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FINAL RECOMMENDATIONS OF EUROPEAN CONFERENCE

“TORTURE VICTIMS: WHICH RECOGNITION(S) IN EUROPE?”

OCTOBER 28TH & 29TH 2008

We the representatives of Non-governmental organizations, foundations, reception centres for asylum seekers, academic networks, torture victims rehabilitation centres, law firms;

Coming from Armenia, Belgium, Bosnia Herzegovina, Cyprus, Denmark, France, Hungary, Netherlands, Romania and Switzerland;

Participating in the European conference:

“Torture victims: which recognition(s) in Europe?”

organized by the organisation Parcours d’Exil in Paris, on October 28th and 29th 2008 within the framework of the French presidency of the European Union;

Reminding that the United Nations Universal Declaration of Human Rights, which celebrates this year its sixtieth anniversary, stipulates that nobody must be subjected to torture;

Considering that torture consists in imposing deliberately and systematically pain or physical or psychological sufferings, which can generate somatic and psychological disorders affecting the victim long after the infliction of ill treatment;

Referring to:

the United Nations Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment;

the Optional Protocol to the Convention Against Torture (OPCAT);

the International Convention on the Rights of the Child;

the Convention relative to the status of the refugees;

the UN Convention for the Suppression of the Traffic in Persons and of the Exploitation of

the Prostitution of others;

the Geneva Convention Relative to the Protection of Civilian Persons in Time of War;

the European Convention for the Protection of Human Rights and Fundamental Freedoms;

the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment;

Requiring the implementation of the existing European legislation insufficiently transposed into the national legislations, and more particularly:

The “Reception Directive” (2003/9/EC, January 27th 2003): articles 15, 17, 20 & 25 and 14(5) on confidentiality,

The «Qualification Directive» (2004/83/EC, April 29th 2004): articles 4(3) & 4(4), 15 & 29,

The «Procedure Directive» (2005/85/EC, December 1st 2005): articles 12(3), 13(3);

Referring to decisions of the European Court of Human Rights establishing case law (affair Saadi vs Italy, in 28/02/2008);



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Referring to the Protocol of Istanbul: manual to effectively investigate into torture and other punishments or inhuman, degrading or cruel treatments;

Referring to the UN Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power of 1985, and to the fundamental principles and directives concerning the right for appeal and for repair of victims of violation of international law in relation with Human Rights and of the humanitarian international Right adopted by the Commission of Human Rights of the United Nations in 2000, recommending a compensation of victims as a key element of the process of reconstruction;

Referring to the recent European pact on immigration, adopted by the European Council on October 15th and 16th 2008 and particularly to the commitment 4: "Building a Europe of asylum" and reminding the principle of non-refoulement;

Noticing that there are 12 million refugees in the world in 2007 (HCR estimation) and 26 million internally displaced persons;

Conscious that a big percentage of asylum seekers suffers from somatic and/or psychological disorders;

Conscious of the influence of the after-effects of torture on the capacities of insertion;

Considering that States are responsible for the protection and the care of vulnerable persons, which they have to finance;

Considering that the vulnerable persons should not be placed in detention, taking under consideration its pathogenic effects;

Noticing that the short delay of examination of the asylum requests, imposed by certain countries, is against the interests of vulnerable persons;

Following the overview of the care systems for torture victims in Europe, independently of their origin;

Answering the invitations of the European and French institutions to make proposals, notably within the framework of the debates concerning the establishment of a European Common Asylum Policy;

Aiming to establish a recognition of the suffering of torture survivors and a legal recognition of their status, which are constituents of their reparation (legal, psychic, moral, social, medical rehabilitation, etc.);

Recommend the establishment of a process of systematic early recognition of torture victims.



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This process consists of 2 preliminary stages:

1. Organize a systematic training for all persons working in connexion to torture victims (protection officers and members of the appeal authorities, doctors, psychologists, employees of the European support office, lawyers, judges, social workers, teachers, police officers, border officers, Human Rights organisations, organisations of victims, legal agents, interpreters, etc) on the specific nature of the symptoms generated by torture, its medico-psychological consequences on the victims and in particular on their difficulties to tell their personal history.

Directives "Reception" 24 (1) & "Procedure" 13 (3a);

2. Establish, in agreement with the stakeholders, a simple checklist based on criteria allowing the identification vulnerable people;

This checklist will be spread to persons in contact with potential torture victims so that they use it as soon as possible (after the time necessary to establish a trust link) in order to determine their potential vulnerability;

Directive "Reception" 17 (2);

ATTENTION

The checklist should not be used at the border, other than to prevent an accelerated procedure from being imposed on a torture survivor.

It cannot be used to refuse the entry on the territory or to refuse the deposit of an asylum request. No medical diagnosis can derive from this checklist.

And 3 later stages:

Following the identification of a vulnerable person:

1. Alert, according to a determined procedure, responsible authorities so that this vulnerability is taken into account and that the examination procedure of the asylum request is adapted, without prejudging the result of the request;

Directive "Procedure" 12 (3) & 13 (3); Istanbul Protocol § 9,135,142,143,161,164,263,270

2. Quickly direct the person towards a specialized health care centre.

Directive "Reception" 15, 17 & 20; Directive "Qualification" 29; Istanbul Protocol § 94

A mapping of specialized care services must be established in order to confront the needs with the real care capacities on the national territory, aiming to establish dedicated care services at local level, functioning with a staff trained on the subject of torture victims care;

3. Drafting a medical certificate in order to evaluate the physical and/or psychological after-effects:

At the patient's or his legal representative's request, by the therapist who follows him/her or a doctor of his choice,

At the request of the authorities, by an independent expert, external to the therapeutic process.

Directives "Reception" 17 (2) and "Procedure" 12 (3); Istanbul Protocol § 122