the medical examination concerning signs that might indicate past persecution or serious harm, please see section 4.4. below.

by the applicant, that special reception needs that may result in the need for special procedural guarantees are communicated to the authorities in charge of the asylum procedure.

In Croatia, the Protocol on Proceedings towards Unaccompanied Children provides a uniform practice and efficient cooperation of the competent bodies and institutions in order to detect and protect children. Moreover, a standard operating procedure on the response to sexual and gender-based violence in reception centres aims to identify sexual, physical, emotional and psychological violence, harmful traditional practices, and socio-economic violence independent of where it may occur (before the arrival in the country of asylum application, in a transit country or in the country of origin of the applicant). The SOP holds that all relevant stakeholders (Ministry of the Interior, Croatian Red Cross, UNHCR, Médecins du Monde, Jesuit Refugee Service, Croatian Law Centre, IOM and Society for Psychological Assistance) are involved in the identification of potential cases of sexual and gender-based violence. In practice, a coordinator for sexual and gender-based violence is in charge of taking necessary action, coordinating all activities between all other stakeholders, and following the case until solving each critical situation. Bulgaria also follows such a SOP, together with a Risk Assessment Guide, with regard to sexual and gender-based violence. Moreover, the State Agency for Refugees makes use of a Questionnaire for the identification of applicants for international protection with traumatic experiences. These tools make it possible to identify the specific needs of vulnerable persons and refer them to adequate psychological and medical care.

In Luxembourg, the National Reception Office (ONA) is in charge of detecting vulnerable persons and identifying their needs upon arrival in the country as well as throughout the international protection procedure, specifically with regard to special reception needs. Furthermore, the assessment of their needs for basic medical care is conducted by the physician of the Directorate of Health appointed by the Min-

istry of Health (Sanitary Inspection). There is no prioritisation among vulnerable persons, instead, each person is being assessed for their individual specific needs upon arrival. ONA and its partners support those people who have been deemed vulnerable by offering them, as far as possible, accommodation adapted to their needs, as well as orientation towards the relevant specialised services. Moreover, as part of the collaboration agreement between the Red Cross and ONA, an ethno-psychological team is responsible for identifying people with mental disorders and, if necessary, implementing an appropriate follow-up in close cooperation with mental health services.

Similarly, in Belgium, the Federal Agency in charge of reception (Fedasil) plays a significant role in this context. When specific reception needs are identified on the basis of the medical, social and/or psychological situation of the resident, the social worker makes recommendations for the measures to be taken to meet these needs. If this cannot be done by adapting the current reception facility (e.g., transfer to a room on the ground floor or close to the sanitary facilities), nor by the provision of external specialised ambulatory services, then the applicant is usually transferred to a more adapted reception facility, either within or outside the reception network of Fedasil. In this context, Fedasil has drawn up an instruction with regard to the medical reasons allowing for a transfer and an instruction with regard to other reasons that justify a transfer to an adapted reception.

In Ireland, applicants are referred in the first instance to a National Reception Centre where initial screening, including health assessment and vulnerability assessment takes place. Applicants are then assigned a place in one of the accommodation centres throughout the country. From late 2020, the International Protection Accommodation Services introduced a pilot vulnerability assessment procedure carried out in parallel with the initial stage of the application procedure.<sup>39</sup> Participation in the assessment is voluntary and each applicant is required to confirm their consent to participate in the assessment before

it begins. Assessment questions are based on the various categories of vulnerability identified within the Recast Reception Conditions Directive and have been refined within the Irish context.

Bulgaria, Estonia and Slovenia specifically reported to make use of the Online tool for identification of persons with special needs (IPSN) of the European Asylum Support Office (EASO), whose primary objective is facilitate the timely identification of persons with special procedural and/or reception needs.<sup>40</sup>

Lastly, the authorities in charge of asylum may also identify elements of vulnerability during the later stages of the international protection procedure, namely either **during the personal interview(s)** conducted with the applicant or **during the examination of the application**. This could include situations in which these elements had not been detected before or occurred while the applicant was already present in the Member State (e.g. pregnancy, mental health issues or the identification as a victim of trafficking in human beings).

In summary, the detection of vulnerabilities may take place at any stage in the asylum procedure, including reception, and generally involves several stakeholders who are either directly in charge of the detection themselves (i.e. Member State authorities) or who otherwise contribute to the detection according to their respective field of work (i.e. medical professionals, staff in the reception centres, etc.).

### 4.3. Specialised training

Officials involved in the registering and processing of international protection applications and in the reception of applicants receive **specialised training** on the detection and identification of vulnerabilities in

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<sup>39</sup> The pilot was extended to all new applicants for international protection from the beginning of February 2021. The pilot will continue until end 2021, at which point it will be evaluated, and this will be used to inform the long-term implementation of vulnerability assessments.

<sup>40</sup> For more information: <https://ipsn.easo.europa.eu/european-asylum-support-office>

**almost all Member States.**<sup>41</sup> This specialised training can take the form of internal trainings organised by the respective State, for example in the form of the general training for state officials, or by specialised institutional stakeholders, such as the Vulnerability Unit of the Belgian Immigration Office for example. In addition, in many Member States, specialised training is regularly organised by external experts, such as EASO, which offers various dedicated training modules in this context<sup>42</sup>, international organisations (e.g. IOM, UNHCR, etc.), (specialised) national or international NGOs (e.g. national societies of the Red Cross, Save the Children, etc.) or other relevant stakeholders in the field. Examples of the latter include, among others, the organisation LEFÖ in Austria, the National Commission on Trafficking in Human Beings in Bulgaria and the Society of Psychological Assistance in Croatia. France noted that colloquia, conferences and other dedicated meetings organised by institutional or NGO partners are also regularly organised to raise awareness and train officials.

In the context of these specialised trainings, **particular attention** is paid to the situation of **unaccompanied minors and victims of trafficking in human beings**. However, many more aspects of vulnerability are conveyed as well in these trainings, such as interviewing techniques that take the special needs of vulnerable persons into account, gender identity and sexual orientation, gender-based violence, recognition of victims of torture, support for vulnerable persons in return procedures, trauma and other psychological or medical issues. As mentioned above, EASO supports national administrations and services in this context and offers specific training modules on most of the aforementioned aspects of vulnerability.

In order to improve and harmonize the training on the early identification of vulnerabilities for all the actors involved in the asylum procedure, the Directorate General for Foreigners in France presented

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<sup>41</sup> AT, BE, BG, CY, DE, EE, ES, FI, FR, HR, HU, IE, IT, LV, LT, LU, NL, PL, SE, SK.

<sup>42</sup> For more information on the training modules by EASO: <https://easo.europa.eu/asylum-support-training/training>

the ‘Vulnerabilities Plan’ in March 2021, which proposes to set up ‘vulnerability referents’ in the OFII’s territorial departments: these regional coordinators will act as referents on the issues related to vulnerability. These referents and the staff of the structures for the initial reception of asylum seekers (SPADA) will be trained by the OFPRA, which will also provide regional training sessions for social workers in the reception centres for applicants for international protection.

Only the Czech Republic, Malta and Slovenia noted that special trainings are not required for state officials. In the Czech Republic and in Slovenia, important aspects relating to the identification and detection of vulnerabilities are either part of a general training or of regular trainings, for example, of case-workers and other persons who are in contact with applicants. And in Finland, all case workers of the Asylum Unit of the Finnish Immigration Service interviewing applicants receive an initial general training on vulnerability after starting their position, followed by EASO module trainings at later stages. While no special training is required for nurses, social workers or social advisors working in reception centres, the Reception Unit of the Finnish Immigration Service provides regular trainings on vulnerability.

In addition to these trainings, a number of Member States have special vulnerability officers in place that are charged with processing applications made by vulnerable applicants, including conducting the interviews, assessing vulnerabilities during these interviews, evaluating the elements of the application and taking the decision on the case. In Luxembourg, a vulnerability project manager has been recruited to initiate a project to detect different vulnerabilities. Since 2020, the vulnerability project manager is assigned to the Health Unit within the National Reception Office (ONA) and has the mission to contribute to and promote better care and appropriate accommodation for vulnerable people and/or people in precarious health situations. In this context, an analysis of the screening methods used to identify existing or potential vulnerabilities among applicants

for international protection has been carried out, in collaboration with field actors. Based on this analysis, a tool to detect vulnerabilities is currently finalised and will be applied in a pilot phase. An evaluation will enable the tool to be adapted according to the needs identified and with the aim to develop and implement a system for assessing specific needs, or even vulnerabilities, for professionals.

#### 4.4. Medical examination concerning signs that might indicate past persecution or serious harm

Article 18 of the Recast Asylum Procedures Directive lays down the provisions with regard to a medical examination concerning signs that might indicate past persecution or serious harm of applicants for international protection, if deemed necessary by the determining authority for the assessment of the application. The directive foresees in this context two possibilities:

- a) In accordance with **Article 18(1)**, the **Member State shall arrange** for such a **medical examination** where the determining authority deems it relevant for the assessment of the application for international protection. Alternatively, Member States may provide that the applicant arranges for such a medical examination. Qualified medical professionals, which may be designated by the Member States, shall carry out these examinations and the result thereof shall be submitted to the determining authority as soon as possible. Moreover, the directive stipulates that the refusal of an applicant to undergo such a medical examination shall not prevent the determining authority from taking a decision on the application. Such examinations arranged by the Member State shall be **paid for by the Member State**.
- b) In case the Member State did not request and arrange such a medical examination, **applicants** shall be informed that they may, **on their own initiative and at their own cost**, arrange for such a medical examination. The directive further obliges the determining authorities of the Member States to assess the results of the medical exami-

nations along the other elements of the application for international protection.<sup>43</sup>

In response to the question on what basis the medical examination for detecting vulnerabilities is based on, **nine Member States**<sup>44</sup> reported that this medical examination is **based on Article 18(1)** of the directive, whereas no Member States reported that the examination is solely based on Article 18(2). **Four Member States**<sup>45</sup> reported that the medical examination is based on **both articles of the directive**. The remaining **eight Member States**<sup>46</sup> reported that **none of the above applies** in their respective national context.

With regard to those Member States **where the medical examination is mandated and paid for by the Member State**, this mostly takes place during the general medical examination that is either required from the applicant or that they may undergo if they choose to do so.<sup>47</sup> Generally, this medical examination takes place shortly upon admission in the reception centre or in the early stages of the procedure. At the same time, it should be noted that in most Member States, such a medical examination may be carried out at any stage of the procedure. In the Netherlands, this medical examination is generally conducted after the asylum interview, as the asylum story and its credibility are assessed in order to determine whether such a medical examination is necessary or not. Nevertheless, it may occur that there are indications earlier in the procedure, for example when the applicant is having trouble or unable to provide a statement. The consent of the applicant is required in order to be able to conduct the examination.

In accordance with the directive, only qualified medical professional carry out these examinations. Moreover, only France and the Netherlands require special training from the medical professionals in this con-

<sup>43</sup> Article 18(3) of the Recast Asylum Procedures Directive.

<sup>44</sup> AT, EE, FI, FR, IT, HR, LV, NL, SE.

<sup>45</sup> BE, BG, CY, LU.

<sup>46</sup> CZ, DE, ES, HU, MT, PL, SK, SI.

<sup>47</sup> AT, EE, FI, FR, IT, LV.

text. In France, the OFII Medical Service Department provides training for all health personnel involved in the medical missions of the OFII, as well as personalised training for new doctors or nurses, if necessary. Regarding the medical examination offered by the OFPRA, a joint order of the ministers responsible for asylum and health, issued after consultation with the General Director of the OFPRA, sets out the categories of doctors who can carry out the medical examination, as well as the procedures for elaborating medical certificates. In the Netherlands, such examinations are conducted by independent, experienced and qualified forensic experts. The Immigration and Naturalisation Service (IND) of the Ministry of Justice and Security, as the responsible authority, has signed a cooperation agreement with the Netherlands Forensic Institute (NFI) and the Netherlands Forensic Institute Psychology (NIFP) in this context.

As was mentioned above, in Belgium, Bulgaria, Cyprus and Luxembourg, this medical examination is **based on both articles of the directive** and usually take place at an early stage of the procedure for international protection. In practice, however, the determining authority in Belgium, namely the Office of the Commissioner General for Refugees and Stateless Persons (CGRS), generally leaves it up to the applicant to arrange such a medical examination, on their own initiative and at their own costs. As such, it is considered the applicant's prerogative to consult with a medical examiner of their choice, in order to further substantiate their claim for international protection and provide the CGRS with additional evidence. Belgium noted that as a rule, all pieces of evidence will be taken into account and evaluated as part of the refugee status and subsidiary protection assessment. There are no specific requirements as to the shape, form or content of such evidence, although it can be noted that e.g. medico-legal reports which have been drafted by qualified medical examiners, taking into account the Istanbul Protocol<sup>48</sup>, will generally carry more weight in the overall evaluation of all elements of the case.

In Cyprus, the medical examination is an integrated

part of the asylum procedure and should take place even before the vulnerability interview. Moreover, the medical staff conducting the examination is required to receive specific training on the Istanbul Protocol. And in Luxembourg, the medical examination arranged by the State (i.e. based on Article 18(1)) only applies when it is necessary to verify signs of torture or serious harm by means of a medical examination. In such cases, the applicant is given an appointment to see a physician designated by the Minister who will carry out the examination at the expense of the State. The results are communicated to the Minister in charge of asylum as soon as possible. While specific training is not mandatory, but recommended, the doctors assigned by the Directorate of Immigration for such medical examinations take the Istanbul Protocol into account. Where appropriate, the outcome of the medical examination will be used to determine whether the applicant requires special procedural guarantees.

Lastly, in **eight Member States, none of the above applies** in their respective national context. In three of these Member States, namely in Poland, the Slovak Republic and Slovenia, the identification of vulnerable applicants for international protection is conducted during the general medical examination establishing the applicants' state of health. At the same time, Slovenia reported that such a medical examination is not required for the determination or detection of vulnerability because the latter can also be determined later on at any point in the international protection procedure, without medical examination. Furthermore, a medical examination, as determined in Article 18(1) of the directive, can be done in accordance with the International Protection Act, which states that a relevant expert opinion shall be obtained where the official does not have the expertise required to examine and consider a fact relevant for a decision in an international protection procedure. Under this provision, vulnerability could also be assessed.

<sup>48</sup> UN Office of the High Commissioner for Human Rights (OHCHR), Manual on Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. Available at: <https://digitallibrary.un.org/record/535575>.

In Germany, the early detection of vulnerable persons is conducted within the framework of the assessment of special reception needs<sup>49</sup>, which falls within the responsibility of the Federal States. As a consequence, there is no uniform concept for early identification of vulnerable persons in reception facilities. However, if necessary for the further processing of the application, a medical examination pursuant to Article 18(1) may be arranged, subject to the applicant's consent. In practice, such an examination is usually only arranged if the applicant has specifically alleged an act of persecution (e.g. traces of injuries attributable to torture) based on a characteristic present in him/her or attributed to him/her by an actor of persecution. In addition, the applicant can be informed that they are free to arrange their own medical examination, as stipulated in Article 18(2) of the directive.

The International Protection Agency in Malta does not carry out medical examinations to determine vulnerability. The screening is done by non-medical practitioners and is based solely on readily apparent signs and the applicant's oral declarations, including any documentary evidence that they might have. The Czech Republic reported that the medical examination is not always carried out, only if necessary. In this context, Article 18(2) of the directive was implemented into national law. The applicant for international protection is informed about the possibility to undergo the medical examination in connection with the provision of data to the submitted application for international protection during the lodging phase of the application. Lastly, in Spain, such medical examinations are either provided by the applicant themselves or by support organisations.

Ireland does not participate in the Recast Asylum Procedures Directive (2013/32/EU) but remains bound by the 2005 Procedures Directive (2005/85/EC) which does not contain provisions equivalent to Articles 18 and 24 of the recast Directives.

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<sup>49</sup> In accordance with Article 22 of the Recast Reception Conditions Directive. See also section 2 of this Inform.

## 5. How is the follow-up of the detection of vulnerabilities guaranteed?

Once the vulnerability of applicants for international protection has been detected, the procedure to follow up on an applicant's special needs, both with regard to the asylum procedure and reception, varies between Member States. 18 of the responding Member States<sup>50</sup> confirmed to apply such a follow-up procedure, while no such procedure is in place in five Member States<sup>51</sup>. With regard to the former, some Member States<sup>52</sup> appear to pursue more formalised follow-up procedures, including the creation of personal case files, which are updated and shared between relevant stakeholders throughout the international protection procedure. In other Member States<sup>53</sup>, the follow-up procedure is more informal and often relies on social workers or other employees in the reception context to provide individualised support to vulnerable applicants of international protection.<sup>54</sup>

**More formalised follow-up procedures** usually include the creation of shared and updated personal files containing information on an applicant's vulnerabilities. This also allows some Member States to make the detection of vulnerability an ongoing process in which vulnerability and special needs are repeatedly re-assessed. For example, Belgium registers all the relevant information in a personal administrative file available to officials involved in further steps of the international protection procedure. As mentioned in section 4, the staff in charge of conducting the first asylum interview will assess or re-assess an applicant's vulnerability and specific procedural needs. The personal administrative file is then trans-

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<sup>50</sup> BE, BG, CY, CZ, EE, ES, FR, HR, IE, IT, LT, LU, LV, MT, PL, SE, SI, SK.

<sup>51</sup> AT, DE, FI, HU, NL.

<sup>52</sup> BE, BG, EE, ES, HR, LT, MT, PL, SE, SI, SK.

<sup>53</sup> CY, CZ, FR, IE, IT, LV, LU.

<sup>54</sup> The differentiation and categorisation of Member States according to more and less formalised/informal follow-up procedures is based on the analysis of the answers to the ad-hoc queries, as conducted by EMN Luxembourg. This was not asked to or provided in this manner by the responding Member States (see also Disclaimer in footnote 1 of this Inform).

ferred to the Commissioner General for Refugees and Stateless Persons (CGRS), which examines if appropriate support measures need to be taken. In parallel, staff in Belgian reception centres re-assess and follow-up on an applicant's vulnerability and special needs. Once arrived at a reception centre, applicants will undergo a social and medical intake and receive a personal social and medical file including the necessary information on how to receive adequate support. Both files allow a follow-up of the overall evolution of the resident during their entire reception trajectory. Within 30 days after the allocation of a place at a reception centre, a social worker evaluates whether the accommodation is adapted to the resident's needs and, in case of specific needs, tries to find solutions within the facilities of the Federal Agency for the Reception of Applicants for International Protection (Fedasil), with the help of external service providers, or in an external institution. In the event that it is necessary to accommodate the applicant in an external institution or organisation, Fedasil or its reception partner will ensure the administrative and social follow-up and guarantees that material aid is provided. Moreover, with the consent of the applicant, Fedasil can make recommendations to the CGRS and the Immigration Office regarding special procedural needs.

Professionals of the Agency for the Welfare of Asylum Seekers (AWAS) in Malta are present at boat disembarkations and immediately screen persons for visible vulnerabilities. Subsequently, AWAS has two professional teams working frontline with the applicants for international protection: Firstly, the Care Team, which is composed of social workers and helps in identification and administering the vulnerability assessments, and secondly, the Psychosocial Service, which supports the identification of vulnerable persons and provides therapeutic services, when needed. In addition, upon request by AWAS, EASO has deployed a team of 20 professionals who also screen people for vulnerabilities on a day-to-day basis and via a joint and revised vulnerability assessment. Relevant information with regard to vulnerabilities are transmitted between the two agencies. Moreover,

AWAS also works very closely with the Maltese International Protection Agency and NGOs working in the field, who contribute to the screening for vulnerabilities and referring them to AWAS. The Maltese authorities consider this a very effective system due to the creation of a network of support and identification conducted by multiple stakeholders.

Bulgaria, Croatia, and the Slovak Republic also reported to keep personal files for applicants for international protection, including information on their vulnerabilities and specific needs. In Croatia and the Slovak Republic, this information is specifically shared with staff in charge of working with vulnerable applicants in the reception centres. Based on the collected data, further actions and procedures are taken. If, in Croatia, the vulnerability is detected in the procedure of granting international protection, the case officer is obliged to inform the relevant stakeholders. Bulgaria introduced the requirement of including documents establishing the belonging of the applicant to a vulnerable group, the needs assessment and the support plan in the personal file of the applicant in October 2020. This constitutes a prerequisite that must be taken into account when deciding on granting international protection.

In Slovenia and Lithuania, officials of the Ministry of Interior, after receiving the initial assessment of the vulnerability, are in charge of enabling additional support or determining the necessary special procedural guarantees. In Lithuania, the complex assessment of vulnerabilities includes inter alia, an assessment of the social skills, health condition and psychological state of the applicant. In Spain, the asylum agent is in charge of contacting specialised services to provide adequate support to the applicants, and of determining the special procedural guarantees for the asylum interview. In Estonia, a prearranged procedure requires the Police and Border Guard Board to inform the Social Insurance Board about an applicants' potential vulnerability, which then takes further action to direct the person in need to appropriate services. This information is then reported back to the Police and Border Guard Board.

In Poland, the 'Border Guard rules of procedures for foreigners requiring special treatment' establish categories of vulnerability and clear rules in view of implementing appropriate help, including psychological and psychiatric help. This document is applied both in asylum and return procedures, and establishes the role of so-called 'return assistants' and 'social assistants' working in detention centres, whose task is to maintain the best possible contact with the foreigners, both to provide them with up-to-date information on their procedures and to monitor their behaviour. In guarded centres, these rules have been complemented by 'observation sheets', in which staff notes comments and observations on the concerned applicant.

Ireland reported on a range of procedural guarantees available throughout the asylum procedure for unaccompanied minors and other vulnerable persons. Regarding reception, a new Resident Welfare Team was established in International Protection Accommodation Services at the beginning of May 2021 to oversee the vulnerability assessment process and case manage the provision of services to persons presenting complex and/or acute needs.

In other Member States, the follow-up procedure after detecting an applicant's vulnerability is **less formalised** and may be characterised as **more informal**. In these countries, staff at the reception centres are usually in charge of providing individualised support and orienting the applicant to appropriate service providers. This is the case in Latvia and Luxembourg. In Luxembourg, an ethno-psychological team is responsible for identifying people with mental disorders and, if necessary, implementing an appropriate follow-up in close cooperation with the mental health services. In Latvia, this individualised support may include arrangements to ensure that family members live together, as well as the respect for religious, gender and age-specific considerations, including measures to prevent gender or religion-based violence. Moreover, medical treatment, psychological support and, in case of need, the necessary material goods are provided in order to ensure

that the special needs are taken care of.

In Italy, the management of a reception centre can transmit information on an applicant's special needs to the competent body for the examination of the international protection to initiate the possible provision of procedural guarantees. In France, the medical service of the French Office for Immigration and Integration (OFII) may issue recommendations to adapt an applicant's reception conditions, for example following a request for advice sent in a confidential letter by the applicants' doctor. Moreover, the OFII may transmit information on a particular situation of vulnerability to the French Office for the Protection of Refugees and Stateless Persons (OFPRA), with the consent of the applicant. In Cyprus, social workers at the reception centre are in charge of following up on medium and high-risk cases of vulnerability, according to a recently adopted practice. With the support of EASO, Cyprus is currently working on establishing a formal procedure regarding the follow-up of vulnerable applicants. While the Czech Republic responded to have a follow-up procedure in place, in practice, this is not conducted via a special procedure, but rather as an ad-hoc informal process according to the individual situation of the person concerned.

Five Member States **reported to not pursue a concrete follow-up procedure** after detecting an applicant's vulnerability.<sup>55</sup> However, this does not mean that special procedural guarantees for vulnerable applicants are not implemented. For instance, in the Netherlands, the case worker in charge of conducting the asylum interview(s) makes note of the necessary procedural guarantees, which must be met throughout the international protection procedure. In Austria, if the vulnerability of the applicant is detected before the interview with the Federal Office, the case is assigned to an experienced case worker. This case worker will be briefed on the particular circumstances by their team leader, who will also monitor the case. In case first signs of a possible vulnerability are discovered during the main interview with the Fed-

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<sup>55</sup> AT, DE, FI, HU, NL.



eral Office, the case officer will either conduct the interview according to the received training or, in case of lack of experience, consult with the team leader right away in order to ensure a proper handling of the situation. In any case, trigger questions are to be avoided and if necessary, the case worker, interpreter etc. will be exchanged (e.g. to persons of the same sex as the applicant). In addition, medical treatment may be arranged if deemed necessary.

Moreover, information on the vulnerabilities of the applicant may still be shared between the competent authorities and case workers, which may lead to individual support. For example, the Federal States in Germany, responsible for reception, may provide the Federal Office with information on an applicant's vulnerabilities, particularly when the knowledge of this information is necessary for an orderly personal asylum interview. Vice-versa, the Federal Office can provide information to the respective Federal States, especially regarding the accommodation and specific needs of an applicant. Consequently, while no mandatory procedure is in place to guarantee the follow-up of the applicant, information on vulnerable applicants is shared between the Federal and State level via close cooperation. In Finland, the asylum case worker informs the relevant reception centre where the applicant is accommodated, so that they can proceed with the assessment and do the necessary arrangements. However, this is conducted on an individual basis with no specific follow-up after the information was transmitted to the social worker or nurse in the reception centre.

## 6. What special procedural guarantees are provided?

### 6.1. Special procedural guarantees

As indicated in section 2, the Recast Asylum Procedures Directive (2013/32/EU) obliges Member States to assess within a reasonable period of time after an application for international protection is made, and before a first instance decision is taken, whether the applicant is in need of special procedural guarantees. Those applicants should be provided with adequate

support, including sufficient time, in order to create the conditions necessary for their effective access to procedures and for presenting the elements needed to substantiate their application for international protection. In response to the two EMN ad-hoc queries, almost all Member States reported on special procedural guarantees for vulnerable applicants for international protection.<sup>56</sup>

Many Member States reported on **special procedural guarantees that are in place for specific groups** of vulnerable applicants, especially victims of trafficking in human beings and unaccompanied minors. Some Member States indicated to provide **special assistance to victims of trafficking in human beings**, including legal, medical, or psycho-social counselling and support programmes.<sup>57</sup> In the Slovak Republic, upon their consent, they may be included in the Program for the Support and Protection of Victims of Trafficking in Human Beings and be provided separate rooms. In Germany, they have the 'right of self-entry' into a Dublin procedure and may be granted a three-month 'consideration and stabilisation period' before departure.

In accordance with Article 25 of Directive 2013/32/EU, particular attention is paid to the situation of **unaccompanied minors**. Member States appoint legal guardians and provide accommodation appropriate to the children's needs, including reuniting them with adult relatives or foster families, if possible. Special procedural safeguards are in place when conducting the asylum interview(s) with unaccompanied minors. Often, a specifically-trained official conducts the interview, including by asking child-friendly questions and sufficient breaks. Moreover, the guardian, a lawyer, psychologist, or support staff is generally present during the interview. In Poland and the Slovak Republic, the interview takes place at the care centre where the minor applicant resides. Moreover,

<sup>56</sup> In HU, while special procedural guarantees are not explicitly set out in law, the provisions of the Asylum Act shall be applied to persons requiring special treatment, taking into account their special needs arising from their situation. SE reported that the appreciation of special procedural guarantees is conducted on a case-by-case basis, without providing further details.

<sup>57</sup> CZ, DE, HR, IT, NL, SK.

unaccompanied minors also have access to education and additional support to submit the application for international protection. In the Slovak Republic, unaccompanied minors are protected from deportation and can stay at the centre for children and families until the age of 18, or until the age of 25 after having been granted international protection, if necessary. Germany prioritises the treatment of applications for international protection of unaccompanied minors. Moreover, only specifically trained officials will decide on the outcome of an application made by an unaccompanied minor.

More generally, many Member States apply **special procedural guarantees when preparing, proceeding with, and following-up on a vulnerable applicant's asylum interview(s)**. For example, the location, time, and setting of the interview may be adapted to the applicant's special needs. This may include, for example, the interview taking place in the reception centre<sup>58</sup>, in an alternative location<sup>59</sup> or in writing<sup>60</sup>. The applicant may be subject to an additional medical examination, and the interview may be shortened, split into multiple hearings<sup>61</sup>, or postponed<sup>62</sup>, if necessary. In Lithuania, the applicant may also receive help from medical, psychological or social specialists to prepare for his or her interview.

Many Member States also offer specific support to vulnerable applicants throughout their asylum interview(s). Often, vulnerable cases are assigned to experienced case workers and more closely monitored by supervisors. Specifically trained officials with special expertise and the same gender as the applicant may conduct the interview(s).<sup>63</sup> Further support and staff may be present throughout the interview, such as a psychologist, lawyer, legal representative, or sign language interpreter, if necessary. Many Member States report that officials conduct

interviews with vulnerable applicants with specific care. For instance, interviewers may avoid questions that could trigger traumatic memories, adapt their phrasing, and refrain from arguing about seeming contradictions in detail. In Ireland, training provided to staff involved in the assessment of claims highlights that in the case of vulnerable applicants there may be additional barriers to disclosure such as shame, dissociation and avoidance. 'Free narrative' which provides the applicant with an opportunity to give an uninterrupted personal account of the reasons for applying for protection can assist vulnerable applicants in providing information in a spontaneous way. The interview with vulnerable applicants may also include additional explanations and sufficient breaks.

After the interview, the applicant may have extra time to provide medical evidence or dispose of alternative ways to present evidence. In Lithuania, the State Border Guard Service or the Refugee Reception Centre can be requested to perform a complex evaluation of the vulnerability of the applicant who has been detained or accommodated in one of these centres. In such cases, the interview is postponed until the results of the complex evaluation of vulnerability is concluded. Furthermore, the applicant's vulnerability is taken into account when evaluating the reliability of the applicant's statements.

Member States have **further procedural guarantees** in place, which may impact the international protection procedure for vulnerable applicants. For example, in Belgium vulnerable applicants have the possibility, upon recommendation from the Medical Unit of the Agency in charge of reception, to lodge their application within one day after registration instead of over several days/weeks. In almost all cases, the Immigration Office follows this recommendation. In Lithuania, vulnerable applicants may be exempted from the provisions leading to a refusal of their application for review. In Croatia, Estonia, Italy, Lithuania, Luxembourg and Slovenia, the applications of vulnerable persons receive priority treatment. In Ireland the scheduling of the interview for

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<sup>58</sup> NL, LT.

<sup>59</sup> BE.

<sup>60</sup> BE, LU, NL.

<sup>61</sup> BE, HR.

<sup>62</sup> HR, LT, LU, NL.

<sup>63</sup> See also section 4.3. for more information on specialised training.

unaccompanied minors and certain categories of vulnerable applicants may be prioritised. In Cyprus, the Czech Republic and Luxembourg, vulnerable applicants may dispose of more time throughout the international protection procedure (e.g. to provide the elements to support their request), which may lead to a delay. Some Member States<sup>64</sup> specifically mentioned that vulnerable applicants may not be eligible for an accelerated international protection procedure if this would undermine the granting of their special procedural needs. Bulgaria explicitly indicated that unaccompanied minors are exempted from the accelerated procedure. Finally, Member States may pay special attention to vulnerable applicants when restricting their movement. Members of certain vulnerable groups may not be placed under house arrest in the context of a Dublin procedure<sup>65</sup> or in detention centres<sup>66</sup>, but can remain in a regular reception centre.

As special procedural guarantees relate to the international protection procedure itself, it is the **responsibility of the respective authority in charge of asylum to guarantee the respect of such guarantees** in all Member States (see also section 4). In Germany, there is a quality assessment system in place at the Federal Office for every single decision made in an asylum case (dual control principle). Similarly, an internal quality control system, such as an obligatory four eyes principle, is applied in Austria and the Slovak Republic. The Commissioner General for Refugees and Stateless Persons (CGRS) in Belgium includes a paragraph on the support that has (not) been offered in this context.

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<sup>64</sup> BE, BG, HR, LT, LU.

<sup>65</sup> LU.

<sup>66</sup> PL.

## 7. What is the impact of the detection of vulnerabilities on the international protection procedure?

Apart from the provision of special procedural guarantees throughout the procedure, Member States **generally** reported that the detection of a vulnerability has **no direct impact on the assessment of the international protection application itself**. As a result, no general answer can be provided to this question, as the respective impact on the decision of the application entirely depends on the individual circumstances of each applicant.

In Lithuania, the law<sup>67</sup> stipulates that the standard criteria for evaluating the data in the application for asylum (comprehensiveness, coherence, incontrovertibility etc.) are not applied in case of most vulnerable persons, namely for unaccompanied minors as well as asylum seekers who have been subjected to torture, rape or other serious psychological, physical, or sexual violence, thereby indicating a certain amount of discretion by the decision-maker. In Austria, the authorities may grant, under certain circumstances and on the basis of vulnerability, a ‘residence permit for individual protection’ in such cases, either ex officio or upon substantiated application. For example, this residence permit may be considered, among others, if it is necessary to ensure the prosecution of judicially punishable acts, such as in the case of trafficking in human beings or cross-border prostitution trafficking. Another example relates to the fact that the person concerned has been a victim of violence and can make a credible case that the issuance of such a residence permit is necessary in order to protect against further violence.

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<sup>67</sup> Article 77 of the Law on the Legal Status of Aliens.

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