

# NORDIC WORKING PAPERS

## Mapping of gender aspects in asylum processes in the Nordic countries

Discussion paper for the Meeting of the Nordic Council of Ministers for  
Gender Equality on 3 October 2016

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# **MAPPING OF GENDER ASPECTS IN ASYLUM PROCESSES IN THE NORDIC COUNTRIES**

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# MAPPING OF GENDER ASPECTS IN ASYLUM PROCESSES IN THE NORDIC COUNTRIES

## INTRODUCTION

This report is prepared as a discussion paper for the meeting of the Nordic Council of Ministers for Gender Equality in Helsinki on October 3, 2016. Its purpose is to give information about gender-sensitivity in current asylum processes in the Nordic countries. It deals with gender-specific guidelines, gender-relevant information and gender-sensitive practices related to different stages of the asylum process. Furthermore, it discusses how the gender dimension is taken into consideration in the determination of refugee status. In addition, it includes gender-disaggregated asylum statistics for 2015, when the number of asylum seekers grew rapidly in Europe, including the Nordic countries.

This report is based on responses given by the Nordic countries to a questionnaire sent to them on July 18, 2016. They had approximately one month to collect information from their respective countries, although in practice the actual time applicable was somewhat shorter due to holidays. Given the restricted period of time, any shortcomings in the information collected do not necessarily reflect deficiencies in the practices. However, this report gives a reasonable overview of the present state of asylum process in the Nordic countries from a gender perspective.

The report was commissioned by the Equality Unit of the Ministry of Social Affairs and Health, Finland.

## I GENDER-DISAGGREGATED ASYLUM STATISTICS FOR 2015

In 2015, as in previous years, Sweden received many more asylum seekers than the other Nordic countries. Finland and Norway received almost the same amount of asylum seekers, while in Denmark the number was smaller, and in Iceland very low. In all countries, there were more male than female asylum seekers, but the difference between them was greatest in Finland, where only 18% of the applicants were female.

### 1. Asylum applicants in Nordic countries 2015

	Total number	Female	Male
Sweden	162,877	30%	70%
Finland	32,476	<b>18%</b>	<b>81%</b>
Norway	31,145	23%	77%
Denmark	21,316	29%	71%
Iceland	355	23%	77%

When looking at the number of asylum decisions made, it is important to note that there is a long delay between the application and the decision, which means that the decisions made in 2015 do not relate only, or even mostly, to applications of the same year, but partly to applications made in the previous year, and thus those numbers cannot be compared with each other.



## 2. Asylum decisions made in Nordic countries 2015

	Total number granted	Total number refusals	Female granted	Female refusals	Male granted	Male refusals
Sweden	32,631 (77%)	9,524 (23%)	10,866 ( <b>76%</b> )	3,430 (24%)	21,765 ( <b>78%</b> )	6,094 (22%)
Finland	1,879 (59%)	1,307 (41%)	501 ( <b>55%</b> )	404 (45%)	1,378 ( <b>60%</b> )	903 (40%)
Norway	6,267 (75%)	2,103 (25%)	1,480 ( <b>70%</b> )	627 (30%)	4,787 ( <b>76%</b> )	1,476 (24%)
Denmark	9,920 (85%)	1,732 (15%)	2,465 ( <b>79%</b> )	645 (21%)	7,455 ( <b>87%</b> )	389 (13%)
Iceland	82 (42%)	112 (58%)	19 ( <b>36%</b> )	34 (64%)	83 ( <b>45%</b> )	78 (55%)

In this table, only positive and negative decisions are counted; non-examined applications, including so-called Dublin decisions, and annulment cases (withdrawn applications) are excluded. The statistics show clearly that there is a big variation in the overall recognition rate between the Nordic countries, ranging from 42% in Iceland to 85% in Denmark. The table also shows the proportion of positive and negative decisions within the total, and the proportion of all decisions made to female applicants and to male applicants. In Denmark, for example, 79% of the decisions made to female applicants were positive and 21% negative.

Even though the percentage of positive decisions for female applicants is higher in Denmark than in the other Nordic countries, the percentage of positive decisions for male applicants in Denmark is higher still, at 87%. A similar difference between female and male applicants' decisions can be seen in all the other countries; the difference is greatest in Iceland (9%) and smallest in Sweden (2%). It would be very useful to investigate why such a difference exists, but such an investigation is not possible within the scope of this examination.

A similar difference can be seen when different kinds of positive decision are examined. The so-called convention status (asylum) is the strongest category of protection. Other positive decisions include subsidiary protection, humanitarian protection, temporary protection and other kinds of residence permits. When the asylum decisions are counted as a proportion of all positive decisions, it turns out that this proportion is considerably higher for male applicants than for female applicants in Denmark and Iceland. On the contrary, in Finland and Sweden the proportion is somewhat higher for female applicants.

### 3. Convention status (asylum) as proportion of all positive decisions

	Female	Male
Sweden	42%	39%
Finland	63%	58%
Norway	n.i.	n.i.
Denmark	54%	84%
Iceland	47%	60%



## II ASYLUM PROCESS: GENDER-SPECIFIC GUIDELINES AND GENDER-SENSITIVE PRACTICES

### 1. GUIDELINES AND TRAINING IN GENDER-SPECIFIC ISSUES CONCERNING INTERNATIONAL PROTECTION

#### International guidelines

The key international guidelines concerning gender-related asylum claims are the UN Refugee Agency UNHCR's Guidelines on Gender-Related Persecution (UNHCR 2002a), which are applied in all the Nordic countries when examining asylum applications. Other UNHCR guidelines mentioned in the replies (Finland, Norway, Iceland) are Guidelines on Claims to Refugee Status based on Sexual Orientation and/or Gender Identity (UNHCR 2012) and (Iceland) the guidelines on "Membership of a particular social group" (UNHCR 2002b). The UNHCR's country-specific guidelines containing specific information are also used when processing applications (Iceland).

Other important source for guidance is the European Asylum Support Office (EASO). Its Handbook on the Interview Techniques is used in conducting interviews and for internal training in Sweden and its modules on vulnerable groups, including gender, are applied in Finland.

Furthermore, in Denmark the Convention on the Elimination of all Forms of Discrimination against Women (CEDAW), as well as the views of the Committee on the Elimination of all Forms of Discrimination against Women in its examinations of communications under the Optional Protocol to the CEDAW are also taken into consideration.

#### National guidelines

There are national gender-specific guidelines for international protection in Sweden and in Norway.

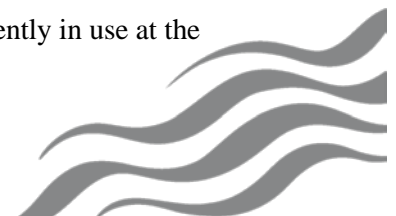
In Sweden, the Migration Agency's Manual for Migration Cases handles issues regarding interview and assessment of protection needs relating to gender and sexual orientation (Migrationsverket, Utlänningshandboken, Kap 40.1-40.2). Another relevant document is the Migration Agency's judicial position on assessment of future risk of persecution because of sexual orientation, transgender identity or gender expression (Sweden 2015a).

In Norway the Ministry of Justice and Public Security has given guidelines to the Norwegian Directorate of Immigration UDI on how to consider persecution in cases based on gender-related claims. The main purpose with the guidelines is to assure an overall and systematic consideration of relevant factors related to the requirements for refugee status or a residence permit on humanitarian grounds (Norway 2012a). The Ministry has also instructed UDI on how to handle asylum cases from foreigners who claim to be lesbian, gay, bisexual, and transgender persons (Norway 2012b).

In Finland, there are no specific national guidelines on gender concerning international protection. However, the Government proposal to Parliament on the Alien's Act mentions gender as one reason for persecution or as a category for a particular social group. Also decisions of the Administrative Court and the Supreme Administrative Court on international protection form an important source for evaluating gender in asylum decisions.

The Danish Immigration Service has no national gender-specific guidelines for international protection. However, gender is taken into consideration if asylum seekers are vulnerable, including particularly vulnerable women.

In Iceland, no national gender-specific guidelines for international protection are currently in use at the Directorate of Immigration (ÚTL).



## Training for officials

In Sweden, the Migration Agency's introductory training for newly employed personnel includes courses on gender issues. The national guidance documents mentioned above are used as tools for personnel training and for discussion, as is a collection of case files relating to gender-specific issues (e.g. LGBT people in the asylum process, women claiming gender-related protection needs and women without a male network). The Agency's personnel also receive training through a course in 'Norm criticism' and on impact analysis of equal treatment, supported by the Migrations Agency's Director-General's administrative decisions on Tools for equivalent treatment (GDA 27/2014) and Standard approach to LGBT and gender (GDA 74/2012).

Training is also given to the Swedish Migration Agency's personnel through courses at the European Asylum Support Office (EASO) in subject interviewing techniques and gender and 'Sogi' (sexual orientation gender identity). In Finland, too, caseworkers study EASO's modules, e.g. on vulnerable groups, including gender.

In Finland, police officers' basic training includes equality issues and these issues are discussed regularly within the Finnish Police. Caseworkers of the asylum unit participate in monthly lectures on different themes including gender issues, such as female genital mutilation and gender identity and sexual orientation. The gender perspective is mainstreamed in many topics on which the caseworkers receive training, including surviving torture, trafficking in human beings and vulnerability.

In Norway, caseworkers registering asylum applications at the National Police Immigration Service are not given particular training in gender issues, whereas all officials responsible for dealing with asylum cases in the UDI and the Immigration Appeals Board UNE are trained in evaluating whether people are victims of gender-related persecution. The information given to them includes gender-related questions and claims and Norwegian practice in such cases. There are also teams of experts that can be contacted for guidance on gender-related issues.

In Denmark, the caseworkers at the Danish Immigration Service are trained in interview techniques, which also include consideration of vulnerable asylum seekers, including particularly vulnerable women. By contrast, the Danish Refugee Appeals Board does not have any specific guidance and/or training in gender issues for its members.

In Iceland, the general training of case officers at the Directorate touches on the subject of gender in the context of refugee law. Female staff members conducting female applicants' first interviews (screening) have training in gender issues.

## Discussion

In view of the significance of the collection of European Union directives known as the Asylum Acquis, it is somewhat surprising that this is not mentioned at all in the replies to this questionnaire about guidelines on international protection. A probable reason for this is that the Acquis is not perceived to relate specifically to gender-related asylum claims. However, the Acquis directives ( the Procedures Directive (EU 2013a), Qualification Directive (EU 2011), Reception Directive (EU 2013b) and Return Directive (EU 2008)) address gender issues in many contexts and will be referred to in this report in relevant connections.

In regard to the training of officials, the Procedures Directive regulates the requirements for a personal interview and prescribes that Member States shall ensure that the person conducting the interview is competent to take account of the personal and general circumstances surrounding the application, including the applicant's cultural origin, gender, sexual orientation, gender identity or vulnerability (Art. 15, EU 2013a.).

There is a further gender-specific convention that is not referred to in the replies: the so-called Istanbul Convention (CoE 2011), which includes a chapter on migration and asylum.



## 2. RECEIVING ASYLUM APPLICATIONS

### **Registering applications**

The first stage of the asylum process is the receipt and registration of asylum applications. This is conducted by the police, border guard or specific migration agency, depending on the Nordic country.<sup>1</sup>

At this stage the gender of the applicant is usually taken into account by offering the possibility to be interviewed by a same sex officer. In Sweden the asylum seeker is always asked for possible preference of gender of the interpreter, case officer or public counsel (Sweden), while in the other countries this happens only by request of the applicant, or possibly if it can be judged from her/his behaviour that she/he might require this (Finland).

In Denmark the National Operational Aliens Center always strives to ensure that body searches of female asylum seekers are carried out by female officers. An exception is made only if no female officer is present and if waiting for a female officer would mean that the purpose of the body search would remain unfulfilled.

It is also reported that officers at Denmark's National Operational Aliens Center do take all relevant considerations into account in the asylum registration process concerning the asylum seeker's age, health and gender. Unfortunately, no example of any practical arrangements for this is given.

When registering an application, relevant information about the applicant's condition can be collected and forwarded to other agents. For instance, in Norway applicants are asked if they have a preference for the gender of the interpreter at the asylum interview to be conducted by the UDI. Asylum seekers in Norway - usually female applicants telling that they have been exposed to violence from their spouse - are given information on different organisations they can contact for help, and a stay in a crisis centre can also be arranged.

### **Gender-relevant information given to applicants**

In Sweden, gender-relevant information is given to asylum seekers at the Asylum Application Unit and at the common information meeting, usually held within a month of registration of the asylum application. Information is also provided to them during interviews at the Migration Agency. Information about access to support groups and organizations is available at the Asylum Examination Unit and given upon request or when considered to be of interest to the applicant. Information is provided by the Migration Agency's internal network of hotlines for support and advice.

In Finland, information is given to asylum seekers during the initial briefing by the Finnish Immigration Service, which is responsible for reception of the asylum seekers. When housed in the reception centres, asylum seekers receive information on different topics, for example equal treatment, justice and non-discrimination in reception centres. Clients receive an information package, both verbal and written, which includes gender-relevant information concerning living in reception centre and in society. (Finland)

In Norway, asylum seekers receive general and individual information about Norwegian asylum procedures and claims that can constitute a protection need, including gender-relevant claims, shortly after the registration of the asylum application and before the asylum interview. The information is given by an independent organisation called Norsk organisasjon for asylsøkere NOAS (Norwegian Organisation for Asylum Seekers). Furthermore, the Norwegian directorate for immigration has mandatory information programmes for residents in reception centres twice a year. They include information about gender-relevant

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<sup>1</sup> In Sweden the responsible authority is the Swedish Migration Agency (Migrationsverket), in Finland the Police and Border Guard (Poliisi & Rajavartiolaitos), in Norway the National Police Immigration Service NPIS (Politiets Utlendingsenhet), in Denmark the National Operational Aliens Center (Udlændingecenter Nordsjælland) and in Iceland the Police and The Reception and Service Center of Directorate of Immigration (Lögregla & móttöku- og þjónustuteymi ÚTL).





issues and focus on values as well as laws and regulations. Several of these programmes are conducted in cooperation with NGOs and local law enforcement.

In Denmark, a brochure on equal rights, issued by the Ministry of Children, Education and Gender Equality, is available in the asylum registration waiting room at the Sandholm reception centre. It is available in many languages, e.g. English, Turkish and Arabic. Contact information for various situations including contact information for shelters/safe houses is available in the brochure.

In Iceland, brochures on women's rights and gender-related subjects are available to applicants at the Directorate's office. Reception and service staff provide assistance during the case procedure and refer applicants to the relevant authorities and services. Women and members of LGBT groups are given special attention through frequent visits, and they receive information and assistance on how to seek help and services from the relevant service providers and NGOs already during first (i.e. screening) interviews.

## **Discussion**

According to the UNHCR guidelines, interviewers and interpreters of the same sex should be provided automatically for women claimants (UNHCR 2002). This seems not to be the case in the Nordic countries, although the practice in Sweden comes close to this requirement.

Another important measure instructed by the UNHCR is that women asylum seekers should be interviewed without the presence of male family members. This is necessary in order to ensure that they have an opportunity to present their case and it should be explained to them that they may have a valid claim in their own right (UNHCR 2002). Not all the replies to this questionnaire give information about whether all applicants are registered and interviewed separately, as is the case in Sweden and Norway, though only exceptionally in Denmark, or whether family members are dealt with collectively.

Even if the registration process were not to include discussing substantive reasons for the asylum application, it is important that female asylum seekers, when registering their application, are informed about their rights independently of the male applicant and about the confidentiality of the asylum interviews. They should be given information about the status determination process, access to it, and legal advice (UNHCR 2002).

The replies to this questionnaire seem to cover only in-country registering procedures. Border procedures are not specifically mentioned. It is important that gender-sensitive issues are also taken into account when asylum applications are registered by border guards, and especially if specific kinds of border procedures or accelerated procedures are applied, in order to guarantee that shorter timeframes do not prevent women from disclosing e.g. sexual violence and getting access to asylum procedures (cf. European Parliament 2012, 81-84, 89).

## 3. ASYLUM INTERVIEW

### **First instance authority**

The next step in the decision making process on asylum applications is the interview, in which the reasons for fleeing from the home country and applying for asylum are discussed. Asylum interviews are conducted by officers of institutions specialized in migration issues.<sup>2</sup>

During this interview the asylum seeker is expected to give a full account of maltreatment she/he has suffered or fears to face if returned to the home country. An issue concerning specifically female asylum

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<sup>2</sup> The Swedish Migration Agency (Migrationsverket), Finnish Immigration Service (Maahanmuuttovirasto, Migrationsverket), The Norwegian Directorate of Immigration (Utlendingsdirektoratet UDI), Danish Immigration Service (Udlændingestyrelsen), Directorate of Immigration (Útlendingastofnun ÚTL).



seekers is whether they are aware that gender-based violence is a relevant reason for an asylum claim.

There are a number of measures used in the Nordic countries to help asylum seekers present gender-related reasons for their application. One of these, similarly to the first stage, is to ask asylum seekers about their preference for a male or female interpreter, case officer or public counsel (Sweden). However, their wish may not always be fulfilled. In Norway such wishes, and other special needs, are complied with as far as is practically possible. In Finland, a same sex interviewer and interpreter is arranged particularly if the applicant has suffered sexual violence. In Iceland, the female applicants' first interviews are conducted by female staff members, and suspected victims of human trafficking or sexual violence are interviewed with only people of the same sex present.

At least in Sweden and Norway interviews are carried out with one applicant at time, i.e. spouses are separated while interviewed and information about code of secrecy between spouses is given. In Sweden, if there is any suspicion of violence within marriage, the applicant is given information about where to get help or assistance.

The caseworkers at the Danish Immigration Service are trained in interview techniques, which also contain consideration to vulnerable asylum seekers, including particularly vulnerable women (Denmark). In Sweden, there is guidance on how the issue of gender, transgender identity or sexual orientation can affect the applicant's ability to present her/his case. In Norway's measures are organized so that the applicant is able to present her/his asylum case as well as possible. Practical examples of those techniques and measures are not given in the replies. However, they would be worth studying and sharing between the Nordic countries.

### **Appeal authority**

The first instance decisions can be appealed. Each Nordic country has a specific body handling the appeals.<sup>3</sup>

Only the reply from Denmark gives information about appeal bodies' gender-sensitive practices. The Danish Refugee Appeals Board strives towards the use of female interpreters in cases where female asylum seekers claim having been subject to mistreatment. In case the female asylum-seeker does not wish her partner to know about previous abuses, she will have the opportunity to give an explanation without her partner being present and the possibility to receive a separate decision.

### **Discussion**

Even when spouses are interviewed separately, men may be regarded as the main applicant of the family and therefore given more time and attention when processing the application, which can lead to a situation where women have limited time to present their claim (cf. European Parliament 2012, 95). The answers received for this questionnaire do not indicate whether this may be the case in Nordic countries, too.

The Procedures Directive of the EU emphasizes that with a view to ensuring substantive equality between female and male applicants, examination procedures should be gender-sensitive. In particular, personal interviews should be organized in a way which makes it possible for both female and male applicants to speak about their past experiences in cases involving gender-based persecution (Recital 32 and Art. 15, EU 2013a).

According to the UNHCR guidelines, it is important to create an open and reassuring environment and avoid male-oriented nature of the questioning that makes it difficult for women to provide relevant information in

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<sup>3</sup> Sweden: Migration Court (migrationsdomstolen); Finland: Administrative Court (hallinto-oikeus, förvaltningsdomstol); Norway: Immigration Appeals Board (utlendningnemda UNE); Denmark: Refugee Appeals Board (Flygtningenævnet); Iceland: Immigration and Asylum Appeals Board (Kæruneftndar útlendingamála)



interviews. They may, for example fail to relate questions that are about ‘torture’ to the types of harm which they fear, such as rape, sexual abuse, female genital mutilation, ‘honour killings’ and forced marriage (UNHCR 2002, 9).

Therefore, it is important to examine all details related to asylum interviews and arrangements connected to them from a gender perspective. A severe practical hindrance for women to present their case is the lack of child care services during asylum interview. If a child is present in the interview situation, the mother easily feels the need to protect the child from hearing possibly traumatizing things and is not able to tell openly everything necessary for getting a full picture of her situation. Child care services are not mentioned in the replies, which may imply that there are no such services available (cf. European Parliament 2012, 95-96).

#### 4. DETERMINING REFUGEE STATUS

On the basis of information received from the asylum interview the caseworker conducts the determination of refugee status. This is based on the definition of a refugee given in national laws reflecting the Refugee Convention of the United Nations (1951). According to the Convention, a refugee is someone who is unable or unwilling to return to their country of origin owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group, or political opinion. In the Convention, gender is not specifically mentioned as one of the reasons for persecution, the so-called Convention grounds. However, following guidelines given by UNHCR, it is commonly interpreted that gender forms a basis for a “particular social group” mentioned in the Convention.

This is also the way most Nordic countries interpret gender as one of the possible grounds for being a refugee: in Iceland and Finland, gender-related and gender-specific persecution are considered legitimate protection grounds with reference to a “particular social group”.

However, in the Swedish Aliens Act gender and sexual orientation are explicitly mentioned in the definition of a refugee: “...on grounds of gender, sexual orientation or other membership of a particular social group” (Swedish Aliens Act 2005:716, Chapter 4, section 1). Furthermore, in the Norwegian Immigration Act it is explicitly stated that gender-specific acts can constitute persecution within the meaning of the 1951 Convention (Norwegian Immigration Act, section 29 *litra f*).

In Norway asylum has been granted to women facing forced marriage, genital mutilation, honour killing, rape or serious abuse that qualifies for persecution if all the other requirements for refugee status are met.

The Danish Aliens Act does not include specific provisions regarding gender and honour-related abuses, but it is generally accepted that women as well as men can be subject to specific types of abuses and assault which provides the need for protection. In Denmark, examples of such abuses include danger of becoming subject of circumcision and fear of honour crimes, often connected to conflicts regarding entering into a marriage, e.g. forced marriage or marriage against the will of the family, or conflicts in connection with the annulment of a marriage, e.g. divorce against the will of the family or travelling without the permission of a husband.

It is worth noticing that many of the above-listed abuses in Denmark are often characterized as private conflicts which in the first hand should be solved with the help of authorities of the home country. However, if the authorities do not have the ability or will to protect the woman subjected to such abuse, it is recognized that certain types of abuse or assault emanating from non-state actors can be of such an intense character that this is regarded as persecution.

In Finland, gender has an effect on many aspects of the determination of refugee status: gender-based violence can amount to persecution, gender may constitute a reason for persecution, and the possibility of receiving state protection may depend on gender/sex. Gender also needs to be taken into account also when considering the possibility of internal flight or a relocation alternative.



Country of origin information (COI) plays an important role in these considerations. In Denmark, country of origin information on gender-specific issues, e.g. women's rights, female genital mutilation or trafficking, is taken into consideration if relevant in the specific case. For example, information about generally difficult conditions for women in a particular country is an element which together with other factors can lead to a decision that the asylum applicant fulfils the conditions for obtaining asylum.

Considerations of the degree of risk on return may have gender-sensitive elements. An example is the situation for single women from Somalia without access to protection from a male network in Somalia. A recent judgement of the European Court of Human Rights states that a single woman returning to Mogadishu without access to protection from a male network would face a real risk of living in conditions constituting inhuman or degrading treatment under Article 3 of the European Convention of Human Rights (ECHR 2015). Similarly, a residence permit on humanitarian grounds may be granted to single women from Afghanistan without any male family ties or social network in Afghanistan. (Denmark)

In Norway, the Immigration Act (section 38) provides that a residence permit can be granted on the grounds of strong humanitarian considerations if there are social or humanitarian circumstances relating to the return situation. Therefore, women can be given a residence permit if their return situation would be severe and difficult because of their gender.

In Finland, a residence permit can be granted on compassionate grounds to a person when international protection is not granted but refusing a residence permit would be manifestly unreasonable considering the circumstances they would face in their home country or their vulnerable position. This includes gender-sensitive consideration.

In Iceland, the law allows for a residence permit on humanitarian grounds or a temporary provisional residence permit, if protection is denied but return would violate the principle of non-refoulement. Gender can also play a part in the considering of this.

However, if the application is rejected after all and an asylum seeker is to be returned to her/his home country, gender-relevant considerations are taken into account in the return proceedings, at least in Denmark. When deporting a woman with escort it is always ensured that a female police officer is one of the escorting police officers. When escorting a female alien the National Operational Aliens Center can make arrangements on how the female should be accommodated upon return, e.g. in safe houses.

## **Discussion**

In EU Member States, determining refugee status is guided by the Qualification Directive in which gender-specific persecution is explicitly addressed: "For the purposes of defining a particular social group, issues arising from an applicant's gender, including gender identity and sexual orientation, which may be related to certain legal traditions and customs, resulting in for example genital mutilation, forced sterilisation or forced abortion, should be given due consideration in so far as they are related to the applicant's well-founded fear of persecution" (Recital 30). Acts of a gender-specific nature are also defined as a form of acts of persecution in the Qualification Directive (Art. 9, EU 2011).

However, it should be kept in mind that women can face persecution not only because of membership of a particular social group, but also because of their political opinion, religion, nationality or race. Although persecution on these grounds is not specific to women or men, in many instances the nature of the persecution takes a gender-specific form (UNHCR 2002, 6-8; CoE 2011).

The Procedures Directive of the EU sets out rules about the requirements for the examination of applications, e.g. that the personnel examining applications and taking decisions shall have the chance to seek advice, whenever necessary, from experts on particular issues, such as medical, cultural, religious, child-related or gender issues (Art. 10, EU 2013a).



The UNHCR urges the collection of country of origin information that has relevance in women's claims, such as the position of women before the law, the political rights of women, the social and economic rights of women, the cultural and social mores of the country and consequences for non-adherence, the prevalence of such harmful traditional practices, the incidence and forms of reported violence against women, the protection available to them, any penalties imposed on those who perpetrate the violence, and the risks that a woman might face on her return to her country of origin after making a claim for refugee status (UNHCR 2002, 10).

The replies to this questionnaire do not give much information about the extent to which the personnel examining applications have direct access to experts on gender issues, nor about the quality of the available information on country of origin from a gender perspective. It is important to ensure that these indispensable resources exist and are consulted when making asylum decisions in the Nordic countries.

## 5. GENDER-SENSITIVE PRACTICES IN RECEPTION CENTRES

During the processing of their asylum applications, asylum seekers usually stay in a reception centre. In some countries, such as Denmark, this is mandatory, whereas in others, like Finland, they can choose to live outside a reception centre. Even if the coordination and monitoring of the centres are a responsibility of a public authority,<sup>4</sup> many of them are operated by other actors.

In Finland, human rights, equal treatment, justice and non-discrimination are reported to be the key principles of the work done in reception centres. In Norway, it is mandatory for reception centres to ensure that women and men have the opportunities to take part in and influence activities that take place in the centres.

In Denmark, the operators responsible for the day-to-day operation of the asylum centres take the necessary steps to support all accommodated asylum seekers based on an assessment of their individual needs, including particularly vulnerable women.

In Finland, specific needs of male or female clients are taken into consideration and their needs are met in the best possible way according to the available service alternatives. This can mean specific actions targeted just at male or female clients. However, the question is raised as to whether the idea of pre-set gender-specific support and/or services is an outdated approach, since an integrative and person-centred approach is said to be a more appropriate way today to organize social and health care services.

Reception staff provide assistance and refer applicants to relevant authorities and services. Sometimes service is provided by NGOs, e.g. for LGBT groups. In Iceland women and members of LGBT groups are given special attention and information through frequent visits.

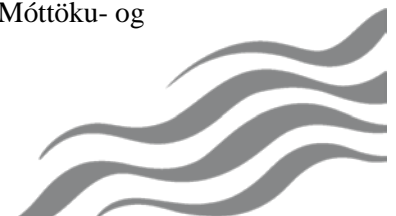
### **Accommodation**

The most commonly observed gender-sensitive practice in all Nordic countries is the spatial separation of female and male residents in reception centres. Single women and men are accommodated in separate rooms (Finland) or corridors (Iceland), or even in separate units or centres (Denmark). However, family members are accommodated together. To some extent individual needs can be met by arranging individual accommodation (cf. Sweden 2016a). At least in Iceland, members of LGBT groups are assigned private rooms (Iceland). There are also restrooms and recreation areas that are adapted to the needs of different resident groups, according to age and gender, for instance (Norway).

In Sweden, there is a plan to open small-scale sheltered housing within Stockholm, Gothenburg and Malmö

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<sup>4</sup> The Swedish Migration Agency (Migrationsverket), Finnish Immigration Service (Maahanmuuttovirasto), Norwegian Directorate for Immigration (Utlendingsdirektoratet UDI), Danish Immigration Service (Udlændingestyrelsen), Reception and Service Centre of Directorate of Immigration (Móttöku- og þjónustuteymi ÚTL).





for applicants in vulnerable situations who do not feel safe within provided accommodation. Sheltered housing within urban areas will give the applicant access to network and social support that is not always available within smaller villages, where asylum accommodation is usually located. Furthermore, applicants in need of protected housing/safe housing due to specific violence are entitled to such arrangements. The Swedish Migration Agency is currently examining the need of any kind of institutional accommodation due to disability or need for protection (see Sweden 2016b).

### **Gender-specific services**

In Norway, a national team of experts can be contacted in cases regarding forced marriage, female genital mutilation and in honour-related violence. The team supports both victims of violence and employees who work with refugees and migrants.

In Iceland, victims of gender-based violence and human trafficking are provided with psychological assistance and necessary medical care.

In Finland, health care needs of female clients are given as an example of gender-specific services provided by reception centres.

### **Gender-based violence in reception centres**

There have been examples of gender-based violence in reception centres in Norway (Norway), and such events have also been reported in Sweden. In Iceland, gender-based violence is not common in the reception centres. In Finland, gender-based violence is not very prevalent, but there have been cases of sexual harassment and domestic violence in families. However, most of the violent incidents take place between male clients.

In Norway, separate spaces for female and male asylum seekers are meant to mitigate gender-based violence.

In order to prevent violence and harassment in reception centres, there are official guidelines (Norway), rules prohibiting violence in all forms (Finland) and information for inhabitants (Sweden). The operators of the centres may also consult the police concerning crime prevention (Denmark).

The staff of the reception centre intervenes in violent situations (Finland), and the police may also usually be called in (Iceland). In Denmark, any criminal acts are to be reported to the police and to the Danish Immigration Service. In Norway, too, the police investigate and report on crimes related to reception centres. In Iceland, apart from the police, relevant service providers are also informed and called in immediately, thus the victims are informed of their rights and offered medical assistance as well as psychological care.

The possibility to transfer applicants between reception centres is mentioned as one way of hindering violent incidents (Sweden). In Norway, it is possible to fast-track a rejection decision (provided that there are no grounds for asylum) in cases where an asylum seeker is a threat to the safety of others or harasses other residents.

### **Discussion**

According to the Reception Directive, Member States shall ensure that material reception conditions provide an adequate standard of living for applicants, which guarantees their subsistence and protects their physical and mental health (EU 2013b, Art. 17). The Qualification Directive stipulates that Member States shall provide adequate healthcare, including treatment of mental disorders when needed, to beneficiaries of international protection who have special needs, such as pregnant women, disabled people, persons who have undergone torture, rape or other serious forms of psychological, physical or sexual violence or minors who have been victims of any form of abuse, neglect, exploitation, torture, cruel, inhuman and degrading treatment or who have suffered from armed conflict, under the same eligibility conditions as nationals of the state (EU 2011, Art. 30).



According to the UNHCR's recommendation, medical help offered for asylum seekers should include counselling on reproductive health matters and pregnant women should receive the same maternal and child clinic services as nationals (UNHCR 2001).

The scarcity of examples of gender-specific services does not necessarily mean that such services do not exist, since a probable reason for the shortage of information is the short time in which information has been collected. However, it is important to ensure that necessary gender-specific services are identified and provided (e.g. European Parliament 2012, 116-117).

Regarding the fact that accommodation services are run by multiple and diverse operators, the key question is how to ensure that all operators are capable of taking gender-sensitive issues and recommendations into due consideration in their daily functioning. The responsible authorities in the Nordic countries do have guidelines and monitoring mechanisms for achieving this (e.g. Norway 2011, Finland 2016), but when the number of asylum seekers grew rapidly and many new reception centres were opened quickly in 2015, it was reasonable to assume that extra attention to gender issues might be necessary in some of them.

Due to the restricted nature of this inquiry specific information from different kinds of reception centres was not collected. However, it is important to ensure that gender-sensitive practices adhered to in regular reception centres are followed in special kinds of centres, too, such as transit and detention centres, as well as reception facilities at borders and so-called international zones (cf. UNHCR 2001).

## 6. PROTECTING VULNERABLE ASYLUM SEEKERS

An area deserving special attention in the discussion is vulnerable asylum applicants, since this is connected to various special arrangements throughout the asylum process, from registration to return.

Examples of vulnerable persons are listed in asylum directives of the EU: “such as minors, unaccompanied minors, disabled people, elderly people, pregnant women, single parents with minor children, victims of human trafficking, persons with serious illnesses, persons with mental disorders and persons who have been subjected to torture, rape or other serious forms of psychological, physical or sexual violence, such as victims of female genital mutilation” (Art. 21, EU 2013b; cf. Art. 20, EU 2011; Art. 3, EU 2008).

Even where gender as such is not defined as a cause for vulnerability, many female asylum seekers fall under the categories mentioned. For example, according to an estimation by UNHCR, 80% of all people trafficked are women and girls (UNHCR 2008).

Following the Refugee Convention, states have a responsibility to provide international protection to victims of trafficking or individuals fearing being trafficked (UNHCR 2008). In the reception of applicants who claim to have been victims of trafficking, and in interviewing such individuals, it is of utmost importance that a supportive environment be provided so that they can be reassured of the confidentiality of their claim. Some may be traumatized and in need of expert medical and/or psycho-social assistance, as well as expert counselling (UNHCR 2006).

The Procedures Directive urges Member States to identify applicants in need of special procedural guarantees before a first instance decision is taken. They should be provided with adequate support, including sufficient time, in order to create the conditions necessary for their effective access to procedures and for presenting the elements needed to substantiate their application for international protection. Where adequate support cannot be provided in the framework of accelerated or border procedures, they should be exempted from those procedures (Recitals 29, 30, EU 2013a). Member States may also prioritise an examination of an application for international protection where the applicant is vulnerable (Art. 7(b), EU 2013a).

Furthermore, Member States are required to assess whether the applicant has special reception needs and indicate the nature of such needs within a reasonable period of time after an application for international protection is made. Concerning services and support, the provisions state that persons who have been



subjected to torture, rape or other serious acts of violence receive the necessary treatment for the damage caused by such acts, in particular access to appropriate medical and psychological treatment or care (Art. 22, 25 , EU 2013b).

Regarding reception centres, special attention should be paid to the risk of child trafficking, in particular separated and unaccompanied female asylum seekers, since unaccompanied or separated girls too often fall victim to traffickers and disappear in the course of the asylum procedure. Special accommodation arrangements, counselling and protection arrangements are necessary for them. (UNHCR 2001, 2008)

### **Vulnerability and gender**

The connection between gender and vulnerability is reflected in the responses of the Nordic countries to this questionnaire. For example, it is mentioned that there are no national gender-specific guidelines for international protection, but this is taken into consideration if asylum seekers are vulnerable, including particularly vulnerable women (Denmark). Furthermore, it is remarked that trafficking in human beings or vulnerability include a gender-based perspective (Finland).

The vulnerability of the applicant has significance at different stages of the asylum process.

In reception centres, the individual needs of asylum seekers are assessed, including particularly vulnerable women (Denmark). Sheltered housing is planned for individuals in vulnerable situations (Sweden).

Caseworkers are trained in the handling of vulnerable asylum seekers (Denmark), and European Asylum Support Offices' (Easo) learning modules on vulnerable groups, including gender, are studied by all caseworkers handling applications of vulnerable groups (Finland).

When determining refugee status, gender dimensions are taken into consideration in terms of vulnerability of the individual applicant (Iceland; Denmark). If a person is not granted international protection, she/he can be granted a residence permit if refusing a residence permit would be manifestly unreasonable with regard to her/his vulnerable position (Finland).

### **Victims of human trafficking**

Efforts are made to identify possible victims of human trafficking from among asylum seekers, and specific attention is given to them.

In Sweden, there is an internal formalized course of action, e.g. if suspicions of trafficking in human beings occur. In Iceland, in case of suspicion of human trafficking or other gender-based violence, relevant authorities and service providers are informed and victims are provided with psychological assistance and necessary medical care.

In Norway, the Ministry of Justice has launched several measures to protect and assist victims through the Norwegian Plan of Action to Combat Trafficking in Women and Children. The ROSA project is an emergency and information hotline that offers help and information about human trafficking.

The Norwegian Immigration Act (section 38) provides that a residence permit on the grounds of strong humanitarian considerations can be granted on the basis of an overall assessment in which importance may be attached to whether the foreign national has been a victim of human trafficking. According to the Act (section 30), former victims of human trafficking shall be regarded as members of a particular social group, and thus eventually entitled to asylum.

In Denmark, country of origin information on trafficking is taken into consideration when relevant in the specific case.





### III GOOD PRACTICES

This section presents the good practices connected to any phase of the asylum process that are identified and described by the respective countries in their replies.

#### Sweden

The Migration Agency's efforts concerning internal training for employees, primarily regarding the subject of norm-criticism, equivalent treatment and impact analysis of equal treatment.

The ongoing work on sheltered housing within urban areas for applicants in vulnerable situations who do not feel safe within provided accommodation offering access to network and social support, and institutional accommodation needed due to disability or need for protection.

The Migration Agency has developed an Action Plan for gender mainstreaming 2016-2018, as mandated in the Appropriation Directive for 2015 issued by the Government. Mainstreaming work is done within the framework of the Agency's regular structures and the Quality Department has overall responsibility for the implementation of the Action Plan. In support of implementation there is a gender expert. The gender mainstreaming work has three objectives: 1) equal treatment, service and assessments for female and male permit applicants and asylum seekers; 2) actively counteract men's violence against women and honour-related violence; 3) activities are permeated by a gender perspective.

#### Finland

The Joutseno and Oulu reception centres' HAPKE 3 project is currently developing reception services from the point of view of single women who have experienced violence or abuse, and their children. The project is supported by the European Union Asylum, Migration and Integration Fund. HAPKE 3 (Services for vulnerable asylum seekers collates information from various sources: staff and clients, research, other projects and fields, and through peer-to-peer exchanges of work practices. In 2017, best practice will be shared and new approaches introduced. Work is being done directly with clients with the support of a therapist and crisis worker to adjust methods to suit the reception environment. There will be staff training into psychological first aid, child protection, and forms of abuse specific to the client group. The work methods, guides and materials introduced will be in a basic form that will be easy for busy staff to adopt. The project also looks at the reception system as a whole in cooperation with the Finnish Immigration Service, and exceptional situations of high numbers of arrivals. The HAPKE results will be shared with all the Finnish reception centres.

#### Norway

The Norwegian Organisation for Asylum seekers (NOAS) provides information on various subjects including information on organizations dealing with victims of forced marriages.

The National Police Immigration Service NPIS provides information on organizations dealing with victims of domestic abuse.

The national guidelines on how to consider persecution in cases based on gender-related claims have contributed to a more equal handling of asylum cases when gender-related claims are made in the Directorate of Immigration and the Immigration Appeals Board.

#### Denmark

The caseworkers at the Danish Immigration Service are trained in interview techniques used in the asylum process, which also contain consideration to vulnerable asylum seekers, including particularly vulnerable women.



Female asylum seekers have access to accommodation in special asylum centres or units for women, or other forms of protective accommodation based on an assessment of their individual needs. This limits the risk of gender-sensitive challenges in the day-to-day operation of the asylum centres and ensures that e.g. vulnerable women are protected to the extent needed.

### **Iceland**

Application of relevant UNHCR guidelines.

Interviewing guidelines for LGBT+ applicants.

## **IV EVALUATION**

1. Challenges and shortcomings of the current asylum process from a gender-perspective identified by the respective countries in their replies to the questionnaire.

### **Sweden**

Equality between men and women is an area of development. During the work with the Action Plan for gender mainstreaming 2016-2018, case studies by the Migration Agency showed that cases of a single woman or a single man were handled equally. However, the case studies also showed that in 91% of the cases of individuals within families, the man was the main applicant within the family, and the man's case was treated individually, while the woman and the children were treated in relation to the man's case. The study shows that gender-related issues are at risk of being overlooked if interviews of family members focus on subjects primarily relating to the man/father/husband, leaving less time for interviews with the woman/mother/wife.

### **Finland**

A higher number of asylum seekers and high demand for interpreters present challenges for obtaining an interpreter of the preferred gender for an interview. This may postpone the interview in individual cases.

Babysitting can be arranged for small children and babies, so mothers have the chance to fully focus on the interview. Sometimes nursing or hearing the baby cry may divide mother's attention, distracting her focus on the interview. This may place greater demands on the interviewer.

### **Norway**

Regarding the registration process, the National Police Immigration Service NPIS usually has no information about the asylum seeker in advance of the registration, so it is difficult to plan for specific gender-related needs.

### **Denmark**

No answer is provided.

### **Iceland**

No answer is provided.

2. Measures considered necessary for promoting the inclusion of a gender-sensitive perspective in asylum procedures as identified by the respective countries in their contribution.

### **Sweden**



Continued training for Migration Agency staff on gender-related issues, for newly employed as well as experienced officials. It is important to include personnel at different stages of the asylum process: officials in direct contact with asylum seekers as well as officials making policy documents.

Furthermore, it is important to have updated information about the situation in the applicant's country of origin to be able to make a thorough and correct assessment of the asylum case.

### **Finland**

Training and mainstreaming gender-sensitive perspective are necessary measures.

### **Norway**

To include gender sensitivity in the registration training in the National Police Immigration Service NPIS.

### **Denmark**

The Danish authorities include gender-sensitive aspects in the asylum procedures in various matters. Therefore, Denmark has already implemented the necessary measures which are applied in accordance with Denmark's international obligations.

### **Iceland**

No answer is provided.

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