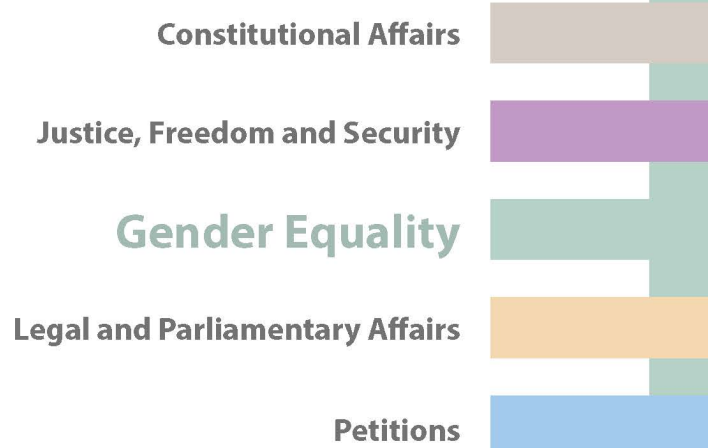


DIRECTORATE-GENERAL FOR INTERNAL POLICIES

POLICY DEPARTMENT **C**
CITIZENS' RIGHTS AND CONSTITUTIONAL AFFAIRS



Reception of female refugees and asylum seekers in the EU Case study Germany

STUDY FOR THE FEMM COMMITTEE



DIRECTORATE GENERAL FOR INTERNAL POLICIES
POLICY DEPARTMENT C: CITIZENS' RIGHTS AND
CONSTITUTIONAL AFFAIRS

WOMEN'S RIGHTS & GENDER EQUALITY

**Reception of female refugees
and asylum seekers in the EU**
Case study Germany

STUDY

Abstract

Upon request by the FEMM Committee, the reception of female asylum seekers in Germany is examined. The research is provided for the delegation of FEMM Members to a refugee camp in Munich/Germany. It presents both the EU and the German legal framework concerning the reception of (female) refugees. Attention has been paid whether gender-sensitive asylum application procedures and reception conditions are provided in practice in Germany.

This study was commissioned by the policy department for Citizen's Rights and Constitutional Affairs at the request of the FEMM Committee

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LIST OF ABBREVIATIONS

- BAMF** The Bundesamt für Migration und Flüchtlinge
- EU** European Union
- FGM** Female Genital Mutilation
- FRA** EU Fundamental Rights Agency
- IOM** International Organisation for Migration
- KfW** Kreditanstalt für Wiederaufbau
- SGBV** Sexual and Gender Based Violence
- TFEU** Treaty on the Functioning of the European Union
- UNHCR** United Nations High Commissioner for Refugees
- UNICEF** United Nations International Childrens Emergency Fund
- UN** United Nations

EXECUTIVE SUMMARY

- In 2015, there has been a huge increase in the numbers of asylum seekers in the EU. A large majority of these asylum seekers are male. Consequently, female asylum seekers and girls represent a minority and are in need of protection. International and EU law provide protection for these women and girls. The UNHCR and the Council of Europe have adopted instruments which require asylum application procedures and reception conditions to be made more gender-sensitive. EU law has recognised gender based persecution as a ground for granting refugee status. In reception, EU law provides guidance on facilities for women and the asylum applications of female asylum seekers. However, additional protection is only provided when women are considered to be vulnerable persons. This could be the case for pregnant women and women who have been victims of gender-based violence.
- Women have a number of specific needs during reception. During the asylum application procedure, women should have the right to a female interviewer and interpreter. Furthermore, childcare should be offered during the interview and other family members should not be present during this interview. It is important that the procedures are gender-sensitive in order for staff to recognise victims of gender-based persecution. In reception centres, women should be housed separately from men and women should have safe access to private sanitary facilities. Access to health-care and education should be provided. Furthermore, there must be extra attention for girls and women in order to prevent these women from becoming victims of human trafficking or sexual or gender-based violence.
- 1.1 million asylum seekers arrived in Germany in 2015. Only 477.000 of the 1.1 million have been registered. 364.664 registered cases are still waiting for a decision. The majority of the asylum seekers are male. The Bundesamt für Migration und Flüchtlinge (BAMF) is the institution in Germany responsible for dealing with asylum claims. The Asylum Procedure Act is the law which regulates most of the asylum procedure and the reception conditions.
- Germany provides a number of facilities in the reception centres. Asylum seekers are housed mainly in reception and accommodation centres. Without an asylum status, health care is only provided in emergency cases, with the exception of children and pregnant women. Children have the right to education. Germany also provides additional protection for vulnerable groups.
- The large numbers of asylum seekers have created problems in the reception centres in Germany. Overcrowding is a major problem which also leads to violence in reception centres. There is not sufficient access to health care because the demand is too high. Overcrowding leads to a lack of privacy, lack of living space and a lack of sanitary facilities. This can create a dangerous situation for women and children. In addition, there is a lack of interpreters available, information is insufficiently provided and the asylum procedure is very lengthy. Another problem is that children cannot always go to school. Furthermore, cases of sexual violence against women and children have been reported.
- In order to improve the situation, more women and children need to be better protected and should have access to specific facilities such as health-care and (separate) housing. Education should be provided to prevent sexual and gender based violence.

1. RECEPTION OF WOMEN AND GIRLS: BACKGROUND INFORMATION

KEY FINDINGS

- Around 1 million people arrived in the EU in 2015. In 2014 and 2015, the majority of these asylum seekers were male. However, since January 2016, there has been an increase in the amount of female asylum seekers and children. This development may have a positive effect on the gender balance amongst asylum seekers.
- The Convention relating to the status of refugees does not include gender based persecution but in practice gender based persecution is considered to be a ground for international protection. Instruments from the Council of Europe and the UNHCR provide additional guidance for granting female asylum seekers refugee status and to ensure gender-sensitive reception conditions.
- At EU level, gender is taken into account as a ground of persecution for granting refugee status. Directive 2013/32/EU and Directive 2013/33/EU take into account specific needs of female reception during the asylum application procedure and reception.

1.1. Introduction

Many asylum seekers have come to the EU during the current refugee crisis. The majority of these refugees are male (as is discussed in more detail in section 1.2). Nevertheless, many of the female refugees, who arrive in the EU, are trying to escape situations of war, gender-based persecution and gender inequality. Gender, therefore, has to be taken into account in policy making and has to be used in practice in order to provide a gender-sensitive asylum procedure and gender sensitive reception conditions. In particular, because women and girls are exposed to **serious risks of sexual and gender based violence** (SGBV) during the migration process.¹ During the journey women and girls are exposed to violence and abuse from smugglers, other refugees but also by state actors such as police agents and staff in reception centres. EU Member States should therefore treat women as vulnerable persons and provide suitable gender-sensitive facilities in reception centres. Moreover, Member States should ensure that gender-based persecution is accepted as a ground for asylum status. At the moment, there are large differences between the Member States in accepting gender based asylum applications. The reception conditions in some Member States are also below the minimum level.² In this in-depth analysis, the German asylum procedure and reception conditions for female asylum seekers are examined.

The following definitions are used in this analysis³:

- Asylum seeker: A person claiming international protection due to the risk of persecution in their home country (Article 1 A (2) of the UN Geneva Convention);
- Refugee: A person that receives protection under the Geneva Convention in a Member State, following a defined legal procedure;

¹ <http://www.unhcr.org/569f99ae60.html>.

² Jane Freedman, Gendering the International and Asylum and Refugee Debate, Palgrave Macmillan: London, 2015 and Elspeth Guild, Cahtryn Costello, Madeline Garlick and Violeta Moreno-Lax, "The 2015 Refugee Crisis in the European Union, CEPS no. 332, September 2015.

³ [http://www.europarl.europa.eu/ReqData/etudes/BRIE/2015/554202/EPRS_BRI\(2015\)554202_EN.pdf](http://www.europarl.europa.eu/ReqData/etudes/BRIE/2015/554202/EPRS_BRI(2015)554202_EN.pdf).

- Irregular migrant: A third-country national who does not fulfil, or no longer fulfils, the conditions of entry as set out in Article 5 of the Schengen Borders Code or others for entry, stay or residence in that Member State.

1.2. Numbers of asylum seekers entering the EU

As a first impression of reception needs and the current situation in reception centres (in Germany), numbers of asylum seekers who have entered the EU during the last months are provided.

There is different data available for the number of migrants entering the EU in 2015. In 2015, far more refugees/migrants arrived in the EU in comparison to previous years. Because of these high numbers, not all data is up to date or shows the share of male and female refugees. In total 1.5 million irregular border crossings took place in the EU between January and November 2015. Most arrivals in the EU took place via travel by (the Mediterranean) Sea. According to the United Nations High Commissioner for Refugees (UNHCR), **1.015.078** people arrived by sea in the EU in 2015.⁴ Of these people, **25% were children, 17% were women and 58 % were men.** According to the International Organisation for Migration (IOM) **1.034.745** persons arrived in the EU in 2015 but from IOM no sex-disaggregated data is available.

According to IOM, **55.652** arrived in January 2016 via both sea and land routes. However, this number does not specify the percentage of male and female migrants.

According to UNHCR, in the first weeks of January **2016**, 62.397 persons arrived in the EU via sea-routes (UNHCR). These numbers are already eleven times higher than the total number of January 2015.

UNHCR indicates that the percentages based on gender since January 2015 (including the figures of January 2016) are: **49% men, 19% women and 31% children.**⁵ Consequently, it has to be concluded that, in comparison to the numbers of December 2015, there has been an increase in the amount of women. The UNHCR reported that since January 2016 the number of women and children represents more than **55%** of the total arrivals.⁶ Of this 55%, 21% are women and 34% are children.⁷ Consequently, there is an increase in the amount of women and children arriving, which may have a positive effect on the gender balance amongst asylum seekers.

Data from 2014 shows that during 2014, there were more men who made an asylum application. Data from Eurostat shows the amount of male/female asylum applicants in the EU. In the age group for applicants under 14, the numbers were almost equal; 53% of the applicants were boys. In the groups **14-17, 18-34** around three quarters of the applicants were male.⁸ There were only more female applicants in the group for age 65 and over. Consequently, there was a majority of male asylum seekers in 2014 and 2015.

The asylum seekers are not equally spread among the Member States. Most asylum seekers arrive in Greece or Italy. However, most asylum applications were filed in Germany⁹. Sweden had the most asylum seekers per capita.¹⁰

⁴ See <http://data.unhcr.org/mediterranean/regional.php> for more information. The UNHCR updates the numbers regularly.

⁵ <http://data.unhcr.org/mediterranean/regional.php>.

⁶ <http://www.unhcr.org/569f99ae60.html>.

⁷ <http://www.ft.com/intl/cms/s/0/df3b5ea-bf99-11e5-9fdb-87b8d15baec2.html?siteedition=intl#axzz3yGPT2VzX>

⁸ http://ec.europa.eu/eurostat/statistics-explained/index.php/Asylum_statistics.

⁹ More information on the number of asylum applicants in each Member State in 2015 can be found via this link: <http://ec.europa.eu/eurostat/tgm/table.do?tab=table&init=1&language=en&pcode=tps00189&plugin=1>.

¹⁰ <http://www.seekasylumsweden.info/>, <http://ec.europa.eu/eurostat/documents/2995521/7105334/3-10122015-AP-EN.pdf/04886524-58f2-40e9-995d-d97520e62a0e>.

1.3. The Legal Framework

The legal framework regulating asylum and reception in the EU consists of both international and European law instruments. The following legal instruments are the most relevant legal instruments regulating the reception conditions of asylum seekers.

1.3.1. International law

The 1951 **Convention and Protocol relating to the status of refugees** (hereafter 1951 Convention or Refugee Convention) is the oldest international convention regulating the status of refugees. Article 1 A (2) defines a refugee as: " a person who, owing to a well-founded fear of persecution for reasons of race, religion, nationality, membership of a particular social group or political opinions, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country."¹¹ Another important principle regulated in the Refugee Convention is the principle of *non-refoulement* which prohibits States to expel or return a person when this person faces persecution or violence based on his/her race, religion, nationality, membership of a particular social group or political opinions.¹²

Today, the Refugee Convention is still the fundamental instrument to grant a person international protection. Due to its historical development, it does not include specific provisions for protection based on gender and is mainly focused on political persecution by a state actor. However, nowadays several situations which influence the safety of women and girls are considered to fall under the persecution requirement. For example, female genital mutilation (FGM), gender based violence and domestic violence are used as grounds which fulfil the persecution requirement, which give women, who have become victims of these crimes, the right to refugee status. All Member States of the EU are also State parties to the Refugee Convention.

The Council of Europe Convention on preventing and combatting violence against women and domestic violence of 2011 (hereafter Istanbul Convention) is also a relevant international law instrument. Article 60 of the Istanbul Convention regulates the protection of refugee women against violence. The article addresses three aspects. Firstly, parties to the Convention must provide the legislative framework to recognise gender based violence as a ground for persecution within the meaning of Article 1 of the 1951 Refugee Convention. Secondly, a gender-sensitive interpretation must be given by states to all the other grounds of Article 1, for example, membership of a social group. Thirdly, states must develop gender-sensitive reception procedures and support services for asylum seekers. In addition, procedures for the application of refugee status should be gender-sensitive.¹³ Article 61 ensures that the principle of *non-refoulement* applies for victims of gender-based violence. The Istanbul Convention has not been ratified by all EU Member States. Germany has signed and ratified the Convention.¹⁴ In addition to the Istanbul Convention, the Council of Europe has also adopted [resolution 1763](#) and [recommendation 1940](#) on gender-related asylum claims.

Non-binding but important international instruments concerning reception conditions are published by the UNHCR. These documents can serve as a guideline. The UNHCR has also published concrete documents focused on the EU such as position papers and recommendations. These documents include: [Guidelines on the Protection of Refugee Women](#), [the 2008 Handbook for the Protection of Women and Girls](#), [the UNHCR's Recommendations as Regards Harmonisation of Reception Standards for Asylum Seekers in the European Union](#) and the [Guidance Note on Refugee Claims relating to Female Genital Mutilation](#).

¹¹ United Nations, 1951 Convention and Protocol relating to the status of refugees, article 1 (A).

¹² Ibid, article 33.

¹³ Council of Europe Istanbul Convention on preventing and combatting violence against women and domestic violence, 2011, article 60.

¹⁴ Council of Europe, Chart of signatories and ratifications, version 20-01-2015, <http://www.coe.int/en/web/conventions/full-list/-/conventions/treaty/210/signatures>.

1.3.2. EU asylum and reception law

The Treaty on the Functioning of the European Union (TFEU) has made the EU competent to create a common asylum policy. According to article **78 TFEU**, the EU shall develop a common policy on asylum, subsidiary and temporary protection for those in need of international protection. It is set out in paragraph two of this article, that the EU can create common standards concerning the conditions for reception for asylum seekers. Article 78 TFEU has served as the legal basis for many EU asylum policy directives.

In EU law, the following directives are relevant for reception conditions:

- [Recast Reception Conditions Directive \(2013/33/EU\)](#) laying down standards for the reception of applicants for international protection (recast)
- [Recast Directive on common procedures](#) for granting and withdrawing international protection (**2013/32/EU**)
- [Qualification Directive \(2011/95/EU\)](#) on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted (recast)
- [Dublin Regulation 604/2013](#) establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or stateless person.

In EU legislation, **women can be granted refugee status** in the following ways. Gender is an aspect which needs to be taken into account when assessing an applicant's individual position. **Physical, mental and sexual violence and acts of a gender specific nature are recognised as acts of persecution.** In addition, gender is recognised to be a ground for membership of a particular social group (Qualification Directive Art.4 (3), Art. 9 (2), 10 (1)). Based on this legislation, Member States should ensure that gender-based violence, FGM, and domestic violence are taken into account as grounds for persecution as required for a refugee status.

If women do not fulfil the requirements for refugee status, they may be granted **subsidiarity protection status** (Art. 15 Qualification Directive). In these circumstances the applicant must prove that he/she at risk of serious harm, which can consist of: "the death penalty or execution; or torture, inhuman or degrading treatment or punishment in the country of origin; or serious and individual threat to a person's life by reason of violence in situations of international or internal armed conflict".¹⁵ For example, for women, this could be the case when they face serious threats of violence by family in the country of origin.

In the EU, the rules concerning **reception conditions** are mostly laid down in the Reception Directive. However, Directive 2013/32/EU on granting and withdrawing international protection is also relevant because several stages of the asylum application are regulated in this Directive. Some of these stages, such as the personal interview, take place in reception centres, and are therefore relevant when considering reception conditions. **The Reception Directive** regulates the minimum conditions for the reception of asylum seekers in the Member States. There are a couple of references to the reception of female asylum seekers in the Directive. Article 11 requires pressures Member States, in case of detention, to detain female applicants separately from men. Families can be

¹⁵ Directive 2011/95/EU of the European Parliament and of the Council of 13 December 2011 on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted, article 15.

exempted from this requirement. Based on article 18 (3), Member States shall take into consideration any gender and age-specific concerns in **housing** applicants in reception and accommodation centres. Article 18 (4) obliges Member States to take measures to prevent assault and gender based violence, such as sexual assault and harassment, in reception and accommodation centres. In addition, Member States must shall take into account the specific situation of vulnerable persons, who include, amongst others: minors/unaccompanied minors, pregnant women, single parents with minor children, victims of human trafficking, victims who have been subject to rape, sexual/physical or psychological violence (including FGM) (Article 21). Article 29, finally, requires that authorities implementing the Directive should have received the necessary training to deal with both the needs of male and female applicants.¹⁶ At the date of writing, the Reception Directive has not yet been implemented into German law, please see below.

Directive 2013/32/EU on **granting and withdrawing international protection** also pays attention to gender differences. In the preamble, it is expressed in recital 29 that Member States should identify vulnerable persons and provide special procedural guarantees for these persons. **Vulnerability** can be based on, amongst others, gender or age and might also be the consequence of violence and rape. In point 32 it is stated that all procedures should be gender-sensitive and should provide equal chances to male and female applicants. Interviews should be conducted in a way that both male and female applicants feel comfortable to tell about their past. Article 10 requires that personnel dealing with asylum applications should be able to ask advice on, amongst others, gender issues. In addition, Article 11 offers Member States the possibility to grant individual status to a woman, who has been victim of gender-based persecution, even where a family has applied for asylum as a whole. Lastly, Article 15 of the Directive sets the requirement that the interviewer during the personal interview should be capable of taking into account personal and general circumstances such as gender.¹⁷ At the date of writing, Directive 2013/32/EU has not yet been implemented into German law, please see below.

When implementing the Recast Reception Conditions Directive, Member States are obliged to respect the **EU Charter of Fundamental Rights**. Some rights in the Charter are relevant with regard to the reception of female asylum seekers. Article 2 of the Charter, which protects the right to integrity, can be violated, if Member States do not provide for gender-sensitive reception conditions. Gender-based violence would fall within the scope of this article. Moreover, the right to family life can also be relevant, for example, by keeping families together in reception centres. Article 5 of the Charter prohibits the trafficking in human beings. Member States must therefore protect women and girls against falling into the hands of traffickers during their time in reception centres.¹⁸

In addition to these Directives, **Directive 2012/92/EU** establishing minimum standards on the rights, support, and protection of victims of crime, can also be interpreted to apply to asylum seekers because it applies in a non-discriminatory manner with respect to residence status. This Victim Directive obliges Member States to inform and protect victims of crimes committed in EU Member States. This includes, for example, trauma support and counselling.¹⁹

¹⁶ 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), OJ L 180.

¹⁷ 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), OJ L 180.

¹⁸ Charter of Fundamental Rights of the European Union, ECRE, Reception and Detention Conditions of applications for international protection in light of the Charter of Fundamental Rights of the EU, January 2015, pp. 14-20.

¹⁹ Directive 2012/92/EU of the European Parliament and of the Council of 25 October 2012 establishing minimum standards on the rights, support and protection of victims of crime (recast), OJ L 315 and <http://d2ihhomkd2yhtk.cloudfront.net/wp-content/uploads/2015/10/Womens-Asylum-News-132.pdf#page=9>.

2. RECEPTION NEEDS OF FEMALE REFUGEES AND GIRLS

KEY FINDINGS

- Women have more difficulty obtaining asylum status since their applications are considered to be less credible. Therefore, the asylum application procedures must become more gender-sensitive. Female interviewers and interpreters should be provided. Individual interviews organised separately from family members, including children, would allow women to speak more freely and to make the applications of women more successful. Providing childcare during interviews is therefore of paramount importance.
- Reception conditions should be gender-sensitive. To guarantee their safety, more attention and protection should be provided for women and girls. In this way sexual and gender-based violence can be prevented. Girls should have access to education and sufficient health-care must be provided for women and girls.

2.1. A gender sensitive asylum application

Even with the recognition of persecution based on gender, women have, in general, more difficulties in proving their claim for asylum. It is more difficult to show evidence of, for example, gender based violence. Women often only have their story and no evidence. This is also the reason why female applicants for asylum are **less successful** than male applicants. Their stories are considered to be **less credible** than those of men (who can provide actual proof for their persecution, for example membership of a certain party). The way in which women present their story is therefore even more important than for men.

In this respect, it has to be taken into consideration that women will most probably find it more difficult to tell their story to a man. Women refugees should therefore have the possibility to get a woman as interviewer for their asylum claim. Article 15 (3) of Directive 2013/32/EU states that Member States should provide this possibility of a female interviewer. In these circumstances, women should also be able to ask for a **female interpreter** besides the **female interviewer**. With the recognition of the female interviewer and interpreter in law, Member States should also ensure that these female interviewers and interpreters are available in the reception centres in practice. In particular, in these times of quite crowded reception centres, it can become difficult to maintain the right to a female interviewer and interpreter in practice. It is important here to provide both. The positive effect of having a female interviewer would be undermined if there were no female interpreter as well, because women still would have difficulties to tell their stories.

In order to improve the success rates of women's asylum applications, **gender-sensitive asylum procedures** should be used in the Member States. This is also recognised in Directive 2013/32/EU. To guarantee gender-sensitive asylum procedures, staff dealing with applications should be aware of gender specific problems and thereby become capable of recognising these gender issues. **Specialised officers** should be available for gender cases, especially when the applicant can be categorised as a vulnerable person. These specialised officers could also assist other staff with questions or procedures regarding gender cases.

An important facility which influences the success of female asylum seekers' applications for asylum is the availability of child care in reception centres. Not all Member States provide **child care facilities** in reception centres. Female applicants are, therefore, forced

to bring their child(ren) to the asylum status interview. In those circumstances, these women have to talk about their past and share their traumatic experiences in front of their children. This might influence the willingness of these women to talk about their experiences with, for example, domestic violence, FMG or rape. Women can also be distracted by their children, which can also influence their credibility. Moreover, it is also not in the interests of the child to witness these interviews and to listen to the traumatic experiences of their mothers. In addition, the interview should also **not take place in the presence of other family members.**²⁰ Women might be put under pressure not to talk about domestic violence, honour crimes or other threats coming from family. In these circumstances, women might be entitled to asylum status on their own account but are not able to get this individual status since they cannot talk about these experiences.

Another issue during the application for asylum is that **sufficient information** about the procedure and specific rights should be provided in reception centres. During the interview, the interviewer should inform the applicant on his/her individual rights to an asylum claim or inform the applicant when he/she could use legal counselling.²¹ This is especially important in cases where the interview is the only moment that the asylum seeker can get access to this information. Not all asylum seekers are aware that **women and children can file an individual application** for a refugee status.²² Female asylum seekers but also children should therefore be counselled on their rights. If women get an individual asylum status, they are less depended on their family or husbands. This is especially relevant in cases where women are oppressed by family or are victims of domestic violence because it gives these women the opportunity to escape these violent situations. Information in reception centres on who can make a request for an asylum status should therefore be provided by the responsible actors in the Member States.

2.2. Gender sensitive reception conditions

In the reception centres, certain facilities have to be provided in order to make them more gender sensitive. Staff in reception and accommodation centres should be aware of gender specific problems and how adjustments in the facilities of the reception centres could improve the situation of women but also children. The following aspects need to be taken into account when providing a gender-sensitive reception centre: separate housing, health-care, extra attention to unaccompanied girls and single women, education, separate detention and the prevention of violence against women.

It is very important that the housing of asylum seekers is organised in a gender sensitive way. Men and women must be **housed separately**, with the exception of families who want to stay together. A lack of privacy or men and women housed together can result in - continued - violence against women. Women should have the possibility **to lock their rooms** in reception centres. In this way, theft and (sexual) violence can be prevented. **Overcrowded reception centres** pose serious risks of (sexual) violence against women and children. In order to further improve the safety and privacy of women, **private bathing and sanitation facilities** should also be provided in reception centres, in particular in cases where the centres are overcrowded. Men and women's sanitary facilities should be strictly separated. In addition, sanitary facilities in the reception centres must be easy to reach, for example, by providing these facilities close to the women's rooms, and should be safe to access, in particular during the night.²³ Long and dark corridors or facilities outside the building create unsafe situations.

²⁰ UNHCR Bureau for Europe, Ensuring Gender Sensitivity in the Context of Refugee Status Determination and Resettlement, October 2005, p.13.

²¹ Ibid, pp. 13-15.

²² UNHCR, Recommendations as Regards Harmonisation of Reception Standards for Asylum Seekers in the European Union, p.18.

²³ UNHCR, Handbook for the Protection of Women and Girls, 2008, p.324.

In addition, **sufficient health-care** must be present at the reception centres, in particular in the case of pregnant women. According to the UNHCR, pregnant women should have the same access to medical care as nationals of the host state.²⁴ Women in reception centres should also be informed or receive counselling about their reproductive health rights in that Member State. Women must also have access to **psychological aid** in order to recover from **traumatic experiences**. Women but also children may have been subject to gender based violence during their journey. The UNHCR has reported that refugees with a lack of financial resources are forced to use (survival) sex as a way of paying for their travel. Help must therefore be provided to these victims to recover from these experiences. Women and children should also be recognised as a vulnerable group in order to ensure that they will have access to medical and psychological help.

Young and unaccompanied girls and single women need extra attention after arriving in a reception centre. These girls and women travelling alone face more risks. They can become victims of sexual and gender-based violence²⁵ during their journey but also in the reception centres, since they are not under protection of family members or fellow travellers. The UNHCR has noted that some women even marry someone on the journey out of desperation for protection.²⁶ Unaccompanied girls and single women should therefore receive particular assistance in reception centres. Otherwise, these women might be excluded from the use of facilities such as kitchens or washing machines because they do not have this protection. The lack of protection also puts these girls and women in a situation in which they can be easily abused when they try to find a form of protection. These girls and young women, therefore, risk becoming victims of human trafficking and/or being forced to become prostitutes.²⁷ Moreover, there is also a practice that these girls/young women are forced to marry in order to benefit from family reunification provisions. For example, these girls may be married to a family member (in the country of origin) so that, when they obtain asylum in an EU Member State, they can bring their husband (and potentially his financially dependent parents or children) to the EU.

Children, including girls, should have access to **education** during their stay at a reception centre. Going to school will improve their chances of quick integration in the host country. Furthermore, it will improve their chances for the future if these children learn the language of the host country.

Violence against women should be prevented. As set out above, the safety of women and children is better guaranteed when they are housed separately from men. Women and children should also have their own sanitary facilities. These rooms must be exclusively reserved for women and children; men should not be allowed to access these facilities. During the night, hallways and corridors should have sufficient light in order to ensure safe passing.

In reception centres, information should be provided that violence against women, including domestic violence is considered to be a **crime**. Education about respect for women might prevent sexual and gender based violence. It is very important that women who have become victims of (sexual) violence are able to report the crime to the reception staff and the police. Complaints and reports about sexually orientated comments, assaults and rape should be taken seriously by staff and the victim must receive support from the reception staff. This will increase the likelihood that other women also report these crimes.

²⁴ UNHCR, Recommendations as Regards Harmonisation of Reception Standards for Asylum Seekers in the European Union, p.19, <http://www.proasyl.de/texte/hl/wohnen/unhcr-reception-recomm.pdf>.

²⁵ For more information about sexual and gender based violence see: <http://www.irinnews.org/in-depth/62847/20/africa-asia-definitions-of-sexual-and-gender-based-violence>.

²⁶ <http://www.unhcr.org/569f99ae60.html>.

²⁷ UNHCR, Handbook for the Protection of Women and Girls, 2008, p. 8.

In the case that **detention** has to take place, women and children should be detained separately from men. However, it would be best if children, pregnant women and women who just gave birth, were never detained.

For the case study of Germany it should be noted that, according to a paper from the Jesuit Refugee Service, asylum seekers are not detained, as they receive a temporary residence permit during the application procedure. Detention would only be possible in cases where the residence permit is lacking. This could be the case for asylum seekers subject to a Dublin III procedure. The particular attention to the identification of vulnerable asylum seekers requested by the Reception Directive is therefore also applicable to other procedures, such as the Dublin III procedure.²⁸

²⁸ Stefan Kessler, Jesuit Refugee Service Europe and Heiko Habbe, Jesuiten-Fluchtlingsdienst Germany, Discussion Paper on the need for modifications of German refugee law for the implementation of the recast of the reception directive, 2015.

3. RECEPTION IN GERMANY

KEY FINDINGS

- In 2015, 1.1 million asylum seekers arrived in Germany. Of those 1.1 million, only 477.000 asylum applications have been registered. In December 2015, 364.664 cases were still pending. The majority of these asylum seekers were male.
- The Asylum Procedure Act regulates most of the asylum application procedure and the reception conditions. German law takes gender into account as a ground for refugee status. However, Germany has not yet implemented Directive 2013/32/EU and Directive 2013/33/EU. The *Bundesamt für Migration und Flüchtlinge* (BAMF) is the institution in Germany responsible for dealing with asylum claims.
- Germany provides the following reception conditions for (female) asylum seekers: housing in reception and accommodation centres, emergency health-care, health-care for pregnant women, a financial allowance, additional protection, access to education, and services for vulnerable groups.
- The large numbers of asylum seekers have caused overcrowded reception centres and lengthy asylum application procedures. There are not enough facilities available. Overcrowding has also led to an increase in violence and sexual assaults in reception centres. Vulnerable groups do not receive sufficient protection.
- Germany should take measures to ensure better protection for women and children.

3.1. Numbers of asylum seekers in Germany

477.000 requests for asylum were officially registered in Germany in 2015.²⁹ In January 2016 it was announced by the German Minister of internal affairs that **1.1 million** asylum seekers had arrived in Germany during 2015.³⁰ This data shows that there has been a delay in the registration of asylum seekers in Germany since only 477.000 of the 1.1 million asylum seekers have been registered.³¹

In the top ten countries of origin with most requests for asylum, the following countries were mentioned: Syria (162.510), Albania (54.762), Kosovo (37.095), Afghanistan (31.902) and Iraq (31.379), Eritrea (10.990) or their origin was unknown (12.166).³² The total amount of registered asylum applications consists of the applications from the top ten countries of origin plus all other countries of origin. The top ten countries of origin, therefore, mostly consist of a few Middle Eastern and Balkan countries. The large numbers of asylum seekers from Balkan countries is noteworthy, especially since Germany considers these countries to be safe. Therefore, there is a high rejection rate (of 99%) for applicants

²⁹ <http://www.bamf.de/SharedDocs/Anlagen/DE/Downloads/Infothek/Statistik/Asyl/201512-statistik-anlage-asyl-geschaeftsbericht.html?nn=1694460>, http://www.bamf.de/SharedDocs/Anlagen/DE/Downloads/Infothek/Statistik/Asyl/201512-statistik-anlage-asyl-geschaeftsbericht.pdf;jsessionid=69BE235AF7546B9552A8CF1BA133043F.1_cid286?_blob=publicationFile, p.2.

³⁰ <http://www.welt.de/politik/deutschland/article150678614/1-1-Millionen-Fluechtlinge-kamen-2015-nach-Deutschland.html>, http://www.focus.de/politik/ausland/fluechtlingskrise-im-news-ticker-mindestens-20-fluechtlinge-vor-tuerkischer-kueste-ertrunken_id_5191717.html.

³¹ <http://www.bloomberg.com/news/articles/2016-01-06/germany-says-about-1-1-million-asylum-seekers-arrived-in-2015>.

³² http://www.bamf.de/SharedDocs/Anlagen/DE/Downloads/Infothek/Statistik/Asyl/201512-statistik-anlage-asyl-geschaeftsbericht.pdf;jsessionid=69BE235AF7546B9552A8CF1BA133043F.1_cid286?_blob=publicationFile, p.2.

from these countries.³³ Consequently, Germany does not only deal with war refugees but also with a wider range of migrants. At the end of December, of the 441.899 registered requests for asylum, **364.664 cases were still pending.**³⁴

In December 2015, The *Bundesamt für Migration und Flüchtlinge* (BAMF) (Federal Office for Migration and Refugees) published the most recent data concerning the amount of female and male registered asylum seekers in Germany. This data shows that 69.2% of the registered applicants were male while the amount of female applicants was 30.8%. There are, however, large differences between the different male/female applicants in different age groups. Based on the numbers in the following table, the amount of female refugees was only larger for the age group 65 and older. The age groups where the numbers of male/female applicants are more or less equal are the groups up to 15, and 60-64.³⁵

Asylum claims disaggregated by age and sex in 2015

Age groups	Total	Male asylum applicants by age group	Female asylum applicants by age group	Percentage of male applicants within the age groups	Percentage of female applicants within the age groups
Up to 15	117 008 6.5%	64 475 1.1%	52 533 38.5%	55.1%	44.9%
16 to 17	20 471 4.6%	16 253 5.3%	4 218 3.1%	79.4%	20.6%
18 to 24	109 672 4.8%	88 121 8.8%	21 551 15.8%	80.3%	19.7%
25 to 29	67 258 15.2%	50 828 6.6%	16 430 12.1%	75.6%	24.4%
30 to 34	46 698 10.6%	32 923 0.8%	13 775 10.1%	70.5%	29.5%
35 to 39	31 239 7.1%	21 216 6.9%	10 023 7.4%	67.9%	32.1%
40 to 44	20 194 4.6%	13 704 4.5%	6 490 4.8%	67.9%	32.1%
45 to 49	12 848 2.9%	8 557 2.8%	4 291 3.1%	66.6%	33.4%
50 to 54	7 489 1.7%	4 711 0.5%	2 778 2.0%	62.9%	37.1%
55 to 59	4 245 1.0%	2 386 0.8%	1 859 1.4%	56.2%	43.8%
60 to 64	2 382 0.5%	1 294 0.4%	1 088 0.8%	54.3%	45.7%
65 and older	2 385 0.5%	1 116 0.4%	1 279 0.9%	46.6%	53.4%
Total	441 899 100%	305 584 100%	136 315 100%	69.2%	30.8%

Source: Adapted for purpose by Rosamund Shreeves from [Current asylum figures](#) BAMF, December 2015

3.2. German legal framework concerning asylum and reception

The following laws regulate asylum applications, reception and detention in Germany: The [Basic Law](#) (Grundgesetz), the [Residence Act](#) (Aufenthaltsgesetz), the [Asylum Procedure Act](#) (Asylgesetz), the [Asylum Benefit Act](#) (Asylbewerberleistungsgesetz), the [Act on Processes](#)

³³ Michael Kalkmann, AIDA Country Report Germany, November 2015, p. 6, table 1.

³⁴ http://www.bamf.de/SharedDocs/Anlagen/DE/Downloads/Infothek/Statistik/Asyl/201512-statistik-anlage-asyl-geschaeftsbericht.pdf;jsessionid=69BE235AF7546B9552A8CF1BA133043F.1_cid286?_blob=publicationFile, p.2.

³⁵ BAMF, Aktuelle Zahlen zu Asyl, December 2015, p.7.

https://www.bamf.de/SharedDocs/Anlagen/DE/Downloads/Infothek/Statistik/Asyl/statistik-anlage-teil-4-aktuelle-zahlen-zu-asyl.pdf?_blob=publicationFile

[in Family Matters and in Matters of Voluntary Jurisdiction](#) (Gesetz über das Verfahren in Familiensachen und in den Angelegenheiten der freiwilligen Gerichtsbarkeit)³⁶.

The Asylum Procedure Act is an important law in the asylum system because it regulates when people are able to get **asylum status** and how the **procedure** is organised. Persecution based on gender has been recognised as a ground for granting international protection. Article 3a, paragraph 2 (6) states that acts of persecution may take the form of acts with a gender-specific nature or acts focused against children. Psychical and mental violence, including sexual violence, is also recognised in this article as a ground for persecution.³⁷ These are the only gender-specific grounds on which women can rely in order to get asylum status. Non-state actors are also recognised as agents of persecution (article 3c).

Women and children can also get asylum status based the status of their **family** members. A spouse or registered partner is also granted asylum when their partner obtains asylum status. However, there are some conditions: the partner must have obtained asylum status, the marriage or partnership must already have existed in the country of origin, the partner must have entered Germany before the other partner was granted asylum and there must be no reason to repeal or withdraw the status. Children are also entitled to asylum status when one of their parents is granted asylum status. For children, it is only required that the status is incontestable and there must be no reason to withdraw it. Provided that they satisfy a number of conditions, parents may also get asylum status from a minor unmarried child who has been granted asylum.³⁸

The EU has influenced the German asylum legislation and has led to references to EU law in the legislation. The Qualification Directive and the Dublin Regulation have been implemented into German law. However, at the moment, **the Reception Condition Directive (Recast) has not yet been implemented** by Germany. The Commission has therefore started an infringement procedure. In September 2015, the Commission sent a letter of formal notice to Germany asking it to explain why the Reception Conditions Directive has not yet been implemented.³⁹ This procedure is still ongoing.

In accordance with rulings of the European Court of Justice, it can be assumed that the lack of implementation entails that those parts of the Directive that are sufficiently detailed, are directly applicable in Germany creating rights for asylum seekers and obligations for administrations involved, even in the case of late implementation⁴⁰.

This might be applicable to the provisions on vulnerable asylum seekers as set out in chapter IV on Provisions for vulnerable persons (Articles 21-25)⁴¹. In this respect, it should be noted that according to the Directive:

- Women are not automatically considered as vulnerable, only when they are pregnant, disabled or have experienced violence as set out in Article 21;
- Situations of pregnancy or experiences of violence are not necessarily obvious and therefore, Member States are obliged to pay particular attention during the asylum procedure to female asylum seekers in order to identify their possible vulnerability (Article 22); long asylum procedures are therefore particularly harmful as the recognition as vulnerable might take place very late;

³⁶ This law is relevant to determine the legality of detention.

³⁷ Asylum Procedure Act (AsylVfG), version of 2 September 2008, Federal Law Gazette I, p.1798, article 3a.

³⁸ Ibid, article 26.

³⁹ http://europa.eu/rapid/press-release_IP-15-5699_en.htm.

⁴⁰ [Marei Pelzer, Maximilian Pichl, Die Geltung der EU-Aufnahme- und Asylverfahrensrichtlinie, Asylmagazin, 10/2015.](#)

⁴¹ [Stefan Kessler, Heiko Habbe, Jesuite Refugee Service, Discussion paper, 2015.](#)

- Therefore, the "screening" for vulnerability should take place as soon as possible, although the Directive does not indicate a particular timeframe; information on special needs provided at any time during the procedure should always be taken into account;
- The determination of special needs is not identical with the determination of the refugee status and special care must also be provided to vulnerable persons not entitled to refugee status; however, vulnerability caused by violence could indicate the need for particular protection;
- The involvement of third parties to address the special needs of vulnerable asylum seekers is not excluded, but the Directive holds the Member State accountable to provide the support;
- A situation of vulnerability should have certain effects on the implementation of the procedure: slowing down of the procedure and reluctance regarding rejection grounded on an unfounded application or safe country of origin, particular attention to and reception of (unaccompanied) minors, effective access to medical and psychological support for victims of violence, including sexual violence, and reduction of social benefits only when proportionate;
- Detention provisions of vulnerable asylum seekers in the framework of a Dublin III procedure will have to be adapted to the recast Directive: offer alternatives to detention, comprehensible information about the decision on detention, and no detention together with criminals and in particular detention centres.⁴²

Besides the Reception Conditions Directive, **Directive 2013/32/EU** on Common procedures for granting and withdrawing international protection, **has also not been implemented** yet in Germany. In September 2015, the Commission also started an infringement procedure against Germany and sent a letter of formal notice about the status of implementation.

As a result of the non-timely implementation, some of the common procedures for granting international protection are not yet applicable in Germany, if they are not sufficiently detailed in the Directive itself. The Directive provides some requirements for gender related asylum claims: gender-based prosecution has to be taken into account in granting international protection status, Member States should use gender-sensitive asylum applications procedures and should raise the awareness of staff regarding gender specific problems.

At the moment, German legislation provides for the possibility to have **interviews** with specialised officers in cases of victims of gender-based persecution or for victims of human trafficking. Interviews with unaccompanied minors are also conducted by specialised officers who pay attention to whether this minor has become a victim of gender based violence.

The Federal Government is responsible for the legal framework concerning asylum policy. The BAMF has to implement the asylum procedures. In addition, the Federal States (Länder) are responsible for the implementation of the Asylum Benefit Act and for providing facilities for the needs of asylum seekers, such as reception centres.⁴³ The Länder are financially responsible for the reception centres. In the case of the accommodation centres, the (financial) responsibility for these centres is shared by the municipalities and the Länder. The distribution of asylum seekers among the different Länder takes place based

⁴² *ibid.* See below under 3.4.4.

⁴³ Andreas Muller, *The organisation of Reception Facilities for Asylum seekers in Germany*. 2013, p.11.

on a distribution system. Each of the Länder is obliged to host a certain percentage of the refugees.

3.3. Asylum application procedure

3.3.1. Asylum application procedure

The Bundesamt für Migration und Flüchtlinge (BAMF) is the institution in Germany responsible for dealing with asylum claims. The BAMF determines whether an applicant fulfils the requirements for asylum status. The BAMF can grant one of **three types of asylum status**: constitutional asylum for people who are persecuted by state actors for political reasons, refugee status based on either the Refugee Convention or the Qualification Directive, and a prohibition of deportation or a subsidiary protection status (based on the Qualification Directive).⁴⁴ If the BAMF rejects an application, the applicant has the right to appeal at an administrative court. In exceptional cases, the applicant can appeal against the decision of the administrative court at the High Administrative Court. Thereafter, the applicant can only appeal at the Federal Administrative Court when legal errors have been made during the procedure at the High Administrative Court.⁴⁵

Usually an office of the BAMF is located at the reception centres. There, asylum seekers can register their application for asylum. The asylum seekers have to stay in these centres both during the initial procedure, and also during an appeal procedure. During the asylum procedure, applicants get a temporary residence status. Officially, the asylum status interview with a BAMF officer takes place during an applicant's stay at a reception centre. However, in practice, the interview can also take place in an accommodation centre.⁴⁶ The presence of an interpreter during the interview with the applicant for asylum status is required by law in Germany.⁴⁷

Over the period from 2012-2015, the average length of the asylum application procedure was between 5 and 7 months.⁴⁸ However, the length of the procedure also depends on the country of origin of the applicant. Cases concerning people coming from Syria, Eritrea, Balkan countries and people from religious minorities from Iraq were prioritised in 2015.⁴⁹ Balkan countries are fast-tracked prioritised because they are considered to be safe countries since October 2015. Persons applying for asylum from these countries are not considered to be persecuted unless they can provide additional evidence. Prioritising cases is intended to must help to speed up the process as a whole.

3.3.2. The Dublin Procedure

Officially, the Dublin Procedure is still applicable in Germany. However, in practice, the procedure has been suspended for Syrians and people are not sent back to Greece.⁵⁰ Whether the Dublin procedure is applicable is usually discovered via the interview or via the fingerprints taken during the registration. The Member State in which the asylum seeker first registered is identified. Afterwards a transfer request is sent to the Member State concerned, which has to consider and possibly accept has to accept this request. The asylum seeker is informed after the Member State has accepted the transfer. If the asylum seeker appeals against the transfer, the transfer will be suspended.⁵¹ In 2015, the Dublin procedure was applied in 25 173 cases out of all the registered applications.⁵²

⁴⁴ Michael Kalkmann, AIDA Country Report Germany, November 2015, p. 13.

⁴⁵ Michael Kalkmann, AIDA Country Report Germany, November 2015, p. 11.

⁴⁶ Ibid, p.13.

⁴⁷ Ibid, p.19.

⁴⁸ Ibid, p. 16.

⁴⁹ Ibid, pp.16-17.

⁵⁰ Michael Kalkmann, AIDA Country Report Germany, November 2015, p. 24,

<http://www.asylumineurope.org/news/24-08-2015/germany-halt-dublin-procedures-syrians>.

⁵¹ <http://www.asylumineurope.org/news/24-08-2015/germany-halt-dublin-procedures-syrians>.

⁵² http://www.bamf.de/SharedDocs/Anlagen/DE/Downloads/Infothek/Statistik/Asyl/201512-statistik-anlage-asyl-geschaeftsbericht.pdf;jsessionid=69BE235AF7546B9552A8CF1BA133043F.1_cid286?_blob=publicationFile, p.8.

Consequently, the Dublin procedure has only been applied in a minority of the total number of asylum applications.

3.4. Services provided to asylum seekers

3.4.1. Housing

After arrival, asylum seekers are distributed among the Länder and housed in **initial reception centres (Aufnahmeinrichtung)**. After filing their application, asylum seekers have to stay in the initial reception centre for six months and applicants from safe countries have to stay in these centres during the entire procedure. Asylum seekers have the obligation to stay in the municipality of the reception centre (Residenzpflicht). Each of the Länder has at least one initial reception centre. After a period of six months, asylum seekers are housed in **collective accommodation centres (Gemeinschaftsunterkünfte)** in different municipalities in the Länder. The asylum seeker will stay in this centre for the remaining duration of the procedures (including appeal procedures). Once placed in a certain collective accommodation centre, the applicants are obliged to stay in the municipality where the centre is located. Due to the overcrowding of reception centres, refugees are also being sent to collective accommodation centres, before being registered. These refugees are being registered at a different moment. This poses **risks for women**, since vulnerable persons are not recognised upon arrival at the reception centre.

There are also other (specialised) types of accommodation centres, besides the reception and collective accommodation centres. Small municipalities have **decentralised accommodation**. These municipalities do not have an accommodation centre and therefore house asylum seekers in apartments in the municipality. In the current times of overcrowded reception centres, **emergency housing** has been provided. People have been housed in hotels, hostels, tents, containers, gyms and office buildings due to the lack of space in the normal facilities.⁵³ In addition, some Länder have **specialised facilities for vulnerable groups**. This includes mostly unaccompanied children, traumatised persons in need of protection and pregnant women.⁵⁴ However, in these times of overcrowded reception centres, it is not certain whether there are enough places available for vulnerable persons and if all of them have been identified.

3.4.2. Health care

Asylum seekers are only entitled to health care in cases of acute disease or pain, in which case medicines to cure the person are also included. Pregnant women and women who just have given birth are allowed to receive more medical assistance. They are entitled to the same medical care as a national pregnant woman, including a midwife. Vaccinations are also provided for asylum seekers.⁵⁵ There are additional benefits to cover the specific needs of children.⁵⁶

3.4.3. Allowances, access to work and seizing assets

During the procedures, asylum seekers housed in reception and accommodation centres are entitled to the coverage of basic needs such as food, heating, clothing and sanitary products. These necessities are provided by the municipalities which provide the reception or accommodation centres. In addition, asylum seekers are given a monthly allowance (pocket money). The amount depends on the place where they are housed: an asylum seeker (an adult) in an accommodation centre receives a monthly allowance of 143 euros

⁵³ <http://www.asylumineurope.org/reports/country/germany/reception-conditions/access-forms-reception-conditions/types-accommodation>.

⁵⁴ Andreas Muller, The organisation of Reception Facilities for Asylum seekers in Germany. 2013, p.13.

⁵⁵ Asylum Seekers' Benefit Act, article 4, http://www.gesetze-im-internet.de/asyblg/_4.html.

⁵⁶ Eva-Maria Poptcheva, Andrej Stucklik et al, Work and social welfare for asylum-seekers and refugees: Selected EU Member States, EPRS, December 2015, p.16, [http://www.europarl.europa.eu/ReqData/etudes/IDAN/2015/572784/EPRS_IDA\(2015\)572784_EN.pdf](http://www.europarl.europa.eu/ReqData/etudes/IDAN/2015/572784/EPRS_IDA(2015)572784_EN.pdf)

while an adult asylum seeker outside the accommodation centre receives 359 euros.⁵⁷ Asylum seekers in reception centres get a lower allowance because their basic needs are already covered in the reception centre. The allowance is in general meant to cover basic needs such as food, clothing, hygienic needs etc. Partners and children (of the same household) are also entitled to an allowance.⁵⁸ After 15 months of receiving the asylum benefits, an asylum seeker may rely on the normal social benefits which are higher, even when their procedures are not finalised.⁵⁹

At the moment, this system is subject to discussion. In October 2015, the Bundestag adopted changes to the asylum law, including changes to the pocket money system. Asylum seekers in reception centres will no longer receive pocket money; the reception centre will cover or hand out vouchers to meet all the basic needs of an asylum seeker. Asylum seekers who are housed outside the normal reception facilities will still receive the pocket money.⁶⁰ However, this change still has to be adopted by the Bundesrat before it can enter into force.

Asylum seekers can be allowed to **work** three months after registration. However, authorisation from the Federal Employment Office is necessary when an asylum seeker has a concrete job offer. After a priority review, the Federal Employment office can give the person concerned a work permit. Asylum seekers from safe countries are not allowed to work during their procedures. In the event that an asylum seeker starts employment, his/her income is deducted from his/her benefits. The income will not be deducted if it is less than 50% of the benefits.⁶¹ It should be noted that, because procedures are presently longer, access to the labour market is also delayed.

The Asylum Benefit Act allows the Länder to force asylum seekers to contribute from their own assets and money to the costs of reception. Upon arrival, asylum seekers have to declare their financial means and assets. Assets up to 200 euro can be exempted. Goods which are considered to be necessary for a certain profession or employment are also exempted. The Länder have a margin of discretion of how to apply the **seizing of assets** in practice.⁶² This explains why different Länder have different policies on the seizing of assets from asylum seekers.

3.4.4. The protection of vulnerable groups

Vulnerable groups are in need for specialised facilities. Germany tries to provide these facilities, especially for unaccompanied minors. Officially, authorities try to find out whether someone is a vulnerable person on arrival (see remarks above under 3.2). Upon arrival in the reception centre, asylum seekers undergo a general medical check. This check is focused on finding contagious diseases which can spread in the reception centre. Refugees are **not checked on traumas or evidence of violence**. However, when (medical) reception staff do recognise signs of traumatisation or of someone belonging to a vulnerable group, they can warn the staff of the reception centre. The **reception centres are responsible for identifying vulnerable persons**. Staff from these centres try to recognise symptoms of traumatisation and try to provide extra medical or psychological care when a vulnerable person has been identified. According to the Directive, Member

⁵⁷ Michael Kalkmann, AIDA Country Report Germany, November 2015, p.51.

⁵⁸ In the accommodation centres the following amounts are given: partners €129, children above 18 €113, children between 14-17 €85, children between 6-13 €92, children under 6 €84. The amounts outside accommodation are: €323 for partners, children above 18 €287, children between 14-17 €283, children between 6-12 € 249, children under 6 €216.

⁵⁹ Michael Kalkmann, AIDA Country Report Germany, November 2015, p. 50.

⁶⁰ <http://www.loc.gov/law/foreign-news/article/germany-parliament-adopts-legislative-package-on-asylum-and-refugees/>.

⁶¹ Eva-Maria Poptcheva, Andrej Stucklik et al, Work and social welfare for asylum-seekers and refugees: Selected EU Member States, EPRS, December 2015, pp.15-16.

⁶² Kees Groenendijk, Can Member States seize asylum-seekers' assets?, EU Law Analysis Blogspot, 24 January 2016. <http://eulawanalysis.blogspot.co.uk/2016/01/can-member-states-seize-asylum-seekers.html>. and Asylbewerberleistungsgesetz, §7.

States are only obliged to identify vulnerability during the interview which takes place in an office of the BAMF.

The BAMF has **special qualified officers** for sensitive cases of victims of, amongst others, gender-specific persecution and human trafficking but also for unaccompanied minors. These specialised officers will take over the interviewing and decision-making process for asylum status from non-specialised officers. Moreover, Germany has also created a **handbook** with guidance and definitions of gender based persecution.⁶³ The specialised officers also provide aid and expertise on these sensitive cases.⁶⁴ In addition, the specialised officer can also refer the applicant to specific facilities and organise appointments with the necessary **aid services**, such as medical aid.⁶⁵

In order to protect vulnerable groups such as unaccompanied minors, pregnant women or traumatised women, Germany tries to provide separate housing and sufficient medical care for these groups. Where possible, men and women are housed separately. This is, however, **not required by law**. In practice, separate housing of women, men and vulnerable groups is not always possible due to overcrowding.⁶⁶

3.4.5. Facilities for children and unaccompanied minors

Education is a competence of the Länder and access to education can consequently differ per Land. Officially, all children in Germany are obliged to go to school. Children of asylum seekers also fall under this obligation.⁶⁷ The German Federal Minister for Family Affairs, Senior Citizens, Women and Youth, Manuela Schwesig, announced in October 2015 that children of asylum seekers have an equal right to access not only school but also kindergartens and nurseries. This right is based on the UN Convention of the Rights of the Child and has been included in the amended asylum law which entered into force in November 2015.

In October 2015, the asylum procedure law was changed to improve the rights of unaccompanied minors. The legal capacity to act in an asylum application procedure was changed from 16 to 18. Unaccompanied minors are therefore entitled to the help of a guardian during their asylum applications.⁶⁸ Specialised officers have to decide on the application of unaccompanied minors. In addition, unaccompanied minors are also entitled to protection and services of youth care services.

3.5. Current problems in German Reception Centres

Due to the arrival of large numbers of asylum seekers, the BAMF has experienced difficulties in keeping up with the registrations, and the reception centres have had difficulties accommodating the asylum seekers. Looking at the numbers, it can be shown that less than half of the asylum seekers who have arrived have been able to register their application for asylum. Some reception centres have serious problems due to the overcrowding. However, it should be noted that the situation differs per reception centre. The situation in some centres is good but in others it is below the normal reception standard. The following problems have been found to exist in some of the reception centres.

⁶³ Jane Freedman, *Gendering the International and Asylum and Refugee Debate*, Palgrave Macmillan: London, 2015.

⁶⁴ BAMF, *Germany's Asylum Procedure in Detail: Responsibilities, Procedures, Statistics and Legal Consequences*, October 2015, p.23.

⁶⁵ Andreas Muller, *The organisation of Reception Facilities for Asylum seekers in Germany*. 2013, pp.23-28.

⁶⁶ Michael Kalkmann, *AIDA Country Report Germany*, November 2015, p. 58.

⁶⁷ Eva-Maria Poptcheva, Andrej Stucklik et al, *Work and social welfare for asylum-seekers and refugees: Selected EU Member States*, EPRS, December 2015, p.16,

⁶⁸ <http://www.loc.gov/law/foreign-news/article/germany-parliament-adopts-legislative-package-on-asylum-and-refugees/>.

3.5.1. Living conditions in reception centres

Even reception centres that are well run face some general difficulties regarding the living conditions in the centres. Reception centres are not meant to house people for a long time. However, asylum seekers are obliged to stay in reception centres during their asylum procedures. In addition, under the current circumstances, asylum procedures are lengthy and many people have to stay for a long period of time in a reception centre. Living conditions are negatively influenced by the lack of activities for asylum seekers. Most people are very bored and experience additional stress due to the uncertainty caused by the ongoing asylum procedures. The combination of **boredom** and **stress** can cause violence. In particular, for those who experienced severe traumas and war, boredom can have an influence on mental health. Strict rules and conditions also do not make life in the reception centre easier. Moreover, reception centres are sometimes located in remote areas. People are therefore stuck in the reception centre with the same people. This does not benefit the integration of asylum seekers when they only have contact with other asylum seekers and reception staff.⁶⁹ In addition, there can be a lack of facilities in reception centres, especially in times of overcrowding. In general there is a lack of sanitation facilities. Bigger shortcomings occur due to defects and technical problems. Most reception centres do not have any facilities for cooking.

3.5.2. Overcrowded reception centres

Overcrowding is a serious problem in many reception centres in Germany. Emergency housing in tents and containers was, for example, provided. Due to the overcrowding, reception centres have not always had the facilities to place women and families in different parts of the/separate buildings.⁷⁰ Due to the overcrowding there is also reduced living space and reduced access to sanitation facilities and diseases spread easily.⁷¹ If there are facilities for cooking, there is often not enough space to prepare or store food. Some reception centres also do not have enough hot water for all the people present or there are temporary problems with electricity.⁷² The reduced living space also creates a lack of privacy.

Overcrowding also leads to **violence**; disputes and fights have been reported and were based on conflicts over access to food, sanitary facilities and arguments about supposed theft.⁷³ These conflicts are also caused because of boredom. **Discrimination** more easily occurs unrecognised in the overcrowded initial reception centres. This makes it more difficult to protect people against the consequences of discrimination and women and LGBT persons can become easy targets for discrimination. The overcrowding also makes it difficult to provide specific services to **vulnerable persons**. For example, in the Rhineland Palatinate, there is only one reception centre for vulnerable persons and it only provides for 100 places.⁷⁴ Furthermore, overcrowding reduces the speed with which a vulnerable person is recognised and postpones the help which can be provided to these persons.

3.5.3. Access to health care

In practice, asylum seekers face great difficulty to get access to health care. The EU Fundamental Rights Agency (FRA) gives the example of Berlin where, at the beginning of October 2015, women with advanced pregnancies, ill persons and children were left untreated because there was a lack of doctors and nurses who could provide medical

⁶⁹ Die Landesflüchtlingsräte and Pro Asyl, AusegelLAGER, Zur Unterbringung von Flüchtlingen in Deutschland, Sonderheft der Flüchtlingsräte, 2011, pp. 4-7.

⁷⁰ Michael Kalkmann, AIDA Country Report Germany, November 2015, p. 55.

⁷¹ http://fra.europa.eu/en/theme/asylum-migration-borders/overviews?_cldee=ZXJpa2Euc2NodWx6ZUBldXJvcGFyYmC5ldXJvcGEuZXU%3d&urlid=1.

⁷² Women in Exile, 'Frauen in brandenburgischen Flüchtlingslagern: Eine Dokumentation von Women in Exile and Friends, October 2015, pp. 8, 10.

⁷³ http://fra.europa.eu/sites/default/files/fra_uploads/fra-2015-weekly-compilation-2_en.pdf, p.19, <http://www.spiegel.de/international/germany/asylum-shelters-in-germany-struggle-with-refugee-violence-a-1056393.html>.

⁷⁴ http://fra.europa.eu/sites/default/files/fra_uploads/fra-2015-weekly-compilation-5_en.pdf, p. 22.

care.⁷⁵ Consequently, the main problem concerning healthcare is that the demand considerably exceeds supply. In addition, there is also a lack of interpreters and providers, of psychological aid. Assistance can, therefore, only be provided to a small number of people. One of the reasons for this problem is that many doctors, nurses and psychologists have to work on a voluntary basis, and are therefore not always available. Asylum seekers who do not suffer from acute diseases or pain only have access to a doctor in case of emergency. Presently, many asylum seekers have to wait for the decision regarding their asylum claim for a long period of time due to the delays in registration given the large numbers of refugees. These persons therefore continue to go to hospital emergency rooms in order to get medical treatment. This has led to overcrowding in hospitals.⁷⁶

3.5.4. Facilities for children

Many unaccompanied minors have arrived in Germany. However, sometimes there is not sufficient aid for these unaccompanied minors. Due to the **lack of housing** facilities, minors are housed with adults which creates the threat of abuse and violence against these minors. Unaccompanied minors are also sometimes not directly recognised as an unaccompanied minor while waiting for their registration. In February 2014, the UN Committee on the Rights of the Child published some criticisms of Germany's practices towards minors. The committee noticed that the **age assessment procedure** may involve degrading and humiliating practices while it does not produce accurate results since many children are identified as adults. There are also shortcomings in the recognition of children who have been child soldiers and the detention of children is not prohibited in Germany. Consequently, children can be detained up to 18 months.⁷⁷

Education cannot always be provided to children in reception centres due to a lack of space in the centres. The children are also not always sent to local German schools. In addition, there is often only **limited space for children to play** in (or outside the) reception centres. For example, one woman reported that her daughter could only play outside next to the garbage dump which was not good for her daughters' health.⁷⁸ Furthermore, the FRA has noted that several **sexual assaults** against children have been reported in reception centres in Germany. These assaults can take place since there is a lack of sufficient protection for children, some rooms cannot be locked and toilets are not always close to the rooms in the reception centre.⁷⁹ Another problem in reception centres is that there are often **no childcare facilities**. This has an effect on both the mothers and the children. Women have to take care of their children and can therefore not undertake any activities on their own. For example, they have more difficulty attending German language classes and are less able to concentrate when they have to bring their child to the class. Children can also benefit from childcare: they would get in into a schedule and a regular life after a period of stress and uncertainty. Moreover, they can learn and play with other children.

3.5.5. Lack of interpretation

Communication in the reception centres is an important issue. There are not enough interpreters present in all the reception centres (this situation differs per region and reception centre). People who speak German or English have an advantage in comparison to other people because they can get favours more easily from the reception staff. This creates an environment of **jealousy and disputes**. Even when women share a room with women from the same nationality, there is no guarantee that they can communicate due to the different dialects. Women who do not speak several languages have difficulties communicating with the reception staff. In addition, most interpreters are male, which

⁷⁵ http://fra.europa.eu/sites/default/files/fra_uploads/fra-2015-weekly-Compilation-2_en.pdf, p. 19.

⁷⁶ http://fra.europa.eu/sites/default/files/fra_uploads/fra-2015-weekly-Compilation-7_en.pdf, p. 21.

⁷⁷ UN Committee on the Rights of the Child, Concluding Observations on Germany, Portugal and Russia, 9 February 2015, <http://www.asylumlawdatabase.eu/en/content/un-committee-rights-child-publishes-concluding-observations-germany-portugal-and-russia>.

⁷⁸ International Women's Space, In Our Own Words, 2013, p.124.

⁷⁹ http://fra.europa.eu/sites/default/files/fra_uploads/fra-2015-weekly-Compilation-7_en.pdf%20, p.21.

sometimes makes it more difficult for women to inform staff, BAMF authorities or medical staff about, for example, harassment or sensitive medical information. The lack of communication creates misunderstandings which can create disputes and conflicts.⁸⁰

3.5.6. Lack of information

One issue which influences the position of female asylum seekers is that these women are **not aware of their rights in Germany**. Due to the workload of the BAMF, it can be possible that asylum seekers have to wait quite a long time for their interview. Asylum seekers are unaware of their rights until the interview has taken place.

Moreover, it has been reported that even during the interview with a BAMF officer, asylum seekers were neither informed about the asylum procedure, nor the benefits to which asylum seekers are entitled to, nor under which circumstances a person has the right to legal representation, nor on women's rights. For example, women might not be aware that it could be better to launch an individual application for asylum instead of relying on the application of a family member.

Women who could be recognised as a vulnerable person are consequently not aware that they would be entitled to specific aid such as separate living space, therapy and medical support. Women may also not be aware when they would have the right to legal representation. It has also been reported that women are not aware of their rights in cases of **sexual assault**.⁸¹ This is also one of the reasons why women do not report sexual assaults to the staff in the reception centre or to the police. Knowledge of the gender equality legislation and that sexual assaults are criminal offences must be promoted amongst men and women in reception centres. This knowledge will empower women to stand up against discrimination and sexual abuse.

3.5.7. The length of the asylum application procedures

The BAMF is experiencing difficulties keeping up with the high numbers of asylum seekers. As shown in section 3.1, many more asylum seekers arrived in Germany than those registered. Moreover, of the 441.899 cases, 364.664 were still pending at the end of 2015. This shows that the BAMF has two main problems: keeping up with registrations and keeping up with the asylum procedures. It should be noted that the workload of the BAMF increased enormously in 2015. Many **new employees therefore had to be hired and trained** which also takes extra time.

The lengthy procedures have consequences for the asylum seekers in the reception centres. Without a status, people are stuck in the reception or accommodation centre and cannot look for other accommodation. Access to facilities such as health care and language courses may also be limited for asylum seekers without a status. Applicants also have to stay in the area of the reception centre so that the authorities do not lose track of them. After a difficult journey, people have to live in a situation of uncertainty which will not improve their health.

As set out above, due to the delay in the registration of asylum seekers and the attribution of a status, vulnerable persons are not directly discovered and can therefore miss chances for medical and psychological help which can exacerbate their health problems.

3.5.8. Safe countries of origin

Germany has listed Balkan countries and has proposed to list countries such as Morocco and Tunisia as safe countries of origin. Women's rights organisations are trying to raise awareness that women can still be victims of gender based persecution in these countries. Consequently, even when a country is listed as a safe country, gender-based persecution

⁸⁰ Women in Exile, 'Frauen in brandenburgischen Flüchtlingslagern: Eine Dokumentation von Women in Exile and Friends, October 2015, pp. 6-7.

⁸¹ Emma feministische Zeitschrift, "Die Frauen brauchen Schutz!", no. November/December 2015, p. 25.

should be kept in mind in reviewing a women's application for asylum in Germany. In practice, it can be very difficult for a woman from a safe country of origin to get an asylum status.

3.5.9. Sexual violence in reception centres

Cases of sexual violence and abuse of women and children in reception centres have been reported in Germany.⁸² In some cases, even forced prostitution and human trafficking took place. **Overcrowding and the lack of space and privacy** create a situation in which it has become easier to commit sexual assault against women and children. The lack of privacy is a threat, especially when there are no private sanitary facilities. Some reception centres are housed in old buildings such as former military barracks. These old buildings have long and dark corridors which create, especially during the night, a situation and sense of unsafety.⁸³ In general, there is a majority of men present in the reception centres which also puts women in a more difficult position, in particular in cases of overcrowding in (emergency) reception centres where women and men are housed in one big open space. However, sexual violence is not only committed by **male asylum seekers** but also by the **staff working in reception centres**, guards and volunteers. This group can abuse their more powerful position towards asylum seekers. Amnesty International noted that victims reported sexual abuse by German guards in reception centres.⁸⁴

It is suspected that many cases of sexual violence are unknown because women did not **report** these crimes. Women's rights organisations in Germany are warning about the risks of a lack of separate housing and the many unknown cases of sexual assault.⁸⁵ Based on a report from Women in Exile, it is shown that **sexual harassment** takes place in reception centres on a daily basis. The harassment ranges from staring and comments to unwanted touching but women have also become victims of rape. Women in Exile noted that women, who do report these assaults, do not have the feeling that their reports are taken seriously and that something will be done to prevent future assaults.⁸⁶ Women reported that security advised them to stay away from men or to stay in their rooms instead of going after the perpetrators of the sexual violence.⁸⁷ Moreover, perpetrators of sexual violence are sent back to reception or accommodation centres after their time in prison. This increases the risk that other women will become victims of sexual violence.⁸⁸

Female refugees in reception centres also have the impression that women with children are better protected than single women, while **single women** are an easy victim for sexual assault. For example, it is more likely that housing outside the reception centre will be offered to women with children than to single women. Single women and single mothers do also face more risk of sexual violence than married women. Life in reception centres is more difficult for these women since they lack male protection. Men in the reception centre call these single women whores or sluts; single mothers of African origin in particular are treated in this way. More of these women face sexual assault than married women.⁸⁹

⁸² See the examples given in the following newspaper articles: http://www.huffingtonpost.com/2015/09/29/women-german-refugee-camps-safety_n_8215724.htm, <http://www.spiegel.de/politik/deutschland/fluechtlinge-warnung-vor-sexueller-gewalt-in-asyloheimen-a-1055435.html>, <http://www.zeit.de/gesellschaft/zeitgeschehen/2015-09/fluechtlinge-unterkunft-sexuelle-uebergreifungen>, <http://www.br.de/nachrichten/oberbayern/inhalt/vergewaltigungen-bayernkaserne-100.html>.

⁸³ <http://www.spiegel.de/politik/deutschland/fluechtlinge-warnung-vor-sexueller-gewalt-in-asyloheimen-a-1055435.html>.

⁸⁴ <https://www.amnesty.org/en/latest/news/2016/01/female-refugees-face-physical-assault-exploitation-and-sexual-harassment-on-their-journey-through-europe/>.

⁸⁵ See: <http://images.huffingtonpost.com/2015-09-11-1441962756-3645410-sowofa.jpg> and <http://www.br.de/nachrichten/oberbayern/inhalt/vergewaltigungen-bayernkaserne-100.html>.

⁸⁶ Women in Exile, 'Frauen in brandenburgischen Flüchtlingslagern: Eine Dokumentation von Women in Exile and Friends, October 2015, p. 16.

⁸⁷ Emma feministische Zeitschrift, "Die Frauen brauchen Schutz!", no. November/December 2015, p. 25.

⁸⁸ Die Landesflüchtlingsräte and Pro Asyl, AusegelLAGER, Zur Unterbringung von Flüchtlingen in Deutschland, Sonderheft der Flüchtlingsräte, 2011, p. 34.

⁸⁹ *ibid.*, p. 26.

3.5.10. Sexual violence by asylum seekers against women outside the reception centres

At the end of 2015, several German towns experienced unprecedented numbers and forms of sexual assaults against women in public places during the New Year's celebrations, notably in the city of Cologne but also in Hamburg, Stuttgart, Dusseldorf and Frankfurt. Comparable incidents were also reported from Helsinki. Whilst the circumstances of the assaults still have to be clarified, the participation of asylum seekers in these attacks has been confirmed by the German police. Consequently, the possibility of expulsion of the perpetrators is being examined on a case by case basis depending on the individual acts committed and the country of origin for which the non-refoulement principle of the 1951 Convention might apply.

At the same time, women's rights groups have called for decisive measures to protect women. In this respect, attention is drawn to Article 12 of the Istanbul Convention on the prevention of violence against women. It requests State parties to:

- take the necessary measures to promote changes in the social and cultural patterns of behaviour of women and men with a view to eradicating prejudices, customs, traditions and all other practices which are based on the idea of the inferiority of women or on stereotyped roles for women and men;
- take the necessary legislative and other measures to prevent all forms of violence covered by the scope of this Convention by any natural or legal person;
- take into account and address the specific needs of persons made vulnerable by particular circumstances and shall place the human rights of all victims at their centre;
- take the necessary measures to encourage all members of society, especially men and boys, to contribute actively to preventing all forms of violence covered by the scope of this Convention;
- ensure that culture, custom, religion, tradition or so-called "honour" shall not be considered as justification for any acts of violence covered by the scope of this Convention;
- take the necessary measures to promote programmes and activities for the empowerment of women.

After the attacks in Germany, some Member States and EEA States issued information about their existing practice of including gender equality lessons into their integration courses at the reception centres, for example in Norway⁹⁰, Finland⁹¹ and Flanders⁹². The Danish Parliament is discussing whether to start giving such lessons.⁹³ In Germany, most language classes are given by volunteers and do not include education about gender equality in Germany. Moreover, these lessons are usually only available after registration. The Goethe Institute has developed an app for asylum seekers. This app does not only provide the possibility to learn German but also includes chapters on German life, including gender equality.⁹⁴ However, gender equality has not yet become part of the official language classes in the reception centres.

⁹⁰ <http://nos.nl/artikel/2081847-noorwegen-geeft-vluchtelingen-les-in-seksuele-omgang.html> , http://mobile.nytimes.com/2015/12/20/world/europe/norway-offers-migrants-a-lesson-in-how-to-treat-women.html?_r=0 .

⁹¹ <http://www.bbc.com/news/magazine-35353310>.

⁹² http://www.standaard.be/cnt/dmf20160120_02079699.

⁹³ <http://www.welt.de/politik/ausland/article150980878/Sexualmoral-Unterricht-fuer-Umgang-mit-daenischen-Frauen.html>.

⁹⁴ <https://www.goethe.de/en/uun/akt/20684293.html>, and <http://www.sueddeutsche.de/digital/integration-per-smartphone-diese-app-soll-gefluechteten-helfen-sich-in-deutschland-zurecht-zu-finden-1.2817162>.

The Explanatory Note to Article 12 of the Istanbul Convention specifies that prevention measures work best when they are not taken in isolation, but integrated into a wider, holistic response to violence against women. The UN Women's Handbook for national action plans on violence against women (2012)¹⁵ recommends that prevention measures be included in a national action plan on violence against women. Such an Action Plan was adopted by Germany on the national level in 1999, and was updated in 2007. Following the first national Action Plan, the Länder also introduced such Action Plans. This is important to note because some of the measures fall under the sole responsibility of the Länder. For further information, please see the Gender Policy Paper on Germany⁹⁵.

At the moment, two-thirds of the refugees who arrived since January 2015 are male. Many of these male refugees are young and unmarried. In addition, there are many unaccompanied male minors. While some argue that this majority of young male asylum seekers is a risk to the **gender balance** of a Member State's population with a risk for an increase in the level of violence⁹⁶, it should be taken into account that the number of asylum seekers in Europe in 2015 was less than 1 % of the EU population of 500 million. The large number of young males corresponds rather to the observations that, on the one hand, a high number of asylum seekers is entering the EU for so called economic migration, and on the other hand that families or villages very often pay for the journey of the young men that they regard as the fittest to arrive in Europe and to find a safe place for later family reunification or a job. The gender imbalance of those arriving is therefore also an indication that there will most probably be many requests for family reunification for those for whom a residence permit is provided.

3.6. German government proposal for improvement

While Germany should urgently implement the Qualification and the Reception Directives of 2013, it should be noted that, in December 2015, Germany announced a plan to offer more protection for female asylum seekers and children coming to Germany. The plan consists of **three steps**.

Firstly, the German Family Ministry and the Kreditanstalt für Wiederaufbau (KfW, Bank for Reconstruction) are going to invest 200 million euros in new refugee centres and for modifying current reception centres to make them safer places for women and children.

Secondly, the Family Ministry, in cooperation with the United Nations International Children's Emergency Fund (UNICEF), is going to train reception staff to provide child protection and to recognise (sexual) abuse. UNICEF states that the German government and UNICEF will develop plans together to offer more support to refugee children. These plans will include: helping and identifying children at risk; providing training to reception centre staff; making reception centres more child-friendly and gender-sensitive through guidance and training, developing codes of conduct for reception staff and creating improved complaint and referral mechanisms.⁹⁷

Thirdly, extra funding will be provided to centres for **torture victims**. These centres will also offer assistance to women who have experienced violence.⁹⁸

⁹⁵ The Gender Equality Policy in Germany: [http://www.europarl.europa.eu/ReqData/etudes/IDAN/2015/510025/IPOL_IDA\(2015\)510025_EN.pdf](http://www.europarl.europa.eu/ReqData/etudes/IDAN/2015/510025/IPOL_IDA(2015)510025_EN.pdf) in German.

⁹⁶ <http://www.politico.com/magazine/story/2016/01/europe-refugees-migrant-crisis-men-213500>.

⁹⁷ http://www.unicef.org/media/media_86509.html.

⁹⁸ <http://uk.reuters.com/article/uk-europe-migrants-germany-children-idUKKBN0TX24J20151214>.

4. RECOMMENDATIONS

It should be recognised that, due to very large influx of people in Germany, the reception system in Germany has been under extreme strain. Besides, it can be argued that Germany adopted a human rights approach to the refugee crisis by giving refugees from Syria the possibility to ask for asylum in Germany regardless of the Dublin Convention. Still, further steps will have to be taken to ensure that the reception conditions are improved in order to be in line with international and European standards.

In addition to the measures recently announced by the German government which are mentioned in chapter 3.6, an article published by the Centre for European Policy Studies, could be a further source of recommendations. In this article, it is argued that the EU should, in dealing with the current refugee crisis, step away from its security orientated asylum policy towards a **humanitarian orientated asylum policy**⁹⁹. Based on this humanitarian policy and the above mentioned problems, a few important actions should be considered to improve the situation of female asylum applicants.

- By recognising that the reasons for the refugee crisis are manifold and that re-establishing and reinforcing border controls will not improve the situation alone, Member States should cooperate to find a European solution. While Germany remains an important actor as a destination country for many refugees, the cooperation between all Member States governments is needed to implement decisions regarding, for example, the relocation of refugees but also to exchange information and to act against smuggling. In this respect, safe routes for war refugees and legal ways for economic migrants should be facilitated in order to stop the current flow of migrants via illegal and dangerous routes.¹⁰⁰ In practice, this can have the result that female refugees are no longer exposed to serious risks of sexual and gender-based violence on their journey towards and in the EU. In the long term a permanent relocation system needs to be created and executed to share the burden amongst the EU Member States.¹⁰¹ In this relocation system, proper (and gender-sensitive) reception conditions need to be ensured. Financial compensation should be part of this relocation system to guarantee the same conditions in all EU Member States.
- The common European asylum system must be guaranteed in order to find a European solution. Germany should therefore implement the Recast Reception Directive and the Directive on common procedure for granting and withdrawing international protection. More safeguards need to be made in German asylum legislation to protect vulnerable groups. The implementation of these Directives is also necessary to ensure the working of the common European asylum system.
- More focus needs to be put on women and children as **vulnerable groups**. Women and children are a minority in comparison to the number of male asylum seekers which makes them as such a vulnerable group and they are therefore particularly exposed to sexual violence. This needs to be recognised. Women and children therefore need **more protection**. At the moment, there is a shortage of separate housing for (single) women, unaccompanied minors and families. Separate housing will improve the safety of these women and children.

⁹⁹ Sergio Carrera,, Steven Blockmans, Daniel Gros and Elspeth Guild, The EU's Response to the Refugee Crisis: Taking Stock and Setting Policy Priorities, Centre for European Policy Studies, no. 20 December 2015.

¹⁰⁰ Elspeth Guild, Cathryn Costello, Madeline Garlick and Violeta Moreno-Lax, Enhancing the Common European Asylum System and Alternatives to Dublin, Centre for European Policy Studies, no.83. September 2015, pp.47-48.

¹⁰¹ Raphaëlle Faure, Mikaela Gavas and Anna Knoll, Challenges to a comprehensive EU integration and migration policy, Overseas Development Institute, December 2015, p.20.

- Furthermore, besides additional protection, more facilities are needed to empower women. Sufficient access to **medical and psychological help** will improve and quicken their recovery from traumatic experiences. More **information** should also be given to women about their rights as an asylum seeker and the general rights of women in Germany and all other Member States. There are also often **no childcare facilities** available at reception centres. This influences the success of women during the asylum application interview and during German language classes. Children also have difficulties getting a place at **school**. These facilities in the reception centres can have a positive effect on the integration of female asylum seekers in German society. **Education** in reception centres is very important, not only regarding preparation for the labour market. Male asylum seekers in Germany should become more aware and learn to respect gender equality. It would be positive if gender equality classes were combined with German language classes. In this way, women can learn about the equal rights and opportunities they are entitled to in Germany, while the men can learn that they also have to respect women under different cultural circumstances. Norway and Finland already have these classes about gender equality values and how to behave towards women.¹⁰² In addition, Germany should act against perpetrators of violence against women in reception centres, independent from their nationality. By showing the importance of gender equality and the criminal offence of rape and sexual assault, Germany can also show that it takes gender equality seriously, especially after the New Year's Eve Cologne attacks.

¹⁰² <http://www.bbc.com/news/magazine-35353310>, <http://nos.nl/artikel/2081847-noorwegen-geeft-vluchtelingen-les-in-seksuele-omgang.html>.

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NOTES

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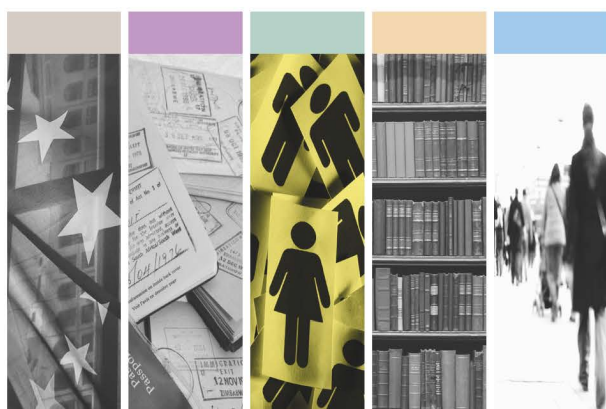
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