

# NEWSLETTER

June 2008



## Editorial

A year ago the Care Full initiative released her Principles & Recommendations document. It is time to inform you about the progress made and the activities done.

The Care Full Principles & Recommendations document (summer 2007) outlines the need to improve the identification of victims of torture and ill treatment who seek refuge in member states of the European Union and what should be done to achieve this on national and international level. We are happy to inform you that since then, the importance of medical examination and making solid medico-legal reports for Refugee Status Determination (RSD) has grown considerably. Also awareness about the psychological and medical impairments that may hinder making a full and coherent account of a traumatizing event has increased. The Istanbul Protocol (IP) as guidelines for such reports have been mentioned several times during meetings about the Common European Asylum System (CEAS) held the last year.

By means of this newsletter we wish to update the subscribing organizations but also other NGO's that showed interest into the matter. In the course of one year forty organizations have subscribed the CareFull Principles & Recommendations. If you wish to know who did subscribe, look at the recently updated version: [http://www.pharos.nl/uploads/site\\_1/Pdf/Documenten/Care Full PenR.pdf](http://www.pharos.nl/uploads/site_1/Pdf/Documenten/Care%20Full%20PenR.pdf)

In the Netherlands the members of the Care Full initiative have had the chance to point out their views during many occasions. The refugee identification procedures in the Netherlands are currently under review and quite often referrals are made to the IP. The Dutch government is willing to introduce a medical screening in the RSD. The members of the Care Full initiative are working on it together with the IND (Immigration and Naturalization Service), in order to identify in a suitable and workable way those asylum seekers, who have been submitted to torture or ill treatment.

This newsletter provides information on some meetings the Care Full initiative had the last year. You will read about the most relevant articles in the Directives of the European Commission, about the review of the Dutch Aliens Act and about

projects within the EU for early identification of asylum seekers with mental problems. An article written by Laetitia de Radigues of the IRCT is about their conference on the subject of medico-legal documents. Also information is given about where on the internet the Care Full documents and articles about the initiative can be found.

Finally, readers, please keep us informed! It would be nice if you could let us know about the developments within your country as well as your activities with respect to (raising awareness about) medico-legal reporting and the IP. Possibly, your contribution can be published in the next newsletter.

Evert Bloemen and Erick Vloeberghs (Pharos)  
Heleen Tiemersma (Amnesty International)  
Bernadette Hoekstra (Dutch Council for Refugees)

## Where to download

Those organizations and individuals that want to know more about the targets and activities of the Care Full Initiative, please go to:

<http://www.pharos.nl/supernavigatie/english/383?pagina=1> and surf to the next pages 2,3 and 4. The Istanbul Protocol (IP) can be downloaded on page 1.

If you want to read (and preferably!) subscribe to the Carefull Principles & Recommendations, go to: [http://www.pharos.nl/uploads/site\\_1/Pdf/Documenten/Care%20Full%20PenR.pdf](http://www.pharos.nl/uploads/site_1/Pdf/Documenten/Care%20Full%20PenR.pdf)

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## Relevant provisions related to medico-legal reports on European level.

In the Common European Asylum System (CEAS) the different directives on asylum play a central role in achieving a common asylum system. The main articles important in the striving for more attention for medical aspects and the Istanbul protocol are found here. These articles can be used in discussing the need for adequate identification and RSD for vulnerable asylum seekers, both on national level and international.

### Qualification Directives

Art. 4 (3):

The assessment of an application for international protection is to be carried out on an individual basis and includes taking into account:  
[...]

(b) The relevant statements and documentation presented by the applicant including information on whether the applicant has been or may be subject to persecution or serious harm.

Art. 4(4):

'The fact that an applicant has already been subjected to persecution or serious harm or to direct threats of such persecution or such harm, is a serious indication of the applicant's well-founded fear of persecution or real risk of suffering serious harm unless there are good reasons to consider that such persecution or serious harm will not be repeated.'

### Procedures Directives

Art. 12(3):

'The personal interview may be omitted where it is not reasonably practicable, in particular where the competent authority is of the opinion that the applicant is unfit or unable to be interviewed owing to enduring circumstances beyond his/her control. When in doubt, Member States may require a medical or psychological certificate.'

Art. 13 (2,3):

2. A personal interview shall take place under conditions, which ensure appropriate confidentiality.

3. Member States shall take appropriate steps to ensure that personal interviews are conducted under conditions, which allow applicants to present the grounds for their applications in a comprehensive manner. To that end, Member States shall:

(a) Ensure that the person who conducts the interview is sufficiently competent to take account of the personal or general circumstances surrounding the application, including the applicant's cultural origin or vulnerability, insofar as it is possible to do so;

### Reception Directives

Art. 17(1):

'Member States shall take into account the specific situation of vulnerable persons such as [...] persons who have been subjected to torture, rape or other serious forms of psychological, physical or sexual violence [...].'

### **General Review Dutch Aliens Act**

The Dutch Government is preparing a proposal on a general review of the Aliens Act 2000. It is likely that some amendments will be made in the Fast Track Procedure with regard to medical aspects. In the Fast Track Procedure, in which an asylum application is dealt with within 48 processing hours, no substantial medical check is currently provided. It is however of great importance that such a check is established. If traumatic experiences are recognised at an early stage of the asylum procedure, it will enable the asylum seeker to collect proof of the traumatic experiences in order to substantiate his claim. If the problems are recognised at a later stage, it might be difficult to collect proof of the traumatic experience. Asylum authorities will not accept new input at a later stage of the procedure unless the applicant was unable to render this new input before. Moreover, once it is recognised that an asylum seeker suffers from traumatic experiences, treatment can be initiated earlier.

There are indications that the Government will propose a more extensive general medical check at the early stage of the Fast Track procedure, in which psychological aspects will get special attention. This entails for example more extensive questions in order to determine whether the asylum seeker suffers from traumatic experiences. If this examination shows that there are symptoms of traumatization, further examination will be performed. More detailed information on the draft proposal for reviewing the Aliens Act 2000, is expected to be published in the summer of 2008.

Pressure of different organisations and bodies helped to raise awareness about the need for special attention and procedures for victims of torture and ill treatment as for other vulnerable asylum seekers.

Aside from the Care Full initiative two other organisations have to be mentioned: the Advisory Commission on Aliens Affairs (ACVZ) and the MAPP project for early identification of mental problems. Their work will be described shortly on pages 3 (ACVZ) and 5 (MAPP).



## Advice on medical examination in Dutch asylum procedures

The independent Advisory Committee on Aliens Affairs (ACVZ) advises in its report about the refugee determination procedure (2007) and its more recent advice (2008) about the medical aspects of the asylum procedure, on how to implement a medical examination into the procedure in accordance with the principles of the Istanbul Protocol.

The aim of the health assessment in an early stage of the asylum determination procedure is fourfold:

1. With the health assessment psychological or psychiatric problems can be identified that may interfere with the consistency, coherence and completeness of the interview of the asylum seeker with an immigration officer;
2. Insight can be gained whether there are medical problems that provide supportive evidence of torture and other ill-treatment;
3. Moreover, asylum seekers may suffer physical and/or mental illnesses which require treatment; those illnesses may impede expulsion after (final) rejection of the asylum request (art 3 ECHR)
4. With an early health assessment, the relation between (mental) health problems and traumatic experiences in the country of origin is easier to appraise than in a later stage of the asylum determination procedure.

The ACVZ believes that the health assessment will contribute to a quick and accurate asylum procedure, in which in an early stage all aspects relevant for the decision about the individual asylum request are given due attention.

To avoid medicalisation, the model of the health assessment, as the ACVZ recommends, is a filter or funnel model in which with each step a smaller percentage of asylum seekers will be concerned. First, in the period of rest, before the first interview with the Immigration officer from the Immigration and Naturalisation Department (IND), with the help of a standard list of early warning signs, a specialized community health nurse will check whether an asylum seeker presents medical problems that may be of influence in the refugee determination process. If that is the case, the asylum seeker will be referred to a specialized community health medical doctor. Based on, for instance, the experiences of the MAPP project (see p.5 -6) the ACVZ estimates that in around 10 percent of the cases an asylum seeker needs to be referred to the specialized doctor. According to this model the doctor examines and determines:

1. whether the asylum seeker should be referred to a forensic medical doctor or psychiatrist for a medico-legal report, as described in the Istanbul protocol, and /or
2. whether the asylum seeker should be referred for diagnosis and treatment in regular health care, and/or

3. whether the psychological condition of an asylum seeker is of such nature that an advice about the interview by the IND is indicated; the advice can comprise that the interview should be adapted and held by a trained and experienced IND officer, or that it should be postponed.

It is obvious that it is in the benefit of the asylum seeker to be interviewed as soon as possible, so that the uncertainty about the outcome of the asylum determination procedure will remain short. However, interviewing vulnerable people requires expertise in order to be able to interpret correctly any inconsistencies or incompleteness in the asylum's account. Good experience has been gained in the Netherlands with the so-called child friendly interviews with unaccompanied minors. In the same line, the ACVZ advise that on medical indication trained and experienced immigration officers, who are able to adapt their interview to the mental health condition of the asylum seeker in question, should interview asylum seekers.

When the asylum seeker is referred to a forensic doctor, and/or to regular health care for diagnosis and treatment the asylum determination procedure should be timed out in order that the medical report and information can be taken into account in the decision of the IND. If the IND decides contrary to the medical advice or report, the written decision should include arguments for the rejection. The ACVZ considers the medical advices and reports of the specialized medical doctor and forensic doctors as expert opinions. Of course, there still may be asylum seekers who will conceal certain traumatic experiences, in particular sexual violence, during the interview with the INS officers. Therefore, according to the ACVZ, later signals or statements that are incomplete - for reasons that cannot be held against the asylum seeker - and a subsequent medico-legal report submitted to the INS should be taken into account in the asylum decision.

The Under-Secretary of Aliens Affairs in the Netherlands confirmed the importance of a health assessment in the asylum procedure in her reaction on the Qualification Directive of the Common European Asylum System (CEAS) of the European Commission. An English summary of the 2007 report on the changes in the RSD can be found <http://www.acvz.com/publicaties/advies-ACVZ-NR21-2007.pdf> on pages 67 - 75.



## Meetings and conferences

### Conference on the Study of Forced Migration, Caïro

In January 2008 Care Full presented their initiative on the conference of the international association for the study of Forced Migration in Caïro. The participants of the workshop all agreed on the importance of the subject and shared experiences from their homeland.

During the discussion there were questions about the risk for stigmatisation and medicalisation, and also about the relation between credibility and mental health disturbances. But at all, participants felt inspired to put this theme on the agenda in their organisations and homelands. This leads to an increasing support of the Care Full principles.

### Eurasil-workshop on vulnerable asylum seekers, Brussels

Care Full was invited to hold a presentation about their project at the Eurasil meeting on May 20, 2008 in Brussels. This Eurasil was organised by the UNHCR and a number of NGO's were invited to present their work. Eurasil meetings are normally exclusive for EU Member States and organised by one of them. UNHCR organised the meeting on the subject 'Asylum seekers with special needs (in particular victims of torture and persons suffering from PTSD)'. Besides Care Full, the UK Medical Foundation for the Care of Victims of Torture and the Dutch MAPP-project were invited. Representatives of Immigration Authorities from some twenty Member States did participate in this meeting.

Whereas MAPP explores the identification of asylum seekers with psychological problems that interfere with the ability to relate about the asylum motives in a coherent and consistent way, Care Full and Medical Foundation focused on the use of medico-legal reports in asylum procedures. The participants received the Care Full book and the Principles and Recommendations document. The Care Full message was communicated, as their relation with the Istanbul Protocol and the European Directives. We made clear that the use of medico-legal reports in the asylum procedure is to the benefit of both the asylum seeker and the Member-State.

Questions and remarks of Member States mostly concerned the risk of misuse of the instrument of medical examination ('what if the asylum seeker fakes a bad psychological condition') and the assumption that doctors might not be impartial ('they do not question the asylum story'). Care Full stressed the importance of professional standards and protocols for doctors and psychologists and tried to convince Member States that they should take up their responsibility to identify asylum seekers with special needs, especially those who are victims of torture or ill-treatment.

### IRCT meeting on the role of certification for asylum seekers and refugees

*The International Rehabilitation Council for Torture Victims (IRCT) organised a three-day meeting for its European members in Brussels on 27-29 February 2008. One afternoon was dedicated to the issue of refugees, as many patients received in torture rehabilitation centres are asylum seekers and refugees.*

At the European Union level, Mr. Bjarte Vandvik, Secretary General of ECRE, explained how some directives concerning the asylum system provide for an obligation to give attention to vulnerable asylum seekers – including torture survivors. Nevertheless, the greatest weakness remains the identification of these vulnerable asylum seekers. An obligation to dispense treatment to victims of serious violence is included in the directive on reception (2003/9/EC) but the contents of this "necessary treatment" are not specified. According to the directive on procedures (2005/85/EC), vulnerability must be taken into account during the interview of an asylum seeker; however, usually interviewers don't have sufficient guidelines or awareness to understand if an asylum seeker is vulnerable.

At the State level, a presentation of the Belgian case gives a picture of the system from the authorities' perspective. The Belgian Federal Agency for the reception of asylum seekers (Fedasil) provides shelter and food to approximately half of all asylum seekers arriving in Belgium. The asylum seekers sheltered by Fedasil are seen by a doctor or nurse within a week of their arrival; reception services are alert to signs of torture. When a victim of torture is identified, he/she is usually referred to specialised departments in hospitals. When the General Commission examines a request for asylum for Refugees and Stateless Persons, the medical report is only one element taken into consideration. The fact that one has been a victim of torture is not as such sufficient to obtain asylum.

Ms Lilla Hardi, medical director of the Cordelia Foundation in Hungary, shared her experience in using medical-legal reports in asylum cases. Ten years of work bore fruit: the authorities now immediately ask for a medical report when they encounter a case of torture.



## IRCT Meeting

The Cordelia Foundation has established a relationship of trust with asylum authorities and judges, who most of the time accept its medical reports. Forensic doctors' reports are less and less trusted, to the advantage of reports made by rehabilitation specialists of the Cordelia Foundation. The Cordelia Foundation has finalised a model of medico-legal report which includes a description of the methods of torture and its clinical consequences; reference to other medical specialist(s); somatic status and a psychological/psychiatric assessment of the client. The summary includes a declaration of accordance between symptoms described and the psychological and medical examination; accordance between the described forms of torture and the forms characteristic to the regions concerned. Ms. Hardi's advice is that relations with asylum authorities are very important: you need to prepare the persons to whom you give the reports..

An interesting discussion between the IRCT member centres in Europe about their role in providing medical-legal reports led to diverging opinions as to whether the treating doctor or psychologist can provide a medical-legal report for his/her patient. Some centres only write medical-legal reports for people who are not their clients, for credibility reasons. Some participants argued that the treating doctor is the most able to have an in-depth view into the person's case. Moreover the lack of doctors specialised in torture issues in certain countries make it impossible to find separate persons for treatment and certification (e.g. Turkey). The difficulty sometimes of working with interpreters was also mentioned.

By Laetitia de Radigues  
IRCT-Europe

## Other meetings attended by the Care Full team

- Summer 2007. CF was invited by the European Commission's Asylum Unit to present its view on the use of medical examination and the use of medico-legal reports in asylum procedures.
- September 2007. CF organized a side meeting at the annual UNHCR-NGO consultations in Geneva.
- 18 October 2007. CF presented its reaction the European Commission's Green paper on the future Common European Asylum System.
- 29 April 2008. CF – with other NGOs - was invited by the European Commission to discuss the subject of 'vulnerable asylum seekers'.

## MAPP project for early identification of mental problems

The accelerated procedure (fast track) has been criticized (a.o. by CAT) because of the lack of adequate guarantees for a fair consideration of asylum claims of vulnerable people, including asylum seekers with mental health problems. In the 'regular' (non-accelerated) procedure, the impact of mental health problems is also not fully taken into account. For this reason the MAPP-project was established in 2006 for asylum seekers with mental health problems. MAPP advocates for a better treatment of asylum seekers with psychological problems within the asylum procedure. MAPP is part of a small Dutch NGO (ASKV in Amsterdam).

The MAPP project first devised a list of typical characteristics of psychiatric problems often seen in asylum seekers. This tool is used to train lawyers and Dutch Council for Refugees' volunteers. Given these individuals usually meet newly arrived asylum seekers within the first days of arrival, the tool was designed to assist them to recognize signs of mental health problems. The project also developed a protocol for extended psychological examination, based on the Istanbul Protocol. This protocol includes a psychiatric interview, a non-verbal concentration test, questionnaire on PTSD, and a widely used inventory on all psychopathology. In addition, if necessary, a non-verbal test that measures IQ can be included.

Everyday implementation of the MAPP-project is as follows. When a lawyer or a volunteer of the Dutch Council for Refugees recognizes signs of mental health problems that might interfere with the ability of the asylum seeker to deliver an account in a coherent and consistent way, he contacts a staff member of the MAPP. After checking the signs MAPP organises an examination within the 48 working hours in the initial reception centres, where the asylum procedure starts. This examination usually lasts two hours and results in a report, that is send to the lawyer to be used in the asylum procedure. The examination allows the examiner to answer the following question: "are there mental health problems interfering with the applicant's ability to render a coherent and consistent account in the asylum procedure"?



## MAPP project for early identification

With the protocol in place MAPP recruited highly qualified psychologists and psychiatrists as volunteers to examine asylum seekers within the framework of the accelerated procedure (48 working hours). These professionals were trained on how to use the protocol and write the psychological report.

Between June 2006 and January 2008, the MAPP examined 205 asylum seekers, 57% women and 43% men. 31 nationalities were represented, the top three of which were: Armenian (14%), Iraqi (9%) and Burundian (7%).

In the cases of eighteen asylum seekers (9%), it was nearly impossible to examine them, because of cognitive limitations or mental health problems of such a gravity that prohibited a full examination. Out of 187 persons who underwent a full examination, 70% were diagnosed as suffering from PTSD. Depressive symptoms were diagnosed for 69%, somatic symptoms for 47% and anxiety symptoms for 61%. 72% of examined asylum seekers suffered from a lack of concentration. Over 70% of the examined asylum seekers were suffering from such serious symptoms, that an immediate referral for further examination and therapy was required.

These results lead straight to the answer on the main question: "are there mental health problems interfering with the applicant's ability to render a coherent and consistent account in the asylum procedure". In 75% of the cases, mental health problems have been diagnosed which surely or most likely interfere with the applicant's ability to render a coherent and consistent account! This high percentage is probably due to the fact that lawyers and DCR volunteers refer asylum seekers to MAPP in cases where mental health problems are clearly visible. As such, this group of asylum seekers represents those with the most serious mental health problems.

MAPP expects that there are many more asylum seekers who display less obvious signs of mental health problems, which interfere with their ability to render a coherent and consistent account.

In case of a MAPP conclusion, that there are mental health problems interfering with the applicant's ability to render a coherent and consistent account in the asylum procedure, the IND did defer the applicants' second interview on asylum motives. This second interview would only be conducted according to the IND, if a medical declaration were rendered which stated that the applicant was fit to be interviewed. In practice this meant that applications were put on hold and no action was taken for months or even years.

Neither refugee organisations, nor the IND were satisfied with this situation. After a strong lobby of MAPP, supported by the Dutch Council for Refugees, Pharos and the Council for Legal Aid, the IND agreed to review its standing policy and

develop an instruction for its officers on the treatment of asylum seekers with psychological problems in the asylum procedure. Amongst others a different approach to interviewing the applicants is developed. Examples of this are: interview at a place where the asylum seeker feels safe, cut the interview in pieces, make use of an intermediary, make use of written statements, make use of statements from family members. Moreover the IND is willing to take into account that even under these 'tailor made' circumstances, the given statements should be interpreted in the light of a restricted capability of declaring in a coherent and consistent manner.

The MAPP activities contributes in getting more recognition for psychological aspects in the Dutch asylum procedure. Hopefully because of the lessons learned through dealing with the MAPP, psychological reports will be integrated in the proposals for reviewing the Aliens Act 2000, which are currently being prepared by the Dutch Government (see page 3).

## Referrals to articles

- Forced Migration Review – *FMR English*  
<http://www.fmreview.org/FMRpdfs/FMR30/60-62.pdf>

In this article written by Erick Vloeberghs & Evert Bloemen, a comprised review of our principles and activities can be found.

- Migration Forcée Revue - *MFR Français*  
<http://www.migrationforcee.org/pdf/MFR30/60-62.pdf>

The same article in French. At a later stage also a Spanish and Arabic version will be available.

- In *Torture*, Volume 7 (3) 2007, in Opinion. Jan Ole Haagenen refers in a positive way to the Care Full publication. See:  
[The role of the Istanbul-protocol in the uphill battle for torture survivors being granted asylum in Europe and ensuring the perpetrators pay](#)

## Whom to address

If you have questions or want to share information about the situation in your country, contact:

**Pharos:** [Erick Vloeberghs](#) or [Evert Bloemen](#)  
**Amnesty International** / Dutch section: [Heleen Tiemersma](#)  
**Dutch Council for Refugees:** [Bernadette Hoekstra](#)

Kind regards from the CareFull team

