



Questionnaire of the Special Rapporteur on the Human Rights of Migrants on Good practices and initiatives of gender-responsive migration legislation, policies, and practices

Questions:

- **How do/es the country/ies on which your organisation is working define “gender responsiveness”?**

There is no gender specific legislation, provisions and policies in the context of migration in Hungary.

- **Please provide information on any existing or forthcoming good practices or initiatives of gender-responsive migration legislation, policies or practices in the country/ies your organisation is working on. (Should you provide information on legislation or policy, kindly submit the original text, accompanied by an English translation if it is in a language other than the six official UN languages.)**

Act LXXX of 2007 on Asylum¹

- Article 2 (k) defines **persons in need of special treatment** during the asylum procedure as “*the unaccompanied minor or a vulnerable person, in particular, a minor, elderly or disabled person, pregnant woman, single parent raising a minor child and a person who has suffered from torture, rape or any other grave form of psychological, physical or sexual violence, found, after proper individual assessment, to have special needs because of his/her individual situation.*”
- According to Article 60 (2a-b), “**Persecution may, in particular, take the form of the following acts: a) mental or physical violence, including acts of sexual violence; b) acts committed on account of the sexual orientation of the person concerned**”
- Article 64 (2) stipulates that “*A group where a common characteristic of its members is based on their sexual orientation or gender identity may, depending on the circumstances of the country of origin, also qualify as a particular social group.*”

Government Decree no. 301/2007 (XI. 9.) on the implementation of Act LXXX of 2007 on asylum²

Provisions for *persons in need of special treatment* (as defined in Article 2 of Act LXXX of 2007 on asylum):

- “*The refugee authority refers children who have suffered from rape, severe neglect, exploitation, torture, inhuman and degrading treatment or trauma during armed conflicts to the relevant health care institution to ensure their rehabilitation. In case of unaccompanied children the authority refers them to the relevant child protection authority.*”

Asylum detention

- Article 36/D (3) stipulates that men, women, married couples, families with children in detention facilities shall be accommodated in different part of the detention facility.
- Article 36/D (4) stipulates that when the authorities **accommodate a person in asylum detention facilities**, they shall take into consideration the gender identity of the person which may differ from his/her registered gender.

Reception facilities

¹ Available only in Hungarian: http://njt.hu/cgi_bin/njt_doc.cgi?docid=110729.362966; A consolidated version of the Act is available in unofficial English translation: <http://www.refworld.org/docid/4979cc072.htm>

² Available only in Hungarian: http://njt.hu/cgi_bin/njt_doc.cgi?docid=112508.362977



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- People who have received international protection status in Hungary can spend 30 days in a reception facility. According to Article 42, during **placement**, it shall be taken into consideration the gender identity of the person which may differ from his/her registered gender.

Rights of the asylum-seeker during the asylum procedure

- Article 66 (3) stipulates that case officer shall be if the asylum claim is based on persecution on account of the gender identity of the person concerned, and if s/he requests it, the **case officer shall be of the same sex**.
- According to Article 66 (3a), if the asylum-seeker's gender identity differs from his/her registered gender, s/he may request **a case officer and interpreter of the sex s/he chooses**.

- ***Please indicate any challenges and/or obstacles in the implementation of gender-responsive migration legislation and/or policies?***

Since March 2017 asylum claims can be submitted only in two transit zones which are located at the Hungarian-Serbian border (Röszke and Tompa). The access to the transit zones for asylum-seekers and therefore access to protection is very limited. The number of people allowed to enter the country and claim asylum per day has been continuously decreased. Asylum-seekers are detained in the transit zones during the entire asylum procedure.

Social workers from the Immigration and Asylum Office are present in the two transit zones at 24/7. Psychologists and psychiatrists visit the transit zones few hours a week where they work together with medical staff and social workers. However, social workers and health professionals use English as an intermediary language or communication is only ensured via cross-interpreting.

Currently there is no standard operating procedures (SOPs) on sexual and gender-based violence (SGBV) available and in use in migration facilities in Hungary. The lack of clear guidance on prevention and referral mechanism makes the identification of victims and potential victims of SGBV among asylum-seekers and refugees difficult and thus the provision of appropriate support to those who are need of assistance is not ensured. The referral of victims to competent authorities (e.g. Police if they have jurisdiction over the case) or support services (e.g. psychologist) may be done on an ad-hoc basis.

The main challenge in assisting migrant victims of SGBV is the language barrier both inside and outside the facilities. The lack of female interpreters in general is especially significant.

Non-governmental organizations (NGOs) providing psychological or legal assistance to migrants have limited or no access to the transit zones and other facilities.

- ***Based on the experience accumulated with these interventions so far; as well as the lessons learned, what would have to be done differently to maximise the gender responsive impact of these interventions?***

- Reforms in the national migration-related legislation are needed to include gender-responsive provisions.
- Gender-responsive SOPs, guidelines and policies should also be adopted focusing especially on the identification and provision of support to asylum seeker victims of SGBV.
- Comprehensive trainings on prevention and identification of SGBV for staff working with migrants in the transit zones, detention facilities and reception centres.



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- More experienced, trained female and male interpreters should be hired who could effectively support the work of social workers and other professionals in the transit zones and during the asylum procedure.
 - Through gender mainstreaming the gender responsiveness of the Hungarian society can be increased as well.
- ***What support could other stakeholders (other than governments) provide to make migration policies, legislation, and practices more gender responsive?***
 - IOM has been implementing a regional SGBV project, ***PROTECT³ - Preventing sexual and gender-based violence against migrants and strengthening support to victims***, which aims to strengthen national support services for victims of sexual and gender-based violence. PROTECT also aims to make these services available to refugees, asylum seekers and migrants, be them children or adults and including LGBTQI persons. PROTECT included awareness-raising activities on preventing SGBV among these communities.

In coordination with national authorities, first responders and service providers, IOM and the partners work together to tailor the following activities to the national contexts and implement them:

- Strengthen and adapt existing national support services for victims of sexual and gender-based violence to coordinate better and include refugees, asylum seekers and migrants;
- Build capacity for professionals who work with and for refugees, asylum seekers and migrants to identify and address the needs of victims and potential victims of SGBV more effectively;
- Empower and inform refugees, asylum seeker and migrant communities about SGBV and how to protect themselves from the risk of becoming a victim of sexual and gender-based violence.

The project runs from October 2018 to March 2020 in 12 European countries (Belgium, Bulgaria, Croatia, Greece, Hungary, Ireland, Italy, Malta, the Netherlands, Poland, Slovenia and Spain) and in partnership with eight local NGOs. It is funded by the European Union's Rights, Equality and Citizenship Programme (2014-2020).

³ <http://www.iom.hu/protectproject>