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**Directorate-General Internal Policies
Policy Department C
Citizens Rights and Constitutional Affairs**

**The conditions in centres for third country national
(detention camps, open centres as well as transit centres and
transit zones) with a particular focus on provisions and
facilities for persons with special needs
in the 25 EU member states "**

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PREAMBLE

This study was commissioned by the European Parliament Committee on Civil Liberties, Justice and Home Affairs.

This document is available in English and French.

This work follows a number of visits by delegations from the LIBE committee to several European Union Member States. These missions resulted in the publishing of reports or resolutions.

This study looks at conditions for migrants and asylum seekers in reception, detention or transit centres, and is based on field studies carried out in twenty-five European Union countries. It is the first study on the subject based on field studies throughout all European Union countries, i.e. twenty-five countries at the time the study was commissioned in December 2006.

*The unique feature of this work is that it focuses on the situation of vulnerable persons and seeks to assess whether the specific needs of these people are sufficiently taken into account, and whether the standards set out in the **Reception Conditions Directive** concerning provisions for vulnerable persons are integrated into national legislation. It also aimed to assess to what extent the conditions in which migrants and asylum seekers are detained or accommodated in European countries may aggravate or reduce their vulnerability.*

Field studies were carried out in nearly 130 centres (open and closed), throughout the twenty-five countries, and over 250 “vulnerable” persons agreed to be interviewed. The sources of information used outside of the centres were extremely diverse: specialised or non-specialised healthcare personnel, social workers, elected officials, representatives from the centre management, state mediators, civil society representatives (national and international), international organisations etc. In each country a team consisting of a national partner and an international investigator was formed. It is the work carried out by the teams, their immersion in the issues in the various countries, and the meetings held with a large number of people in the field which made the production of this report possible.

The opinions expressed in this document are those of the authors and do not reflect the official position of the European Parliament.

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¹ As the field survey did not cover North Ireland, Great Britain will be regularly mentioned instead of United Kingdom, in the parts of the report related to the survey findings.

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ACRONYMS

ANAEM	Agence Nationale pour l'Accueil des Etrangers et des Migrations (France)/ <i>National Agency for the Reception of Foreigners and Migration</i>
ARCI	Association Récréative Culturelle (Italie)
ASTI	Association de Soutien aux Travailleurs Immigrés (Luxembourg)
AVID	Association des visiteurs de migrants détenus (Royaume Uni)/ <i>Association of Visitors to Immigration Detainees (United Kingdom)</i>
CEDH	Convention Européenne des Droits de l'Homme/ <i>European Convention on Human Rights</i>
CIDE/CRC	Convention Internationale des Droits de l'Enfant/ <i>Convention of the Rights of the Child</i>
CIRÉ	Coordination et Initiatives pour et avec les Réfugiés et Etrangers (Belgique)/ <i>Coordination and Initiatives for Refugees and Foreigners(Belgium)</i>
Cour EDH	Cour Européenne des Droits de l'Homme/ <i>European Court for Human Rights</i>
CPT	Comité de Prévention de la Torture/ <i>Committee for the Prevention of Torture</i>
FEDASIL	Agence Fédérale Accueil Demandeurs d'Asile (Belgique)/ <i>Federal Agency for the reception of Asylum Seekers (Belgium)</i>
FIDH	Fédération Internationale des Droits de l'Homme/ <i>International Federation of Human Rights</i>
GUE/NGL	Gauche Unitaire Européenne/Gauche Verte Nordique/ <i>Confederal group of the European United Left/ Nordic Green Left</i>
JRS	Jesuit Refugee Service
LIBE	Commission des libertés civiles, de la justice et des affaires intérieures du Parlement Européen/ <i>Committee of Civil Liberties, Justice and Home Affairs.</i>
MSF	Médecins Sans Frontières (France)
OIM/IOM	Organisation Internationale pour les Migrations/ <i>International Organisation for Migration</i>
ONU/UN	Organisation des Nations Unies/ <i>United Nations</i>
OPU	Organizace Pro Pomoc Uprchlikum, (République Tchèque)
PALOP	Pays Africains de Langue Officielle Portugaise

PIC	Pravno-Informacijski Center (Slovénie)
RDC	République Démocratique du Congo/ <i>Democratic Republic of Congo</i>
SAR	Recherche et sauvetage maritime/ <i>Search And Rescue</i>
SOLAS	Convention Internationale pour la sauvegarde de la vie en mer/ <i>Safety of Life At Sea</i>
UE/EU	Union Européenne / <i>European Union</i>
UNCLOS	Convention des Nations Unies sur le Droit de la mer/ <i>United Nation Convention on the Law Of the Sea</i>
UNHCR	Haut Commissariat des Nations Unies pour les Réfugiés/ <i>UN High Commission for the Refugees</i>

SUMMARY.

This study is a response to the European Parliament's desire to better understand and to improve the detention and reception conditions for third country nationals in closed and open centres in Europe, with special consideration for persons with special needs. It assesses the implementation of the standards outlined in part II of the Reception Conditions Directive 2003/9/CE (22/01/2003). The unique feature of this study is that it focuses on vulnerable groups and assesses whether their needs are taken into account or not and if the conditions found in Europe contribute to an improvement in, or the aggravation of, their situations of vulnerability.

Following the visits by several delegations from the European Parliament Committee on Civil Liberties to various European detention centres that have taken place since May 2005, awareness of detention and more generally of the condition of migrants in Europe has increased.

The aim of this study was to provide members of the European Parliament and Member States with more in-depth information on reception and detention conditions in the 25 countries which made up the European Union at the end of 2006.

The study was carried out by the research consultancy, Steps Consulting Social, linked to the 1997 Noble Peace Prize winning organisation Handicap International. Their expertise in the field of disability and more generally speaking the vulnerability of persons, along with the expertise of the French organisation Cimade, specialised in the defence of migrants' rights offered a fresh approach the issue of the reception and detention of migrants in Europe.

In order to carry out the research required which was neither document-based nor legal, research teams were sent out to the 25 Member States concerned. Each country was visited for a duration of several days and these visits took place with assistance from local non-governmental organisations.

I - ISSUES ADDRESSED AND CHOICES MADE

The difficulties met primarily resulted from the definition of the subject of the study in terms of the target populations.

The issues concerning foreign nationals in reception or detention centres in Europe can be seen to cover all the issues related to migration from arrival in the destination country and passage through the transit zone through to reception in centres for asylum seekers and detention prior to expulsion. The scope of the study could have cover the whole of the migration system. It was therefore necessary to make certain choices. Specially the one to avoid making the habitual amalgamation between the reception and the detention. In order to meet the aims of the study, the decision was made to work on reception and detention in parallel, and to clearly distinguish between the different legal and political principles they are based on.

Another unique aspect of this study was its approach to the concept of vulnerability. In the first place we used a definition of the concept of vulnerability that was calqued on the definition in the Reception Conditions Directive which sets out six pre-defined categories of vulnerable persons². However it soon became clear that this definition posed certain problems:

- Firstly, in terms of theory the concept of vulnerability should be widened to include elements that are not exclusively related to special needs.

² unaccompanied minors, dependent elderly persons, persons with disabilities, pregnant women, unaccompanied parents with minor children, and victims of torture, rape or any other serious form of psychological, physical or sexual violence.

- Furthermore, from a legal point of view the categories defined in the Reception Conditions Directive only apply to asylum seekers within the Member States' reception systems and not to the situation of detained foreign nationals.

The questionnaires for the field study were built around the limited categories defined by the Reception Conditions Directive but the study methodology drew out certain findings which were used to develop this definition.

A more comprehensive approach to the concept of vulnerability was proposed to the field investigators. To fully understand and **define vulnerability** we suggested taking into consideration:

- what results from the specific conditions related to people, their physical and mental conditions, and their history which are **personal factors**.
- what results from the conditions and **environmental factors** these people are subject to in their life prior to arrival and on arrival in Europe. These factors **reinforce, aggravate or even create** situations of vulnerability.

According to this conceptualisation of vulnerability three types of factors interact.

- **Risk factors**, which qualify the events experienced by people in their country (war, torture), or during their often trying journey (across sea, desert etc.).
- **Personal factors**, which qualify the state of the person in terms of gender, age, physiological condition, impairments and (in)capacity, or the existence of special needs.
- **Environmental factors** which are living conditions: reception, access to basic services (medical, legal and social) and other factors which facilitate or make life more difficult.

These different factors were identified over the course of the field studies.

Using this type of approach all migrants can be considered to be in situations of vulnerability. As the study found, people with a precarious status are exposed to systemic failings in terms of their rights. These populations are not however homogeneous and it is important to take into account their special needs and to identify the pathologies that may lead to the creation of these needs in the future.

This report propose an approach which takes the situation of migration into account as a factor opening the way to vulnerability. Furthermore, the findings in the field also drew out the factors which create or aggravate vulnerability and which result from the specific situations migrants and asylum seekers find, in the reception or detention centres.

Overall methodology

Field studies were therefore carried out in nearly 130 centres (open and closed), throughout the 25 countries, and over 250 “vulnerable” persons agreed to be interviewed. The sources of information used outside of the centres were extremely diverse: specialised or non-specialised healthcare personnel, social workers, elected officials, representatives from the centre management, state mediators, civil society representatives (national and international), international organisations etc. In each country a team consisting of a national partner and an international investigator was formed. It is the work carried out by the teams, their immersion in the issues in the various countries, and the meetings held with a large number of stakeholders working in the field which made the production of this report possible.

The study teams

The study teams were created using a mixed approach: A team of ten “international” investigators, selected on the basis of their involvement in and expertise on asylum and immigration, and/or health and disability issues, was rapidly put together. Their role was both to implement the common methodology and to focus on local issues. Each investigator was assigned the task of carrying out field studies in between one and four countries, and did so with support from national organisations.

The national organisations were selected from amongst Cimade’s local non-governmental contacts, on the basis of their involvement in issues related to migration and asylum, and in particular those pertaining to reception or detention systems in their country. They participated by helping to select the centres to visit and providing general documentation. One or several people within each organisation were assigned responsibility for the practical aspects of the field study and the visits to the centres studied. Their collaboration was precious and has considerably enriched the data contained in this report. They represent the “civil society” angle on this difficult exercise.

Institutional collaboration.

It would have been inappropriate for the study to rely solely on data provided by European civil society. The national authorities from each of the 25 Member States visited were therefore consulted. The reception we received reflected the importance of the study. All national authorities responded positively to our requests in relation to the study, they opened up their detention facilities and met with the investigators on their visits to the country to reply to the methodology questionnaires. In only one case was there a delay in obtaining authorisation.

A four phase study approach:

a/ Given the disparities between the centres in the 25 countries, we identified three main situations **in order to choose which centres to visit: arrivals, reception conditions for foreign nationals awaiting a residence permit, and removals**. Furthermore, the following indicators were taken into account when selecting the centres to visit:

- accessibility by public transport
- the total capacity of the centre
- the occurrence of serious events in the last two years
- recommendation by the national authorities
- recommendation by the local partner
- presence of vulnerable groups

b/ The directors of the centres selected were contacted in writing prior to the mission and the study was presented to them. This letter was accompanied by the first questionnaire concerning general information on the centre.

c/ In each of the centres visited, semi-structured interviews on reception conditions and vulnerable groups were carried out with:

- Centre directors.
- The migrants and asylum seekers who have been identified as being vulnerable.
- A manager from the medical or social services, or a representative from an NGO working in the centre.

d/ In addition to the visits to the centre, a certain number of unstructured interviews were conducted with the institutions and people specialised or qualified in immigration issues in the country.

A "country report" was produced following each field study, the results of which provided basic data and information to this report. The summary of each of these country reports can be found in the chapter two.

The legal framework

Understanding the situation of migrants and asylum seekers in reception or detention centres, and in particular that of vulnerable persons, is impossible without referring to a European or international legal framework. The European Union Member States are bound by the international protection systems governing human rights which consist of United Nations and Council of Europe conventions. The European legislation that applies to all Member States, sets out European policy and systems in a number of fields. Since the Amsterdam Treaty, legislation on asylum has undergone a number of changes. The Reception Conditions Directive concerning asylum seekers, is the first reference in terms of the harmonisation of reception conditions throughout the European Union. It therefore forms part of the reference framework for this study.

Legislation on detention is being drawn up and negotiations are currently underway to also include a directive on Directive on common regulations and procedures for Member-States for the return of third country nationals in an irregular situation.

Understanding these measures however does not make it possible to fully understand the issues related to asylum seekers and migrants in reception and detention centres in Europe. For example, there are no regulations governing the duration of detention. It is therefore important to refer to the concept of proportionality as set out in article 5 1) f of the European Convention on Human Rights. Furthermore as mentioned above, although European legislation on the reception of asylum seekers exists, there is no regulation of their rights in detention. The reception of migrants is not included in the body of law available to Member States. There are therefore wide gaps in the interpretation of standards related to these issues on a European scale.

The standards enacted by the Council of Europe, along with the 20 guidelines on forced return, the standards on detention laid out by the Committee for the Prevention of Torture, and the Office of the United Nations High Commissioner for Refugees guidelines complete these references on standards.

The legal framework of reference can be summarised as follows:

The reception of asylum-seekers

- The Reception Conditions Directive Council Directive 2003/9/CE adopted on 27th January 2003 which does not apply to Ireland or Denmark, constitutes the legal framework for reception. States are bound to ensure the material conditions to "guarantee a standard of living adequate for health, and to enable their subsistence", with specific measures for persons with special needs and vulnerable persons. Families should be accommodated "as far as possible" in such a way that family unity is preserved.

The Council Directive 2005/85/CE of 1st December 2005³ relating to the minimum standards concerning the procedure for granting and withdrawal of refugee status in Member States should be transposed into national law on 1st December 2007.

The detention of migrants and asylum seekers

- The International Covenant on Civil and Political rights protects “all individuals” from arbitrary detention: “No one shall be subjected to arbitrary arrest or detention. No one shall be deprived of his liberty except on such grounds, and in accordance with such procedures as are established by law”.

- The European Convention on Human Rights does not prevent the detention of migrants or asylum seekers, but their detention must be permitted by law and result from a fair and equitable procedure.

- The Asylum Procedures Directive makes provision for the detention of asylum seekers. The Office of the United Nations High Commissioner for Refugees guidelines on the detention of asylum seekers, set out the reasons for which asylum seekers may be detained: to establish their identity, verify elements of the application, if they do not have the right papers, or to protect security and public order.

The duration of detention is not set by European or international law. For the ECHR the procedure is no longer legal if not carried out with due diligence. The principle of proportionality therefore prevails. The authorities should therefore guarantee that this detention period is as short as possible. According to the International Convention on the Rights of the Child (CRC), children can be detained but this detention is subject to limitations, must be of as short a duration as possible, and should take into account the best interests of the child.

Protection of vulnerable persons in detention

The measures contained in the Reception Conditions Directive are applicable to detained asylum seekers. Therefore the protection provided for vulnerable persons also applies in detention. The detention of minors is therefore possible but the CRC lays down the principle of the best interest of the child.

In terms of families, the European Convention on Human Rights requires that private and family life are respected and family unity maintained.

For persons with disabilities the International Convention on the Rights of Persons with Disabilities provides a general framework without specifically referring to detention.

The European Convention on Human Rights also protects more generally against torture and inhumane or degrading treatment.

Quantitative data provided by the questionnaires

Using the methodology presented, and given the various situations encountered in the 25 countries visited, the data collection process made it formally possible to collect:

- 90 replies to the general information questionnaire,
- 127 replies within the framework of the interviews carried out with centre managers
- 253 replies within the framework of the interviews carried out with vulnerable persons
- 71 replies within the framework of the interviews carried out with medical and social services managers or with NGO representatives⁴.

³ JO UE of 25/02/2003

In terms of the centres, 76% were unable to provide figures on vulnerability.

Access to persons awaiting removal, illegally staying in the country, is highly restricted and these people are under-represented in the study. The statistics show that 26.5% of the population are asylum seekers, 25% are subject to a return decision.

In 75% of the answers given, the wait for a decision (for a residence permit or return decision) was over one year. A wait of three years, or even more, is not unusual. The duration of residence is limited in closed centres, but many people stay for over three months.

Only 8% of the buildings visited were purpose-built for the accommodation or detention of asylum seekers. 71 % are temporary structures.

The findings

Given the diversity in the background to the situation in each of the 25 Member States (geographical location, historical traditions in terms of reception, the number of migrants and the origins of migratory flow, etc.), and the diversity of the reception and detention systems in place, this part of the report aims to draw out the trends and findings revealed by the field study and which the investigators found particularly important due to their real or potential impact on the situation of vulnerable persons. The changeable nature of national policy on the reception and detention of migrants and asylum seekers needs to be highlighted. At the time the study was conducted, a large number of countries had just or were preparing to implement new legislative measures for foreign nationals and asylum seekers.

A Centre typology and criteria used

The typology of the centres could have been established on the basis of criteria concerning the function of the centre (identification, processing admission applications, reception and accommodation, organisation of removals or expulsions, etc.), or concerning the administrative or legal status of the foreign nationals received, accommodated or detained in the centre (asylum seekers, foreign nationals arrested on the border, illegal foreign nationals arrested within the country, etc.) However the study showed that some of the centres were multifunctional and/or were intended to receive or detain people with differing administrative and legal statuses.

The difficulties in establishing centre typology are illustrated by the heterogeneity of the **reception and accommodation systems** and the **detention and return systems for foreign nationals** (variety of designations used for different types of centres, variety of functions, variety of administrative and legal statuses for the foreign nationals detained or accommodated in each type of centre).

We therefore chose to use the criteria of open or closed centres: the foreign nationals accommodated in **open centres** can enter and leave the centres (sometimes subject to certain restrictions: need for authorisation, limited number of days absence etc.). The **closed centres** by definition deprive the foreign nationals held of their freedom.

4 In 56% of the centres, no medical / social services managers or NGO representatives were available, or this type of support is not provided in the centre.

B Closed centres

Populations present in these centres: Generally speaking detainees in these centres are illegal foreign nationals who have infringed the regulations governing entry and stay at different stages of the migratory process. Asylum seekers can also be detained in these centres.

It should be noted that there are no European standards on the protection of migrants who do not seek asylum, nor for vulnerable migrant populations. The national and international measures related to the rights of migrants or the protection of detainees therefore serve as a reference.

➤ *General findings concerning the situation in the open centres*

Authorities responsible for centres: Closed centres used to detain foreign nationals usually come under the responsibility of bodies attached to a ministry (Home Office, Justice, Immigration). The management of these centres can be delegated to regional governmental authorities or subcontracted to private companies.

Living conditions in the centres: Most centres have been set up in existing facilities which have been "recycled" to detain migrants. These facilities include former army barracks, hangars, deserted warehouses, camps and temporary buildings. Some countries use former prisons (or separate areas within penitentiary facilities). Other countries detain illegal foreign nationals in prisons or police stations, alongside common law detainees.

The grim, and sometimes dehumanising appearance of the facilities is highlighted (e.g. use of cages and containers in Italy, a former floating platform in the Netherlands).

The material and hygiene conditions are variable. Although they are generally adequate, in some of the centres visited they were described as unacceptable, or even inhumane or degrading (e.g. in Cyprus, Malta, Spain, Italy and Greece overcrowding a lack of privacy, and a lack of basic hygiene products were reported).

Application of prison regimes in the vast majority of closed centres (confinement to small cells, restrictions on exercise times, restrictions on visits, handcuffing of detainees during transfers, etc.), which leads to the criminalisation of people who have not committed any criminal offence and in the opinion of stakeholders in the field is disproportionate and inappropriate. A large number of centres are equipped with cells for solitary confinement which seems to lead to their arbitrary use.

The lack of activities observed in most of the centres is thought to contribute to the deterioration in the mental state of health of detained foreign nationals.

The isolation of detainees exacerbates this phenomenon (relationships between detainees and centres personnel are limited, there are difficulties concerning access to telephones and visiting rights). In a number of countries, the presence of NGOs and other external stakeholders in the centres is insufficient (due to lack of resources or access hindered by the authorities). The positive effectives of this presence are however, evident. They help to improve material conditions, social and legal support and act as a warning system with regard to the situation of vulnerable persons.

Duration of detention: The maximum duration of detention is governed by widely varying national regulations and varies from 32 days to 20 months. It is sometimes not limited by law and in practice in some countries it can be extended by several years. Both centres managers and external organisations working in the centres emphasised that long periods of confinement are difficult for detainees to cope with and create pathogenic situations which are aggravated by the conditions in facilities unsuited to

long stay periods, isolation, difficulties understanding procedures and a lack of visibility on the duration of confinement.

Social services, where provided, vary greatly in terms of their impact, nature and quality. The lack of, or failings in social support were found to be an additional difficulty for detainees.

The difficulties detainees have in accessing information on their rights and legal aid were frequently reported by investigators. These difficulties are related to various factors including difficulties communicating with the outside world, a lack of qualified personnel, difficulties accessing NGOs, and difficulties accessing translators and interpreters etc.). This problem accentuates the stress felt by foreign nationals due to the precariousness of their situation.

Access to healthcare: The situation varies widely between countries and centres. During the field studies the presence of people with illnesses was observed or reported in a number of centres. There is however, no systematic evaluation of the compatibility between the foreign nationals' state of health and their detention. There seem to be numerous difficulties related to healthcare and access to suitable treatments (in particular for those suffering from chronic diseases). The issue of care for people with drug or alcohol addictions was also raised on occasions.

Access to psychological care: The investigators received a constant stream of reports on the large number of people suffering from psychological disorders held in closed centres. Nearly all the stakeholders met considered that these people should not be detained. The solutions on offer for detainees with psychological or psychiatric disorders are inexistent, insufficient or inappropriate.

The pathogenic nature of confinement, was often highlighted, especially in cases of prolonged periods of detention. The deprivation of freedom and the conditions in detention centres create or aggravate psychological or psychiatric disorders.

Reported incidents: Different types of incidents and acts of violence were reported to the field study teams. Riots and acts of arson were reported in some countries; in others hunger strikes by detainees were a particular cause for concern; suicides and attempted suicides were frequently reported during the field studies. Several reports of acts of violence against detainees (physical violence, sexual abuse, beatings and verbal abuse) were made by detained foreign nationals and by associations working in the centres.

➤ *Findings concerning vulnerable populations in closed centres*

There are no measures in place on a European level for the protection of vulnerable migrants (the national and international standards in force in each country should serve as a reference).

Accompanied minors: Over the course of the study the investigators were particularly shocked by the presence of detained minors in closed detention centres in the vast majority of the States studied, of which the majority detain accompanied foreign minors. The detention of very young children was reported.

Depriving children of their freedom can however have a particularly harmful impact on these children and lead to the onset of psychological disorders in the short or long-term. Although all those interviewed over the course of the study believe that alternatives to detention should be urgently sought for families with minor children, these are very rarely used.

In the countries in which accompanied minors are not detained, the authorities often choose to detain one parent, which means family unity is not preserved.

Unaccompanied minors: It was found that some countries detain unaccompanied minors. This takes place either when the legislation of these States authorises the detention of unaccompanied minors aged over 15 or 16 years, or in violation of the legal measures in place. In some countries, the detention of unaccompanied minors was found to be a particular cause for concern (e.g. Greece, Cyprus).

Elderly persons and persons with disabilities: In most countries there are no special measures to protect these populations against detention. The closed centres cannot satisfactorily meet the special needs of these categories.

Pregnant women: Legislation and practices vary between States. The detention of pregnant women was observed or reported. Generally speaking, the only support available is, at least in theory, guaranteed access to the appropriate healthcare.

Lone parents with children are detained in similar conditions or in a specific family section.

People who have been victims of torture, or other serious forms of physical, psychological, or sexual violence: Serious failings were observed in numerous countries related to shortcomings in the system for identifying this category of persons and the lack of adapted care management (absence or lack of social workers, psychologists or psychiatrists).

➤ *Shortcomings in the system for identifying vulnerability in closed centres:*

The investigators emphasised the lack of or unsuitability of the identification procedures used for vulnerable categories. The lack of personnel capable of identifying vulnerable persons (social workers, psychologists, psychiatrists) is one of the main reasons for the failings in the identification system. These shortcomings are exacerbated by the complexity of identifying certain less visible disorders (psychological disorders, victims of human trafficking).

The definitions of “categories of vulnerable persons” are overly limited: Some categories of vulnerable persons were identified by the investigators which do not fit into the existing, pre-defined categories (transsexuals, people with drug or alcohol addictions).

“Situations of vulnerability” are not taken into account: This means **the impact of the journey and experiences of the migrants prior to their confinement**, which are often physically and psychologically trying, and during which they are exposed to diverse forms of abuse and violence (human trafficking, psychological manipulation, physical violence, rape), is not taken into account.

In the same way the **pathogenic nature of confinement in detention centres** was constantly observed throughout the field studies and was identified as having harmful consequences on the psychological state of foreign nationals. The effects on people in situations of vulnerability are both more immediate and longer lasting.

C Open centres

Populations present in these centres: The majority of people present in these centres are those having applied for international protection. Vulnerable persons who migrate (except for unaccompanied minors) but do not apply for asylum are generally excluded from the reception systems put into place by the States.

However, a growing number of people who have applied for international protection can be excluded (precarious, less protective statuses, asylum seekers under the Dublin Convention, rejected asylum seekers). In most countries, the reception capacity of these centres for asylum seekers is insufficient, many people are left to fend for themselves or have to use the emergency systems in place for the homeless.

In some countries, there are different types of open centres for asylum seekers, each of which fulfils a specific function: reception (identification, initial examination of the admission of the asylum application), reception and accommodation whilst the asylum application is processed, preparation for return (for rejected asylum seekers where attempts are made to persuade them to leave the country by grouping them together in centres where the services are deliberately minimal). In other countries asylum seekers are placed in the same centre throughout all stages of the procedure.

Authorities responsible for centres: Depending on the country, the open centres may be managed by bodies which fall under the authority of different ministries (Home Office, Social Affairs, Immigration). Sometimes, decentralised authorities or NGOs are responsible for running these centres. In a number of centres, the running of these centres is wholly or partially subcontracted to private companies.

➤ *General findings concerning the situation in the open centres*

The isolation of many centres, located in isolated areas and difficult to access, postpones the integration of asylum seekers into the reception society and makes the residents feel excluded and abandoned.

The size of the centres is another cause for concern, large centres tend to lead to the dehumanising of relationships, security problems and depression.

The material and hygiene conditions are highly variable. Residence in reception centres can last for several months or even years and the material conditions have a significant influence on the residents' quality of life. If these are unsuitable, they can lead to the deterioration in personal or family relationships, and create or aggravate situations of vulnerability (lack of privacy, overcrowding, violent incidents etc.).

There are **varying degrees of restrictions on the freedom of movement** of asylum seekers residing in open centres. If these restrictions are excessive, this encourages the withdrawal and isolation of residents who may feel they are "imprisoned" unfairly.

Activities / work: Access to work is usually limited or subject to specific conditions, and varies according to the legislation in force and the status of the centre residents. In the same way the organisation of social and integration activities is patchy. This phenomenon is sometimes aggravated by the forced dependency of residents (in some centres asylum seekers cannot prepare their own meals or work etc.), the lack of activity for those waiting for a decision on their status and suffering from stress can create psychological imbalances.

The implementation of controls to limit access to the centres sometimes means the centre is closed off from the outside world, which exacerbates the isolation of residents.

Duration of stay in the centres: Asylum seekers may have to wait for several months, or even several years, whilst their application is processed. The length of this waiting period was often reported as being a major cause of stress and anxiety which are more difficult to deal with in countries where refugee status is seldom granted. The excessive length of time it takes to process applications has been identified as contributing to disturbing the psychological balance of individuals and can lead to family and social destructuring. Children and adolescents are the worst affected.

The situation of rejected asylum seekers residing in certain "return" centres, who are "left to rot", was one of the studies most shocking findings.

Social assistance: In general terms, the importance of social monitoring in the centres was widely mentioned as it contributes to the identification of the most vulnerable persons and those suffering from psychological difficulties.

Access to rights: The situation concerning this issue is very heterogeneous. The question of assistance was found to be extremely important, as one of the centre residents' main causes for concern was their status.

Access to healthcare: The organisation of healthcare systems varies between countries and between centres (medical consultations in the centres, access to health insurance, or external medical assistance). Difficulties accessing doctors and medical products, and complaints about the quality of healthcare or difficulties communicating with medical personnel (due to a lack of interpreters) were reported. The resulting lack of trust between doctors and patients can have an impact on patient follow-up and most specifically on the identification of the victims of domestic or sexual violence.

Access to psychological care: The issue of the large number of people in the centres suffering from psychological disorders was raised on a number of occasions. These psychological problems may result from traumas experienced in the country of origin or during their journey to Europe. They may also be related to the conditions in the centres.

The responses to these people's needs in terms of follow-up and care are inconsistent. Some countries have set up systems to improve the identification of people with psychological problems. Others have increased the number of psychologists and/or psychiatrists.

In some States there are special centres intended to take in people with psychological disorders (e.g. Austria, Belgium, Denmark).

Reported incidents: A large number of suicides or attempted suicides have been reported in some countries which is an indicator of the deterioration of people's psychological state of health in the centres. Some acts of violence and/or abuse and domestic violence, which is difficult to detect, are considered or suspected to occur frequently in some centres, mainly towards children and women.

Lone women and those in precarious situations are often considered as being particularly vulnerable to different types of abuse, and the measures intended to help them are often unsatisfactory.

➤ ***Findings concerning vulnerable populations:***

Minors: The difficulties raised were often related to the lack of activities and the harmful environment in some centres (especially in larger centres). Within families the risk of "deparentalisation", with parents losing their authority over their children was reported. As far as families with children are concerned, stakeholders in the field believe that alternatives to accommodation in collective centres, especially in cases where the duration of stay is long, should be preferred.

Unaccompanied minors: One of the difficulties in terms of unaccompanied minors is that they do not always benefit from the reception systems set up specifically for them (some unaccompanied minors are detained in closed centres, and a large number of foreign minors in European Union countries are not cared for in any way and are left to fend for themselves).

As far as the specific situation of minors in the special centres set up for them, the results are highly variable. Reception conditions (material conditions, social accompaniment, etc.) vary widely, from excellent in some centres, to acceptable or unacceptable in others. In some rare cases, these conditions have been severely criticised.

One of the main concerns in relation to the care provided for unaccompanied minors is related to the fact that all support is cut off as soon as minors turn 18 years old.

Persons with disabilities, elderly persons, pregnant women: Once again the situation and the level of attention paid to these categories varied widely.

Concerning people who have been subjected to torture or other serious forms of violence: The needs in terms of psychological accompaniment are great, especially given the risk that symptoms may worsen during the stay in the centre.

Lone parents with children are usually accommodated in sections reserved for families. In a number of centres it was observed that special attention is commonly given to the situation of lone women with children. In some countries there are special centres for lone mothers (e.g. Ireland, Denmark).

Indeed, outside of the categories set out in the Reception Conditions Directive, **the issue of the situation of women in general, and lone women in particular, was frequently raised.** The necessity of paying special attention to the situation of women due to their increased vulnerability to different forms of violence and abuse, was raised on many occasions during the field studies.

The issue of domestic violence, aggravated by the lack of privacy and overcrowding that families are often subject to, was reported as being a particularly difficult problem to identify.

➤ ***Shortcomings in the system for identifying vulnerability in closed centres:***

Some of the shortcomings in the system for identifying vulnerability in asylum seekers reception centres are the result of the same type of factors as in closed centres: The absence and/or non-implementation of an adapted process for identifying vulnerability, particular difficulties in identifying certain disorders, overly limited definitions of “categories of vulnerable persons”, and not taking into account "situations of vulnerability".

The situations observed during the study were extremely diverse, both in terms of the existence of a defined procedure for identifying vulnerable persons and the resources available to meet their special needs (social workers, psychologists, equipment etc.). The efforts made to improve the process for recognising vulnerability observed by some field studies varied widely between countries.

The pathogenic nature of extended stays in centres for asylum seekers was an issue raised by a large number of stakeholders working in the centres. Waiting periods lasting for months, the lack of opportunities, the uncertainty linked to their status, the fear of forced return, and the lack of activities were widely reported during the field studies as being major causes of stress and anxiety, which may create psychological suffering or worsen existing disorders.

Analysis

If vulnerability is to be understood as a mechanism governed by the **interaction between risk factors, personal factors and environmental factors**, care for vulnerable groups should be more comprehensive. Although it is difficult to influence the **risk factors**, in terms of **personal factors**, meeting people's special needs is a priority.

In particular, decisive action should be taken concerning the **environmental factors** which aggravate existing vulnerability and can even create situations of vulnerability.

Indeed, taking into consideration the special needs of the pre-identified groups of vulnerable persons does not cover the entire **vulnerability creation process** observed in open and closed centres which receive immigrants.

Member States do of course have **a duty** to meet the special needs of the most fragile groups but they should also take into account the pathogenic process identified in many of the situations encountered. This process aggravates the fragility of certain persons and runs the risk of drawing others into a process towards the onset of pathologies.

This confirms the **need for clear and far-reaching European directives on human rights** to ensure the policy and perspectives of Member States progressively converge, and that vulnerability is taken into consideration, not by means of a set of measures for certain groups, but as a serious risk that threatens all immigrants.

Recommendations to the European institutions

In light of the realities of the situation in the field observed during this study, the European Union should take measures to guarantee that the **reception of migrants remains a priority** when considering their management.

- **A better understanding of the populations concerned.** It therefore seems that a harmonised and reliable common information system should be put into place as quickly as possible.

- **It seems to us that a comprehensive approach to vulnerability should be adopted when drawing up European standards on the reception or detention of foreign nationals.** This approach could be based on a more interactive approach to personal, risk and environmental factors. The standards should no longer solely refer to a closed list of pre-defined groups.

- **Clearly define reception and detention policies** and in particular a strict definition of reception in the European Union should be found in order to protect those received, and to prepare them for integration into the reception society.

- **A European Status for people detained** under a return decision should be defined. The conditions under which illegal staying foreign nationals or those awaiting the granting of an administrative status are detained should be regulated and alternatives to confinement included. Detention should be an exception and only used as a last resort, and should be subject to a legal ruling. The holding of common law detainees and administrative detainees in the same facilities should be banned.

- **The European references should define and limit the duration of detention so that this duration is defined and reduced** in almost all the countries concerned. **This duration should be set in terms of days and not weeks or months** as is often the case. The conditions under which people can be deprived of their freedom should be fixed within a legal framework.

- **International conventions and EU law should be rigorously applied** and State Members should be asked to report regularly on their practices. They should also be encouraged to ratify the **UN Convention on the Protection of the Rights of all Migrant Workers**.

- **The protection offered to vulnerable persons should be improved**, so that minors are never forcibly returned, that sick people are not subject to return procedures if there is no guarantee that they will receive the necessary healthcare, and that protection is offered to the victims of human trafficking and women who are alone or with children.

- **Migrating foreign nationals should be considered as potentially vulnerable persons.** The urgent nature of the situations in which they find themselves mean that any presuppositions must be called into question and the causes of disorders taken into account to the same extent as their outward symptoms. Furthermore it seems important to take into account the dangers faced on migratory routes and the increased police controls on borders as important risk factors in the vulnerability creation process.

- **The specific issue of people who cannot be removed or regularised** should be taken into account by granting a status to people who cannot be removed which gives them the right to social assistance, a work permit and freedom of movement.

- **An institutionalised relationship with civil society:** civil society stakeholders are on the frontline in the field and can propose solutions to improve the situation of foreign nationals.

- **Exchanges between States**, in particular the exchange of information on the best practices in different countries, and notably those concerning vulnerable populations.

Recommendations to Members States

- **Improve the application of people's fundamental rights:** An effective system for providing information on the rights by providing qualified interpreters and translators should be put into place and closely monitored. Access to information and impartial legal assistance should be guaranteed. States should help train legal advisors in these particular problems, guarantee the right to apply for asylum in transit zone and ban the return of unaccompanied minors.
- **Access to healthcare should be a priority** with particular attention paid to care for psychological and psychiatric disorders. People suffering from psychological difficulties should not be detained but should be placed in external specialised structures. Staff in the centres should be helped to take the psychological disorders related to confinement into account when dealing with detainees.
- **Prefer the administrative management of centres** to centres run by the police and to set up systems for the regular monitoring of these centres.
- **Information and training on the vulnerability creation process** should be provided for internal and external personnel working in the centres. They should be helped to understand the psychopathological process that operates in this type of situation.
- **The issue of ensuring that infrastructure conforms to standards should be urgently addressed.** Structures which do not conform to international and national standards should be closed or brought into line with these standards. Overcrowding should be prohibited, there should be no mixing of foreign nationals and common law detainees, or of men and women, and family unity should be maintained.
- **The centres' operating procedures should be written down** in the languages residents understand and detainees should be provided with hygiene products and a healthy diet that corresponds to their religious practices or special needs.
- **Human resources in the centres should be strengthened and accompanied,** and the independent systems for monitoring and inspecting the centres should be strengthened.
- **The presence of NGOs in the centres should become standard practice,** Member States should authorise the presence of civil society organisation in all accommodation facilities for illegally staying foreign nationals and asylum seekers.
- **The confinement of minors should be banned.** The best interests of the child should form the basis of any decision made about that child. Depriving a child of their freedom can in no way be in their best interests, other practices can be used and have already been implemented in some countries. Furthermore, age testing for minors should be improved. This should not be used systematically and should be carried out by experienced professionals (ban bone age testing).
- **A mediating body should be set up** to intervene in the many situations which are difficult on a human level and for which standardised administrative procedures are inappropriate.

Recommendations to Operators

The different organisations within a country who assist people seeking asylum or residence should **strengthen their system for coordinating their activities** in order for their voice to be heard by national authorities.

Information and training on the vulnerability creation process should be provided for civil society stakeholders working in the centres. They should also be helped to understand the psycho-pathological process that operates in this type of situation.

The management bodies of civil society institutions working in the centres should **provide psychological support for those working in the centres** including debriefing and supervision procedures.

INTRODUCTION

Though in recent times the issue of immigration has increasingly found its way onto the front pages of the newspapers and is considered to be a modern problem, it is far from being a new phenomenon. Every modern European country has a long history of waves of population migration, absorbed more or less successfully into the country, or of emigration to other countries or continents. This migratory movement is both intra-European and also from other far flung places, from the Northern steppe to the arid plains of the South. People leave their countries and others settle elsewhere, each of them with a different story, but all of them leaving their mark on what we now call our European culture. This melting pot of people and their cultures has inspired numerous authors, researchers and academics as well as artists, writers, musicians and film-makers.

To carry out a study and produce a report on the situation of migrants and asylum seekers in reception and detention centres in the European Union today is, in some ways, to work amidst these people's stories and their futures, it involves immersion in not only a topical issue but also in people's culture and history through a multitude of personal and anonymous stories. This work also involved recreating the paths that have brought these people here both in the context of the history of the European Union, but also in the context of the individual history of each Member State and the wider picture drawn by globalisation, in which these men and women are often seen as very small figures indeed.

Though the current trend is towards the immediate and free movement of goods, information and ideas, the movement of persons is another matter. Indeed, today everything moves freely, information, money, goods, revolutions. At the same time the movement of persons is increasingly restricted and subject to conditions, in particular for some categories of populations trapped on the waiting list to a better or safer world. However the lack of understanding or consideration of the wealth gap, the unfair distribution of healthcare, education and rights for the most vulnerable, or even of rights full stop, mean that the risk of an unending migratory flow of people fleeing the darkest regions of our planet, devastated today by conflict and tomorrow by ecological disasters, may be unavoidable. Inevitably men and women will seek refuge in what they consider to be a haven of peace, a place where people have the right to live with dignity. This Europe, that was built to ensure peace and has resolutely evolved into an economic area, cannot shirk its responsibility to provide the essential hospitality that its laws and values impose and which costs relatively little.

It is perhaps this term "hospitality" around which the difficulties and ambiguities felt by Europe towards outsiders are focused. "Hospitality" has two meanings. On the one hand it speaks about the host (*hostis*), the hospice, the hotel, the place of welcome, compassion and rest. On the other it is the root of the word hostile (*hostilis*), hostages, the dangerous outsider, fear of others.

Within the vast legal framework of the European Union we can see this double meaning in action. A humanist reception strategy is being built whilst on the horizon an irrational fear of corruption by what is other, different, or foreign shows its face. The gap between, on the one hand good-willed reception and respect for the law, and on the other mistrust and rejection, show to what extent this hospitality can be harmed depending on which side becomes dominant. In terms of this report, the overall issue is not to question immigration policy as such, but rather, by concentrating on the reception of migrants and the situation of the most vulnerable populations, to remember the overriding need to respect the rights of men and women as agreed on by the European Union over half a century ago.

Reports which favour a legal approach to the issue have already been produced, others, resulting from parliamentary missions, have demonstrated the general failings in terms of the treatment of migrants. For this report we have chosen a multidisciplinary approach, based on studies carried out in the field. An orthodox exhaustive methodology would have meant using a disproportionate amount of time and resources. It therefore has been preferred to adopt a modular approach in order to take into account the

necessarily different situations in the twenty-five countries that make up the European Union, whilst affording the possibility to compare and contrast the findings and conclusions.

Reminder of the commissioning, issues and difficulties of the study

The European Union Member States are seen as a space of economic well-being and legal protection and are therefore highly attractive. Although European country nationals benefit from the enormous privilege of free movement, it is quite another story for the large number of migrants and asylum seekers who come to Europe seeking refuge, safety, healthcare and/or a better economic situation.

When the study was commissioned at the end of 2006, Romania and Bulgaria had not yet joined the European Union so the study framework only included twenty-five countries. Even now however, a certain number of migrants in the 2006 European Union countries are nationals from these two countries. Bulgaria and Romania are primarily departure or transit countries rather than final destinations for migrants. National measures for dealing with migrants and asylum seekers in these countries have yet to be put into place.

The European Parliament is looking out to find out more about practices for dealing with persons with special needs. In the past, visits by the LIBE committee delegation, have identified failures, but few comprehensive and comparative studies have been carried out. The aim of the study was to assess, within the framework of the Reception Conditions Directive 2003/9/CE of 221/01/2003, the implementation of the standards set out in part II of the directive, in light of observations in the field. The study was commissioned in order to assess reception conditions for migrants, and in particular, for groups of vulnerable persons, in order to make recommendations concerning specific measures for dealing with these people.

Finally, this report follows on from a series of visits made by the LIBE committee delegation, which resulted in the production of a number of reports and even two resolutions.

- Visit by the GUE/NGL delegation to Lampedusa in May 2005.
- Visit by the LIBE delegation to Lampedusa in September 2005.
- Visit by the LIBE delegation to Ceuta and Melilla in September 2005.
- Visit by the GUE/NGL delegation to Paris, France in February 2006.
- Visit by the LIBE delegation to Malta in March 2006.
- Visit by the LIBE delegation to the Canary Islands in April 2006.
- Visit by the LIBE delegation to the islands of Tenerife and Fuertaventura in June 2006.
- Visit by the LIBE delegation to Greece in July 2007.
- Visit by the LIBE delegation to Belgium in September/October 2007.

In both the reports and the resolutions produced, a number of conclusions and recommendations were made concerning the conditions for migrants in detention centres and some reception centres, as well as some aspects of immigration policy: for example the need for solidarity between European Union countries and the smaller entry countries, notably Malta; the need to improve the unacceptable living conditions in certain holding areas; the need to systematically favour reception in open centres rather than holding centres; the need to rethink the Dublin II regulation and to evaluate the deleterious effects of its application. Given the relevance of the observations made by the LIBE delegations during their previous missions, it is no surprise that our conclusions and recommendations overlap.

Difficulties met

We met with a certain number of difficulties in producing this report. These mainly concerned the definition of the focus of the study in terms of the target population and the target situations. We also met to a lesser extent with practical difficulties in carrying out the study although.

The subject of the study concerns “third country nationals”: therefore all nationalities are targeted. The people concerned by the study are located in "reception, detention and transit centres". This means the study concerns people in situations of detention or reception and therefore in radically different migration situations. It is therefore important to be prudent when dealing with the concepts of

reception and detention which do not have the same objective. Mixing the two means that reception will not be considered as an opening up, but will be confused with the repression related to detention.

Furthermore, the European legislation currently in force only concern the reception of asylum seekers. No reference is made to the measures in place for the reception of migrants. It would therefore seem that the only possibility for migrants is their detention. The reception centres studied were primarily reception centres for asylum seekers. The detention centres detain asylum seekers and illegal migrants.

The study focussed specifically on “persons with special needs” and “vulnerable groups”. The reference terms use two formulations to define the target population: persons with special needs and vulnerable groups. These cover six categories of persons: “unaccompanied minors, dependent elderly persons, persons with disabilities, pregnant women, unaccompanied parents with minor children, and victims of torture, rape or any other serious form of psychological, physical or sexual violence”.

One of the difficulties is to differentiate between vulnerable persons and persons with special needs. Different wording is used in the terms of reference and may lead to difficulties. Indeed identifying a person with special needs can (theoretically) be a simple process as their identification is based on an observed need: pregnant women, unaccompanied minor etc. A vulnerable person is a person with special needs which are not necessarily visible and may be revealed by reception or detention conditions. This semantic difficulty led us to make a special effort to define and clarify the concept used to describe and qualify situations of vulnerability.

Finally, in order to study the conditions in detention and reception centres, a wider study into reception and immigration systems had to be carried out. The country reports therefore included a more general assessment of the overall situation and provide information on national asylum and immigration systems.

Another difficulty met whilst carrying out the study was the lack of precise boundaries concerning the system to be studied. Observing migration issues in twenty-five countries was not easy. Although the reports from each country aim to provide an overall picture of the systems in place, some populations were excluded from the study mechanism such as legal migrants living in hostels or those who are free and living in informal structures etc. Our study cannot claim to cover the diversity of these situations and only a long-term, longitudinal study could do so. The initial provision of a more precise framework would have facilitated our work.

In the same way we met with difficulties, due to the lack of a system of standards for the situations encountered, applicable on a European level. Although the Reception Conditions Directive has theoretically been integrated into the countries national legislation, except in two countries, Ireland and Denmark, the Directive on Common Standards for Return is still being drawn up and has not yet been voted on. In terms of detention in particular, we will see to what extent the issue of duration which has a major influence on migrants' situations and their vulnerability. The references to be used were the legal frameworks and international conventions, such as the European Convention on Human Rights (some of which, such as that on the Protection of the Rights of All Migrant Workers and Members of Their Families have not been ratified by the European Union Member States).

It was therefore a difficult process to fully and clearly understand each of these different situations and then compare practices between different countries. However these situations are complex and multifactorial which means that different considerations need to be taken account to differentiate between migrants or asylum seekers, the different legal frameworks applied, the specific practices in each Member States, and finally the different definitions of a person in a vulnerable situation.

Choices made

A number of choices had to be made in order to carry out this study, given the difficulties posed by its commissioning. Due to the diversity of the systems in place it was difficult to define the typology of the centres. We therefore chose to focus on the distinction between open and closed centres as this has a clear impact on the vulnerable persons at the heart of this study.

As far as the concept of vulnerability is concerned, the study was initially designed on the basis of the pre-defined categories of vulnerable persons as set out in the Reception Conditions Directive⁵.

The study therefore looked at both vulnerable persons' situations but also factors which create or aggravate vulnerability. For example, the study showed that a number of vulnerable persons do not fit into the categories defined in the terms of reference despite being genuinely exposed to serious difficulties. These people are not taken into account in the measures contained in the Reception Conditions Directive.

In order to carry out the study, we chose to visit reception and detention centres in Member States, in order to observe the conditions for third country nationals. We were therefore obliged to request authorisation to enter both the open and closed centres. We chose to request this entry authorisation from Member States prior to our visit, and to let the national authorities make their decision. There were no problems obtaining entry to the open centres, with one exception. It should be noted that in **all countries**, with an official introduction, **access to all closed detention centres was granted to our study team**. In one case it was necessary to persist, reiterate our request and overcome hindrance but in the end we received the necessary authorisations. In some countries, working on this study allowed national partners access to places they have previously been unable to visit. This in itself is one concrete result of the study.

A legal framework, reporting on the existing international standards applicable to detention, is available as part of this report. Although the reception conditions for asylum seekers are governed by the Reception Conditions Directive which all Member States except for Denmark are obliged to apply, and which also includes measures concerning vulnerable persons, there is no European legal framework for detention. In order to draw up guidelines concerning the standards applied on a national level both the international and, where applicable, national measures in place should be taken into account. The study team were therefore asked to list the national standards for the protection of vulnerable persons or groups in reception or detention situations.

The field studies aimed to:

- Asses the overall situation for migrants and asylum seekers in reception and detention situations and in particular the legal position and practices of Member States with regards to vulnerable persons and to explain the difficulties met in terms of exhaustiveness.
- Assess the situation of vulnerable persons when seeking asylum, in relation to the provisions made in the Reception Conditions Directive. Assess the situation of vulnerable persons who are not seeking asylum and who are held in detention, for this the unique reference was the relevant international standards.

⁵ unaccompanied minors, dependent elderly persons, persons with disabilities, pregnant women, unaccompanied parents with minor children, and victims of torture, rape or any other serious form of psychological, physical or sexual violence.

- Debate and re-define the concept of vulnerability as some categories of vulnerable persons are not accounted for in the European directives (which themselves do not concern migrants or rejected asylum seekers).

Report structure

Following the introduction and prior to the presentation of the data collected, methodology and contextual framework are presented in a first chapter containing:

- A vulnerability reference and explanatory framework to ensure a common understanding of the concept and a homogenous approach to groups considered as vulnerable. This aspect is dealt with in the introduction and was shared with all members of the study team to ensure the successful completion of the study as commissioned.
- The methodology selected. It describes how the field studies were carried out, the collaboration with national partners, and the people met with in the different centres and from outside organisations and bodies. It also presents the specifications, the data collection methods, the main difficulties encountered whilst carrying out the study, and a general outline of the information and results collected including results given in figures.
- The applicable legal framework, laws, international conventions and European directives.

The second chapter contains the “Field Study Summaries” based on the twenty-five country reports written by the study teams and enriched by contributions from national partners. Each summary is accompanied by a map showing the locations of centres in each country, producing using the data collected in the field.

The third chapter covers the findings and conclusions drawn from the analysis of the country reports, along with the results of the study. The concrete situations observed in the field illustrate the findings made in this chapter.

The fourth chapter is comprised of the analysis and recommendations made as a result of the findings and conclusions drawn thanks to the dual data collection method used. These are intended to provide both the LIBE committee with information to inform the drawing up of future European legislation, and to provide State Members and other stakeholders with the information required to make the appropriate modifications.

CHAPTER 1 – FRAME AND METHODOLOGY

1.1 VULNERABLE GROUPS, DEFINITION AND CONCEPTS

The need to define a common reference framework concerning the concept of vulnerability and vulnerable groups became apparent to the study team. Prior to carrying out the field missions, we worked to ensure a common understanding of the concepts and the definition of the criteria which were then used to identify vulnerable groups.

The classification of vulnerable persons, as provided in the terms of reference, was used with the aim of verifying whether this classification is homogenous throughout the Member States, and whether it is sufficient to cover all the situations encountered. This covers the six following categories, sometimes known as persons with special needs:

- unaccompanied minors
- dependent elderly persons
- persons in a disabling situation
- pregnant women
- unaccompanied parents with children
- persons affected by trauma (torture, rape, psychological, physical and sexual violence)

1.1.1 - DEFINITION

What the dictionary tells us:

“Vulnerable: the Latin origins of this word are clear, *vulnus*, *vulneris*, is a word associated with violence, which evokes a blow, an injury or a wound. A bloody word related to war and violent death etc. Vulnerable therefore signifies “what can be injured or killed”. ...but modern vulnerability is no longer the exclusive privilege of the warrior, as human combat is universal: diseases, assault, stress, hostile forces and their formidable weapons affect the mental and physical health of each of us, and daily life is a struggle. This word of war reminds us of this, through its latin root, in this rich language which already evoked the notion of sensitivity to the blows of fate.”(Alain Rey in the “*Dictionnaire historique de la langue française*” Le Robert 1998.

1.1.2 - THE CONCEPT OF A SITUATION OF VULNERABILITY

In this definition of the word we can see the importance of outside factors to this concept of vulnerability. In order to understand more precisely and to define vulnerability, in particular that of migrants, we chose to use the concepts most recently used in the field of disabling situations which differentiate between:

- what results from the specific conditions related to people, their physical and mental conditions, and their history which are personal factors.
- what results from the conditions and environmental factors these people are subject to in their life prior to arrival but also during their entry into one of the European Union Member States. Some of these factors are risk factors exposing the person to random dangers, others are environmental conditions which certainly play a role in creating situations of vulnerability.

Habitually a certain number of categories of vulnerable persons are defined exclusively on the basis of their personal characteristics. In this case the report concerns persons with special needs, who are certainly in a situation of vulnerability, and are always more exposed than others to outside difficulties. It is therefore necessary to also determine the external factors which reinforce, aggravate or even create these situations of vulnerability.

For example, a female migrant or asylum seeker who is pregnant has clearly identifiable special needs. If these needs are taken into consideration, this person's vulnerability can be reduced. On the other hand, an isolated woman's special needs do not make it possible to identify her as vulnerable but the conditions of her arrival and detention may place her in a situation of vulnerability.

According to this holistic understanding of the concept of vulnerability, there are three groups of factors which interact with each other.

- **Risk factors**

In the diagram below, **risk factors** denote the events experienced by the people in question, in this case migrants, prior to their arrival in European Union Member States. These may consist of the living conditions these people are subject to in their country of origin (war, economic disasters etc.), or conditions experienced during migration, often very trying (sea or desert crossings, exploitation by traffickers etc.).

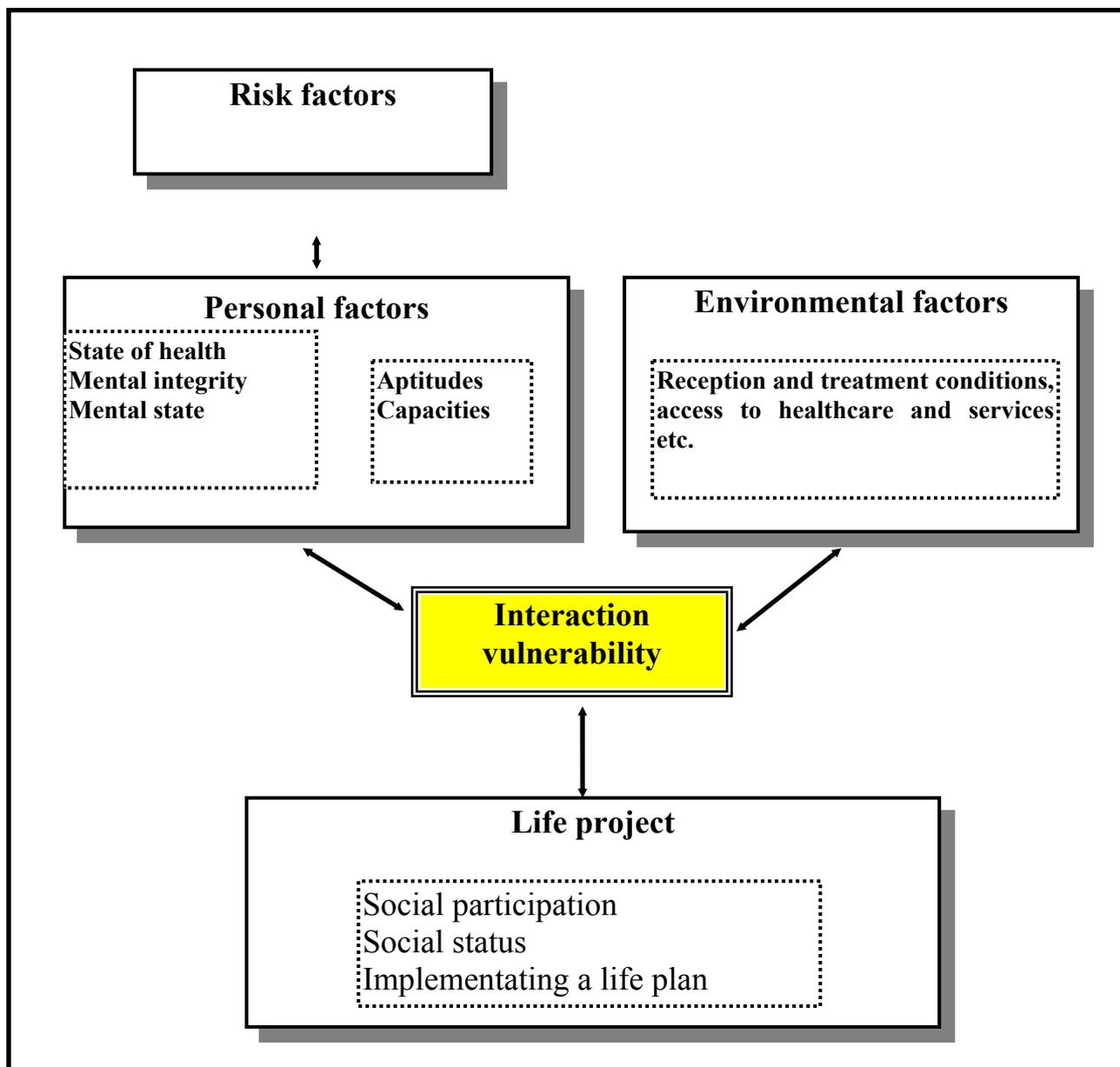
- **Personal factors**

These concern people's special and specific condition: gender, age, physical conditions, existence of an impairment which limits their aptitudes, but also the existence of special needs as regards the treatment of this impairment. The identification of these personal factors is one way to respond to people's special needs in order to reduce their vulnerability.

- **Environmental factors**

These are the environmental conditions and factors experienced by these people: reception conditions, accommodation, access to primary services, in particular in terms of medical, legal and social needs, language and access to interpreters, climate etc. all of which can make life easier or more difficult for these people and can block them in implementing their life project.

Generic human development model applied to vulnerability



For example:

- An isolated woman fleeing her country is subject to a number of *risks* when migrating, risk of assault, sexual exploitation
- Separation from their family determines their *personal factors* for vulnerability such as mental weakness, material dependency etc.
- The reception conditions, accommodation in a private room, access or not to mental healthcare and social services, are all *environmental factors* which interact directly with the personal factors to determine their vulnerability.

Conducting field studies, questionnaires and interviews help to identify these different factors.

1.1.3 - MIGRATION AND VULNERABILITY

One of the main challenges with this work, based on the use of this conceptual approach, is that one can consider that the majority of migrants from countries outside of the European Union to be in a vulnerable situation, as most of them are unable to implement their life plan or set up home. These people have a precarious status and are exposed to a wide range of human rights violations as we were able to observe when carrying out our field studies.

Paradoxically, when they leave their country of origin, these migrants are rarely the most vulnerable in their own society, except in the case of asylum seekers. Migration requires a certain economic capacity, a network of social relationships and a certain level of education and knowledge. Most of the people living in very difficult, or even desperate, conditions do not have these capacities.

Migrant populations cannot, however, be considered as one homogenous group. Although the majority of these people experience difficult and even inhumane situations, some are better equipped than others as they are stronger, and physically and psychologically more resilient. The special needs of the most exposed groups must be taken into account and others who may become more exposed should be protected. For these people, it is important that the different factors which positively or negatively influence the reception and treatment conditions in open and closed centres are identified and taken into account, so that their vulnerability is reduced.

On an international level, an interest in situations of vulnerability has emerged and progressed significantly through the thought about complex emergencies that took place during the 1990s, which led to the identification of the close relationship between humanitarian aid and the need to respect human rights in situations of conflict and political violence.

The need to approach humanitarian aid from a human rights perspective means that humanitarian action has been included in the idea of "protection", but it has also made it possible to analyse in detail the situation of people considered to be "particularly vulnerable".

Within the international framework, "vulnerable" people are defined as those who are not in a position to defend their fundamental rights, due to a temporary or permanent state of "weakness". This situation is determined by different physical and mental personal factors (infirmary, disability, age, gender, pregnancy, mental illness, trauma, stress etc.), or cultural factors (no language skills, illiteracy, member of a culture that is discriminated against, lack of education, social, legal or political status) and reinforced by environmental factors (accommodation, access to healthcare, isolation etc.).

According to this international definition, mainly used in refugee camps by the United Nations High Commission for Refugees (HCR), "vulnerable groups" are defined using a similar method to the generic model we have applied to vulnerability.

According to the International Organization for Migration (IOM), migrants are "increasingly used as scapegoats for all kinds of problems in European society, notably unemployment, crime, drugs and even terrorism;"

As remarked by Mrs Gabriela Rodriguez Pizarro, Special Rapporteur on human rights for migrants at the United Nation, this is particularly true in the large number of cases of illegal migrants with no official status, and even more so for the victims of human trafficking, whose situation makes them most vulnerable to human rights violations.

All migrants have something in common: they live, and sometimes work, in a country of which they are not a citizen. They have to rise to the challenge of adapting to a society that is not their own and rejects them. Furthermore, as a direct consequence of their status as "non citizens", they have less rights than national citizens.

According to the UN, each year in the European Union and some Central European countries, some 300,000 to 600,000 women fall victim to trafficking.

Furthermore, migrants do not always have access to the protection traditionally offered by the official institutions or specific legal measures. For example, workers rights are defended by trade unions, but they do not systematically include migrants in their activities.

Migrants are in fact a group that is highly exposed to situations of vulnerability. They often suffer from different forms of exploitation, loss of dignity and serious violations of human rights⁶.

➤ **Illegal Immigration**

Illegal immigrants are victims twice over. They leave difficult, sometimes unbearable, conditions in their country of origin, only to be faced with serious failings in terms of reception and the management of immigration policy in transit or final destination countries. The analysis of the new configuration of illegal immigration in Europe aims to paint an overall picture of the issue.

It looks at complex issues such as illegal and/or clandestine immigration, asylum applications and rejections, or the trafficking of human beings in its various forms⁷.

Unskilled workers who make up the majority of immigrants, are more vulnerable to rights violations, especially when they work in the informal employment sector (as household staff or agricultural workers etc.). The victims of trafficking and exploitation, caught up in clandestine networks, are highly exposed to situations of vulnerability.

➤ **Women and human trafficking**

Women are doubly vulnerable due to the lack of focus on their situation and the high risk of sexual exploitation.

The clandestine movement of immigrants, often undertaken in dangerous conditions, implies that migrants have consented to this form of “smuggling”. However, in the case of human trafficking, victims have not consented, or if they have initially consented, this consent was obtained by traffickers under false pretences or using abusive or coercive action.

Another major difference between human trafficking and clandestine immigration is that migrants pay for the latter on arrival at their destination. On the other hand, trafficking is the continual exploitation of victims with the aim of generating illegal profits. Victims of trafficking are generally more badly affected and have a greater need for protection⁸. Although trafficking and the clandestine movement of persons are two different phenomena, they sometimes interlink and overlap.

⁶ International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families – UN 1999-2003

⁷ Stéphane de Tapia - *Les nouvelles configurations de la migration irrégulière en Europe* (2004)

⁸ What if the victim consents? Can children consent? – UNODC, 2006

The political reaction to trafficking is inappropriately hidden in the overall response by Western countries to the phenomenon of illegal immigration and is influenced by "the overriding restrictive approach to immigration" ⁹

The result for the victims of human trafficking is that they are often identified as illegal immigrants and therefore expelled. At the World Economic Forum in Davos in January 2001, Mary Robinson¹⁰, expressed her concerns regarding "victims of trafficking, treated as criminals due to their illegal presence over which they have no control".

The story often begins with a simple offer of clandestine passage, but along the way unexplained costs are added to the price initially agreed, identification documents are withheld and victims find themselves caught in a trap and forced to work to pay of these debts¹¹.

Research into the reasons for women's exacerbated vulnerability to human trafficking has shown that illiteracy, the sexual discrimination inherent to some traditions and costumes, the abuse of women and young girls, and women and young girl's poor economic status all play a part, and favour increased vulnerability.

➤ **Dangerous journeys: a vulnerability exposure factor**

Vulnerability is often created or aggravated by experiences people go through during their journey or their residence in transit countries prior to arriving in European countries. Whatever the baseline situation (personal vulnerability or not), the different migratory journeys undertaken to seek asylum in Europe are now well-known. The migratory routes seem to be increasingly dangerous. The number of people who die in the African deserts, Turkish mountains, the Mediterranean and many other places are evidence of this¹².

These journeys not only cost lives but can also cause serious mental traumas. It has been impossible to assess the impact of these traumas within the framework of this study, it has however been observed on several occasions by the study teams, in the interviews carried out in the centres visited, and in particular in European Union Member States where a large number of migrants who arrive by sea are taken in and detained (Malta, Cyprus, Greece, Italy, and Spain), and through the people met in the detention centres.

Sea voyages which can last several days on makeshift vessels, with no provisions or steering, often end in a shipwreck, a sea rescue, expulsion or a landing, and are particularly traumatic. Several of the people met within the context of this study revealed that they had lost one or more friends or family members during their journey. Fear, hunger and anxiety, often followed by a period of detention are all factors which create vulnerability which marks peoples lives and minds for a long time.

The lack of concern about immigrants' mental health, the lack of consideration of the cultural characteristics of immigrants, and the restriction of criteria, further increase this vulnerability.

Since 2003 MSF (Doctors Without Borders) has been carrying out medical and humanitarian work in Morocco with immigrants from Sub-Saharan Africa in extremely precarious situations, with the aim of

⁹ Joanna Apap, Peter Cullen and Felicita Medved - Counteracting Human Trafficking: Protecting the Victims of Trafficking - Centre for European Studies (CEPS), 2002(?)

¹⁰ High Commission for Human Rights and General Secretary to the World Conference against racism, racial discrimination, xenophobia and intolerance

¹¹ Laura Schlapkohl - Human Trafficking and the Common European Asylum System. Victim protection and assistance in the European Union. Tufts University, 2006

¹² See the list of deaths at the European borders produced by the NGO Fortress Europe.

improving their living conditions. Over the 24 month period, MSF conducted 9,350 medical examinations which mainly concerned the treatment and prevention of infectious diseases which could become epidemic. Prevention and curative treatments were offered to most groups of immigrants. Between April 2003 and May 2005 2,193 patients were identified as being victims of violence over the course of the 9,350 appointments. This means that around 23.5% of the people seen are direct or indirect victims of acts of violence.

Various types of violence affect these migrants. The physical consequences range from serious trauma cases to bullet wounds, dog bites, injuries from fights and sexual violence. Some victims died from their injuries. Some patients claimed to have been subjected to physical abuse as well as humiliation and cruel treatment during their detention or flight from security forces¹³.

1.2 GENERAL METHODOLOGY

1.2.1 - THE ORGANISATION OF THE MISSIONS

The study was conducted in an almost **exhaustive** manner as far as the description of the existing centres is concerned but **selectively** in terms of the choice of places visited and people questioned.

There are around 220 detention centres in Europe, excluding informal structures. Given the limitations in terms of time and resources the data collection work aimed not to carry out an exhaustive study in all existing centres, but rather to carry out a study in each country in the three different types of facilities based on a pre-selected list of centres to visit:

- closed detention centres
- transit centres
- open centres

The data collected was completed with more general information on the situation in each country produced mainly using information provided by national partners. As a general rule, reports produced by national organisations but also by different networks, and of course our local partners were analysed and studied prior to carrying out the field missions. .

A certain number of territories and regions form part of the European Union but are geographically distant and isolated (Guyana, Canary Islands, Mayotte etc.) These are important gateways for migrants who often come from bordering countries.

Extending the study to these territories raised issues of resources and time constraints. We have however compiled information concerning these zones from information provided by networks of local partners.

There are some detention centres located outside of the European Union. The extraterritoriality of these facilities presented a legal and technical limit which made it impossible for us to collect data on them.

Prior to carrying out the field missions, work was carried out to produce a common study methodology, including a list of people to meet with, and interview and questionnaire guides. These methodological aspects were validated as proposed by the European Parliament (see questionnaire in appendix).

13 Médecins Sans Frontières - Violence and immigration - Report on illegal sub-Saharan immigrants in Morocco. 2006

1.2.3 - THE STUDY TEAMS

The studies in the field and in the 25 countries were carried out between April and August 2007. The study teams for each of the 25 countries were made up of one international investigator and one national partner, based on the list of partners provided in the technical proposal.

The work involved was divided up between one person coming in from the outside, taking a fresh look at the issues, often from the perspective of another European country, and who was responsible for ensuring the common methodology was followed, and a second person from a local NGO, specialised in the issues involved, and who has practical experience of asylum and immigration issues.

This work was made possible thanks to the knowledge and understanding of local associations and the analysis of reports already produced in the different countries. It also involved meeting with a large number of people working in and around the centres, on this issue (activists, politicians, journalists, lawyers, field workers and clinicians) which ensured the diversity and quality of the information collected. It is difficult to put a figure on the number of people met, as some meetings involved a large number of people. Each field study summary contains a list of the people met with.

An international team of ten investigators was assembled in February. The investigators were selected so as to ensure diversity and expertise either in the field of immigration, detention or asylum in Europe, or the field of disability and vulnerability. Their professional profiles are extremely diverse and complementary which ensured different approaches would be considered: three legal professionals, two sociologists, a doctor, a physiotherapist, a geographer (see list in appendix), all with varying professional skills but all with experience of working on international projects.

The role of the international investigators was to participate in finalising the study methodology in the country and ensuring its application by training local investigators in the country, and to provide technical support during the data collection and processing phases.

They were also responsible for adapting the study schedule and organising how the study would take place in the field along with our partner associations, as well as outlining the operating procedures, providing accreditation letters from the European Parliament, facilitating meetings with different people, writing up the country report and where necessary participating in research should further information be required.

The local investigators were selected from staff members in national non-governmental organisations working to support asylum seekers and migrants in Europe. The selection criteria were primarily their involvement in the issue of open and closed centres, and their access to these centres. In the vast majority of countries, the local partners were highly motivated and participated fully in carrying out this work.

The local personnel were responsible for collecting the information required to fully understand the situation in their country. They also prepared the ground for the field work carried out by making appointments, helping to obtain authorisations, and making logistic preparations. Along with the international investigators, they were also in charge of conducting interviews and completing questionnaires. Their work was crucial to the success of this study.

In many countries it would have been impossible to carry out our mission or to obtain the high quality, relevant information we were able to access without them.

In most countries the practitioners in the field who work in close proximity with migrants, liaised with national humanitarian organisations to carry out this work.

As well as these study teams, a group of writers and coordinators compiled the “country reports” providing both points of comparison between the countries and the points in common. They also provided the objectivity required to draw conclusions and make recommendations.

1.2.4 - INSTITUTIONAL COLLABORATION AND LOCAL PARTNERS

The partners were part of a panel made up of:

- Organisations with links to the church: Diakonie in Austria, Jesuit Refugee Service in Ireland and Portugal, the Christian Council in Sweden, the Protestant Church in Holland.
- Human rights organisations: Kisa in Cyprus, Danish Institute for Human Rights in Denmark, Antigone in Greece, Lithuanina Human Rights League in Lithuania, Halina Niec Human rights association in Poland, and the Helsinki Committee in Hungary.
- Associations for the rights of migrants and asylum seekers: CIMADE in France, OPU in the Czech Republic, the Humanitarian Council in Slovakia, ASTI in Luxembourg, The Latvian Foreigners Association in Latvia, Association of Visitors of Immigration Detainees in Great Britain, Refugee Advice Center in Finland, the Asylum Seekers Assistance Centre in Spain, Coordination, Initiative for Asylum Seekers and Foreigners (CIRE) in Belgium, ProAsyl in Germany.
- Generalists such as the ARCI in Italy and the Jaan Tonissoni Institute in Estonia.

Each organisation designated one or more people who were responsible for the monitoring, logistical organisation and the carrying out of the field study alongside an international investigator.

These organisations participated in suggesting which centres to visit but also in providing general documentation on the country concerned. The investigators proposed by the organisations had very diverse profiles. For example, ARCI provided study personnel in each centre, whereas in Malta, the study was prepared by a freelance consultant.

In most of the countries where the studies took place we requested authorisation from the relevant authorities to visit the facilities and also to ensure cooperation from the personnel, centre management and administrative structures.

In most countries we were well received and the people we met with worked constructively with us, often far beyond our expectations. It is also thanks to all these people involved in the day-to-day life of the centres in their countries, that we were able to successfully complete the study.

1.2.5 - A THREE PHASED APPROACH:

- **Contact was made with the centres in writing prior to the field mission.**

An introductory letter was sent to the national authorities and then to the centre directors.

Enclosed with the letter to the directors was a two page questionnaire on:

- the geographic location of the centre
- the centre's capacity
- statistical data on the socio-demographic characteristics of the third country nationals subject to reception or expulsion procedures in 2006
- data related to the situation of vulnerable persons in the centre according to the different types of vulnerability retained.

Semi-structured interviews

Referred to European standards (confer directives) related to the reception conditions and the identification of vulnerable groups with:

- The administrative director of the centre, including questions on the legal guidelines for the identification and treatment of vulnerable persons, detailing the reception conditions, specific accommodation, treatment and follow-up.
- The migrants and asylum seekers who have been identified as being vulnerable.
- A manager from the medical or social services, or a representative of an NGO working in the centre.

For these interviews, three questionnaires/interview guides were drawn up, and were translated into the different European Union languages.

Non-structured interviews

- Aimed to better describe the individual situations encountered by migrants and the personnel.

1.2.6 - SELECTING THE CENTRES TO VISIT

Given the disparities between the centres in the 25 countries, we identified three main situations: **arrivals, reception conditions for foreign nationals awaiting a residence permit, and expulsions**, each of which corresponds to a specific type of facility:

- holding areas or transit zones for people arriving in a country
- reception centres for asylum-seekers present in the country
- detention centres or facilities for illegal immigrants awaiting expulsion.

The centres to be visited were selected in liaison with the local or national partner, with the following indicators taken into account:

- accessibility by public transport (inaccessibility increased the likelihood of selection)
- the total capacity of the centre (high capacity increased the likelihood of selection)
- occurrence of serious events in the last two years (such as suicide attempts, rapes, acts of violence leading to injury or death, fires etc.)

- recommendation by the national authorities
- recommendation by the local partner
- presence of vulnerable groups

Once the centre was selected and authorisation for the visit granted by the authorities, the local partner and international investigator prepared the visits.

1.2.7 - DATA COLLECTION

Documents including the regulatory texts, laws, national or European measures pertaining to the issue, studies and reports were gathered together to produce a written summary. Further document based research was carried out by partners in the field, in particular concerning the institution and legal measures in place in the different countries studied.

Liaison between the teams and the harmonisation of the studies carried out was undertaken by a team at STEPS Consulting Social, who were responsible for implementing the methodology and ensuring it was followed, and for compiling the data collected in order to produce this report.

To ensure the proper use of the data collected, strict criteria governing the confidentiality of the data collected and the anonymity of the people questioned, as well as the conformity of the database management to European legal standards, were put into place.

The software programme SPHINX was used to create a database and then use it.

An introductory document was produced by the European Parliament to prove the work was official and to facilitate, if not guarantee, access to detention centres across the different countries.

We tried to apply this methodology as uniformly as possible in the 25 European Union countries so comparisons could be made. However, making these comparisons was difficult due to the very diverse situations found in each of these countries.

1.2.8 - DIFFICULTIES MET

- The data collected concerned different fields:
 - Data on reception conditions: infrastructure, geographical location, accommodation, personal situation, availability of outside contacts etc.
 - Data on the availability and accessibility of equipment and services: equipment, conditions for accessing services, services offered and services required, opinions of the people concerned.
 - Sociodemographic data for all persons received: age, gender, family status, country of origin, residence permit, duration of residence etc.

Obtaining this data was often complicated, either the requests were misunderstood, or the request concerned "in-house" data which could not be released, or our contacts were unable to compile the data. In some of the most difficult cases, the questionnaires concerning very material data were not filled in as it seems this information was not considered to be essential.

- Data concerning vulnerability: state of health, perception of situations of vulnerability.

In the field this perception is entirely subjective and depends on the centre's capacity to identify situations of vulnerability. Furthermore, some people have very specific needs (for example, female victims of prostitution networks, transsexuals, other groups identified by the study team) and were shown to be in a situation of vulnerability although they do not enter into any of the classic categories.

- Some visits were refused for administrative reasons or due to the unavailability of the relevant contacts. Obtaining authorisation to visit the centres was sometimes a rather laborious process but in the end all the closed centres were visited.

Certain important factors should be taken into consideration concerning the way the study was carried out and the limits on interpreting the data collected:

- In terms of data collection **closed** questionnaires were created in light of the need to compile and then cross-reference information. The use of a standardised tool and formatted questionnaires in very diverse situations and with different partners led to a large amount of missing data. Less detailed questions and the use of interview guides might have provided more information.
- The method for selecting the centres was sometimes affected by time and personnel constraints.
- Producing the most objective indicators of vulnerability possible was difficult given the subject nature of the interviews used, conducted on a voluntary basis.

Due to the scope and complexity of this mission, this report could certainly be improved on. It cannot however be accused of being out of touch with the often unbearable, always painful and sometimes unacceptable reality of the situation in the field.

1.3 LAWS APPLICABLE TO EUROPEAN UNION MEMBER STATES

European Union Member States are bound by the measures in the international conventions for the protection of human rights they have ratified. They are also bound by the regional protection bills, namely the European Convention on Human Rights and the jurisprudence of the European Court of Human Rights.

European law applies to all European Union Member States who, when they join the EU, integrate the body of the community's law into their national laws. This body of law is made up of several levels: the founding treaties of the European Union, and the secondary legislation made up of directives, regulations, decisions and recommendations. The jurisprudence of the Court of Justice of the European Communities also forms part of this body of law. European policy sets the main trends in a field within the proposed legal framework.

In the context of this study, we looked at legislation and policy on asylum and immigration in the European Union: this is defined within the European Commission Directorate-General for Justice, Freedom and Security, and the European Parliament, the Committee on Civil Liberties, Justice and Home Affairs (hereafter the Committee on Civil Liberties) is responsible for these issues.

➤ **European law**

The Amsterdam Treaty, which was signed by 15 Member States on 2nd October 1997 and came into force on 1st May 1999, laid out the initial aims of a common asylum and immigration policy. It made provision for the adoption within five years, of a common asylum policy, through the adoption of community legislation; during this period three major directives on asylum were adopted, along with a regulation which reiterated the rules contained in the former Dublin Convention (Regulation n°343/2003 18th February 2003) concerning how the Member State responsible for processing the asylum application is determined:

- Directive 2003/9/EC 27th January 2003 concerning the minimum standards for the reception of asylum seekers (which underpins this study)¹⁴,
- Directive 2005/85/EC 1st December 2005 concerning the minimum standards for procedures related to the granting or refusal of refugee status¹⁵.
- Directive 2004/83/CE 29th April 2004 and the directive concerning the minimal standards on the criteria third country nationals or stateless persons have to meet to claim refugee status or persons who need international protection for other reasons, and those on the content of this status¹⁶,

At the same time, the treaty made provision for the adoption of a measure concerning the expulsion of illegal third country nationals (article 76 K 3). A directive on common standards and procedures in Member States for returning illegally staying third country nationals (proposal for a directive COM (2005) 391 final - hereafter the “Return Directive”) is currently being negotiated.

As far as the reception and detention of migrants and asylum seekers are concerned, these texts have made progress in defining standards and protection.

This European legislation does not however cover the entire scope of this study. There are no European standards on the reception of migrants, nor the harmonisation of standards on illegal or legal residence. Nor is there any legislation specifically intended to protect vulnerable persons within a general reception (for asylum seekers only) and detention framework.

This is why we have also referred to United Nations treaties and conventions, as well as the European Convention on Human Rights, to establish the legal framework applicable to these situations and the situations encountered in the open and closed centres visited.

➤ **International law**

International law (United Nations) and the European Convention on Human Rights (European Council), as well as International Labour Organisation (ILO) conventions protect any person against torture, inhumane and degrading treatment, arbitrary detention and state the right to life, the right to asylum, the right to freedom of movement, and other fundamental rights (religion, free speech, opinion etc.), no matter what their nationality, condition or status. These are binding and applicable to all Member States. The mechanisms for applying these laws are inconsistent in terms of their

¹⁴ Hereafter “Reception Conditions Directive”

¹⁵ Hereafter “Procedure Directive”

¹⁶ Hereafter “Qualification Directive”

effectiveness. Each United Nations Convention is connected to a Committee, whose jurisprudence applies to States in line with the rules of international law.

The European Court of Human Rights has the jurisdiction to apply the European Convention on Human Rights whose jurisprudence applies to all States. Its jurisprudence on foreign nationals regularly uses the articles concerning protection against torture and inhumane and degrading treatment (article 3), the protection of private and family life (article 8), and protection against arbitrary detention (article 5), thereby reinforcing European law on fundamental rights for foreign nationals.

Other non-binding texts should also be taken into account when considering the body of measures relating to the situation of vulnerable persons when migrating or seeking asylum, such as the Universal Declaration of Human Rights, or the European Union Charter on Fundamental Rights. Where there is a legal vacuum or problems related to interpretation, certain bodies have produced guidelines and recommendations. Most notable are the resolutions and principles of the Council of Europe, the standards concerning detention set out by the Council of Europe Committee for the Prevention of Torture, and the Office of the United Nations High Commissioner for Refugees (UNHCR) guidelines for interpreting the Geneva Convention on asylum seekers.

1.3.1 - ENTRY, MOVEMENT AND RESIDENCE IN THE EUROPEAN AREA

Article 13 of the 1948 Universal Declaration on Human Rights states that “Everyone has the right to freedom of movement and residence within the borders of each state. Everyone has the right to leave any country, including his own, and to return to his country.”

Whilst respecting these principles, States can limit entry onto their soil using specific rules.

The regulations applicable to European Union Member States on this issue are those issued from the Schengen rules, integrated into community law, which fix standards for the rules governing entry into a Member State and movement within the European Union. In particular, legal entry is defined by the Schengen Code on borders, which was adopted on 15th March 2006, and came into force on 13th October 2006¹⁷. Article 5 of the code defines the conditions for legal entry into the European Union. Visa policy is also defined on a European level.

In terms of asylum, the regulation known as “Dublin II”, Council regulation CE n°343/2003 18th February 2003, imposes rules for Member States for determining which State is responsible for processing the asylum application.

The readmission agreements govern removal procedures for illegal third country nationals between member states.

The readmission agreements between Member States govern the removal procedures for illegal third country nationals or asylum seekers within the European Union.

The standards related to residence are defined on a national level. The harmonisation of these standards on a European level is currently underway. This harmonisation may help to clarify European standards related to the reception of migrants.

¹⁷ Regulation CE 562/2006 15th March 2006, JOCE L 105 of 14.04.06

1.3.2 - MEASURES APPLICABLE TO THE RECEPTION OF ASYLUM SEEKERS AND MIGRANTS

a - The reception of asylum-seekers

Council directive 2003/9/CE adopted on 27th January 2003 on minimum standards for the reception conditions for asylum seekers in Member States:

This constitutes the legal framework in which Member States should receive migrants.

The directive has been transposed to most Member States. This directive does not apply to Ireland or Denmark (under articles 20 and 21 of the directive).

The aim of the directive is to adopt minimum standards to ensure dignified living conditions, common to all Member States, to limit secondary movements. The reception conditions for groups with special needs, as well as detained asylum seekers, should be adapted to meet these needs (see articles 7 - 10).

The directive applies to people having applied for asylum wherever they may be, and members of their family.

More lenient measures can be implemented by Member States.

Within a fortnight of having submitted their asylum application, asylum seekers should receive information on their rights and obligations, as well as a list of the organisations that can assist or inform them, including on the issue of access to healthcare (article 5).

The directive does not enact a right to accommodation for asylum seekers: in fact it gives Member States the right to impose a place or sector of residence and states that the rights of asylum seekers depend on them complying to this requirement (article 7-4).

It also allows for the detention of asylum seekers (article 7- 3). Article 14-1 describes the different types of accommodation possible (dedicated centres, border facilities, private accommodation). In these places certain principles must be upheld: respect for family life and family unity (article 14-3), the right to information and access to NGOs and the UNHCR. Dispensation from these principles can be granted in very specific cases (article 14-8).

Asylum seekers are not guaranteed access to employment: the directive (article 11) does however state that after one year, Member States should “decide under which conditions asylum seekers can access the employment market”. This access cannot be refused for people with an appeal having suspensory effect but the condition of the employment market also applies to these people.

Nor are Member States obliged to provide professional training.

Member States are however bound to provide the material reception conditions “which guarantee a standard of living adequate for health, and to enable their subsistence” with particular references to persons with special needs: minors, families and torture victims. If however, the asylum seeker has the means to ensure their subsistence, the Member States are not bound to provide these material conditions. These may be provided in kind or as financial benefits paid by the State.

The minimum level of healthcare provided by Member States is for “emergency healthcare” and “vital treatment for diseases”. Medical “or other” assistance should be provided for asylum seekers with specific needs (article 15).

These reception conditions can be limited or stopped in several cases (abandoning residence, hiding resources, late asylum application etc. (article 16).

As far as vulnerable persons are concerned, specific measures are included for families, minors, unaccompanied minors and the victims of torture or violence.

Vulnerable categories are generally eligible for special treatment.

Families should be accommodated “as far as possible” together, although there is no obligation to provide accommodation (article 8).

Several articles (10, 18 and 19) make specific provisions for minors, and the directive reiterates the principle of the child's best interest. Member States are obliged to ensure children are educated in the state education system and this, not more than three months following their parents asylum application, with a maximum of one year if a period of adaptation to the national school system is necessary. Traumatized minors should be able to access rehabilitation services.

Unaccompanied minors (article 19) should be assisted through representation services (legal guardian) and healthcare services. They should be placed in specialised reception centres, foster families or in the homes of adult relatives. Young people aged 16 years can be placed in adult centres. “As far as possible” siblings should not be separated. Member States are bound to look for members of the minor's family.

The Member States are also obliged to provide the care required by victims of “torture, rape and other serious acts of violence” (article 20).

The constraints imposed on Member States by the framework established by these minimum standards are relatively few.

The protection of vulnerable persons is relatively well integrated into this framework.

The Council Directive 2005/85/CE of 1st December 2005 relating to the minimum standards concerning the procedure for granting and withdrawal of refugee status in Member States.

This directive should be transposed into national law on 1st December 2007.

It outlines the rights and obligations of asylum seekers. It obliges Member States to guarantee (article 10 and 15):

Information for asylum seekers on their rights and obligations, as well as on the asylum application procedures, in a language "they can reasonably be expected to understand":

- An interpreter, at least for the interview.
- The possibility to communicate with the High Commission for Refugees or any other organisation working for HCR.
- Information on the decision.
- Legal assistance is not necessarily free.

Specific measures for unaccompanied minors are included (article 17): A representative should be named, unless the minor will come of age before the interview, or is able to obtain free legal counsel, or if they are aged 16 years and over. The age of the minor can be determined using medical testing, if

the minor is informed of the consequences of this act. Refusal to undergo a medical examination should not systematically lead to rejection of the asylum application.

Asylum seekers can be detained (article 18) but this detention cannot be based on the mere fact of applying for asylum. Furthermore Members States “should take care to provide” rapid legal review. The standards as outlined above, apply to the detention of asylum seekers.

Article 35 deals with asylum seekers on the border.

b – Reception of migrants (sea search and rescue)

There are no specific texts on a European level pertaining to the reception of migrants. The only rules that can be referred to here are the rules laid out in international conventions for the protection of people’s fundamental rights. Whether in a legal or illegal situation, all people have fundamental rights as outlined in the international conventions, notably in the European Convention on Human Rights. These will not be discussed in further detail here.

The rules on sea search and rescue are the first specific standards that can apply to migrants arriving in Europe by sea.

There are several applicable international conventions on the law of the sea: the 1982 United Nations Convention on the Law of the Sea (UNCLOS) which stipulates that States must require masters of ships flying their flag to rescue people in peril on the sea.

The international convention for the Safety of Life at Sea 1974 (SOLAS) states that masters receiving information on ships in distress are bound to provide assistance. The International Convention on Maritime Search and Rescue 1979 (SAR) obliges the State parties to provide the care required by people rescued at sea. The amendments to these two conventions require joint action from States concerning the disembarkation of people rescued.

1.3.3 - MEASURES APPLICABLE TO THE DETENTION OF ASYLUM SEEKERS AND MIGRANTS

a - Protection against arbitrary detention

The International Covenant on Civil and Political rights protects “all individuals” from arbitrary detention: “No one shall be subjected to arbitrary arrest or detention. No one shall be deprived of his liberty except on such grounds, and in accordance with such procedures as are established by law” (article 9).

A Working Group on arbitrary detention was set up in 1991, which produced reports on detention conditions in the different countries visited¹⁸. European countries are rarely visited by this committee.

Article 5 of the European Convention on Human Rights (ECHR), which governs the right to freedom and security, does not prevent the detention of migrants or asylum seekers, but their detention must be permitted by law and result from a fair and equitable procedure.

If all these conditions are met, detention is allowed in the following cases:

Article 5 (1) (b): “lawful arrest or detention of a person for non-compliance with the lawful order of a court, or in order to secure the fulfilment of any obligation prescribed by law”.

¹⁸HYPERLINK "<http://www.ohchr.org/french/issues/detention> ; <http://www.ohchr.org/french/issues/detention/>

Article 5 (1) (e): “lawful detention of persons for the prevention of the spreading of infectious diseases, of persons of unsound mind, alcoholics or drug addicts, or vagrants”.

Articles 5 (1) (f): “lawful arrest or detention of a person to prevent his effecting an unauthorised entry into the country, or of a person against whom action is being taken with a view to deportation or extradition.”

b – Specific protection for asylum seekers

As previously mentioned, the Procedures Directive allows Member States to detain asylum seekers. However, article 18 (1), states that there must be further reasons for this detention other than their status as asylum seekers.

Article 14 of the Reception Conditions Directive refers to reception in border facilities and in accommodation centres. It has not however been clearly established that these measures concern detention.

These measures must however be considered in the light of the measures contained in the European Convention on Human Rights (article 5 and article 3 – see below), the measures on the status of asylum seekers contained in the 1951 Geneva Convention (hereafter « 1951 convention »), and the HCR guidelines on the detention of asylum seekers.

Article 31 of the convention states that:

- “The Contracting States shall not impose penalties, on account of their illegal entry or presence, on refugees who, coming directly from a territory where their life of freedom was threatened in the sense of article 1, enter or are present in their territory without authorisation, provided they present themselves without delay to the authorities and show good cause for their illegal entry or presence.”
- “The Contracting States shall not apply to the movements of such refugees restrictions other than those which are necessary and such restrictions shall only be applied until their status in the country is regularised or they obtain admission into another country. The Contracting States shall allow such refugees a reasonable period and all the necessary facilities to obtain admission into another country.”

The article clearly establishes the ban on penalising the illegal entry and residence of asylum seekers. It is however less clear on the restriction of movement: can this be interpreted as permitting detention?

On 10th February 1999, the HCR published guidelines on the detention of asylum seekers which clarify the concept of detention.

These guidelines state that the UNHCR considers detention as “confinement within a narrowly bounded or restricted location, including prisons, closed camps, detention facilities or airport transit zones, where freedom of movement is substantially curtailed, and where the only opportunity to leave this limited area is to leave the territory”.

These guidelines do however introduce limits to detention based on international standards. Detention can only be used:

- To check someone’s identity;

- To determine the elements on which the refugee status or asylum application is based;
- In cases where asylum seekers have destroyed their travel and/or identity documents or who have used counterfeit documents to mislead the State authorities in the country where they seek asylum;
- To protect national security and public order;

Detention has to be justified on a case-by-case basis. Very few States follow this approach.

c - Duration of detention:

The maximum duration of detention for migrants or asylum seekers is not set by international law. For the European Convention on Human Rights (ECHR) however, the procedure is no longer legal if not carried out with all due diligence (article 5). Therefore, according to the Council of Europe's guidelines on forced return¹⁹ which aim to interpret this article, national authorities should act with due diligence to ensure this period of detention is limited to as short a period as possible.

According to the International Convention on the Rights of the Child of 20th November 1989, children can be detained but this is subject to limitations and must be of as short duration as possible. Article 37 (1) (b): *“No child shall be deprived of his or her liberty unlawfully or arbitrarily. The arrest, detention or imprisonment of a child shall be in conformity with the law and shall be used only as a measure of last resort and for the shortest appropriate period of time.”*

Guideline 11 of the Council of Europe's guidelines on forced return states that: *“Children shall only be detained as a measure of last resort and for the shortest appropriate period of time.”*

d – Rights in detention

The European Directive does not yet contain any binding standards in terms of the rights of detainees whether they are asylum seekers or not.

As previously mentioned the Return Directive is currently being drawn up. This directive aims to harmonise the measures concerning expulsion and the detention of persons awaiting expulsion. The Commission proposal of 1st September 2005 contains two articles on detention limiting the duration and detailing the rights of detainees (articles 14 et 15). The issue of the duration of detention is currently being hotly debated.

The rights of detainees, who are not asylum seekers, can therefore also be found in other texts which apply to Member States. Notably the jurisprudence of the European Court of Human Rights sheds light on this issue (Hereafter “general protection”).

Although not explicitly stated in the Reception Conditions Directive, which makes no direct reference to asylum seekers, the standards outlined in this text are applicable to detained asylum seekers (Hereafter “specific protection for asylum seekers”).

To these we would add the guidelines on asylum seekers produced by the Office of the United National High Commissioner for Refugees, the Council of Europe's guidelines on forced return, and

¹⁹ Twenty guidelines on forced return, adopted by the Council of Ministers 2005, guideline 8.

the standards set out by the Council of Europe Committee for the Prevention of Torture (CPT)²⁰ in order to define the applicable protection.

➤ **Detention conditions / protection against inhumane and degrading treatment**

Article 3 of the European Convention on Human Rights, protects all people against torture and inhuman and degrading treatment. This article applies to cases of abusive treatment during detention and of return to a country where the person may be subjected to torture or inhumane and degrading treatment.

The European Court of Human Rights (ECHR) defines which detention conditions violate article 3 of the convention in several orders.

The Council of Europe has also put into place an observation and inspection system concerning the application of this article through the Committee for the Prevention of Torture²¹ who carry out regular visits to European Union Member States and publishes reports on the detention conditions for migrants and asylum seekers, amongst other things. The aforementioned standards produced by the CPT clarify the standards that must be applied to detention conditions in order to comply with article 3 of the European Convention on Human Rights.

Guideline 10 of the Council of Europe's guidelines on forced return, also clarify the standards that can be applied in terms of detention conditions prior to expulsion. This guideline is largely based on the CPT standards. It states the need to provide detention conditions which avoid "as far as possible" giving the impression of a prison environment with the separation of common law criminals, the separation of men and women, access to outdoor areas and to leisure activities. It also states that Member States should ensure the people working in these detention centres undergo a rigorous selection and training process.

➤ **The right to an effective appeal**

General protection: According to article 5 (4): "Everyone who is deprived of his liberty by arrest or detention shall be entitled to take proceedings by which the lawfulness of his detention shall be decided speedily by a court and his release ordered if the detention is not lawful". These people have a right to compensation in the case of illegal detention (article 5 (5)).

In the *Amuur versus France* judgement²², The European Court reaffirmed the right to a trial in article 5 (4) and sets out the right in detention to:

- Free language assistance
- Access to the case file
- Access to legal aid.

The *Conka* order against Belgium in 2002²³ confirms that in order for proceedings to be effective it should include procedural rights including the right to legal aid.

²⁰ CPT standards 2002 revised in 2006, Council of Europe - CPT/Inf/E (2002) 1 - Rev. 2006 French

²¹ See: <http://www.cpt.coe.int/fr/>.

²² *Amuur v. France*, ECHR, 17/1995/523/609, 25 June 1996

²³ *Conka v. Belgium*, ECHR, 51564/99, 5 February 2002

Specific protection for asylum seekers: As far as asylum seekers are concerned, the Procedure Directive states in article 18 (2) that for any detained person the Member States should ensure the possibility of rapid proceedings before a judge.

➤ **The right to health**

General protection: CPT standard N°31: *“All detention facilities for immigration detainees should provide access to medical care. Particular attention should be paid to the physical and psychological state of asylum seekers, some of whom may have been tortured or otherwise ill-treated in the countries from which they have come. The right of access to a doctor should include the right – if a detainee so wishes – to be examined by a doctor of his choice; however, the detainee might be expected to cover the cost of such a second examination”*.

Specific protection for asylum seekers: For refugees this is set out in article 28 of the Geneva Convention. Article 9 of the Reception Conditions Directive states that Member States can request that asylum seekers undergo a medical examination for public health reasons.

Article 13 of the Procedures Directive states that Member States must provide access to healthcare (see above).

➤ **The right to information / to communicate with the outside**

General protection: Article 5 (2) of the European Convention on Human Rights states that detainees have the right to information, in a language they understand, on the reasons for their detention.

The Council of Europe guidelines on forced return (Guideline 10) state that national authorities should ensure that the persons detained in these facilities have access to lawyers, doctors, non-governmental organisations, members of their families and the UNHCR, and that they should be “systematically provided with information which explains the rules applied in the facility and the procedure applicable to them and sets out their rights and obligations (...).”

The CPT standards complete these measures:

31: *The right of access to a lawyer should apply throughout the detention period and include both the right to speak with the lawyer in private and to have him present during interviews with the authorities concerned.*

(...)

More generally, immigration detainees should be entitled to maintain contact with the outside world during their detention, and in particular to have access to a telephone and to receive visits from relatives and representatives of relevant organisations.”

Specific protection for asylum seekers: Article 14 of the Reception Conditions Directive notably makes provision for the possibility of communicating with relatives, legal representatives, NGOs and the UNHCR, who have access to the centres.

Article 16 (2) of the Procedures Directive states that Member States must “ensure that the legal adviser or other counsellor who assists or represents an applicant for asylum has access to closed areas, such as detention facilities and transit zones, for the purpose of consulting that applicant. Member States may only limit the possibility of visiting applicants in closed areas where such limitation is, by virtue of national legislation, objectively necessary for the security, public order or administrative management of the area, or in order to ensure an efficient examination of the application, provided that access by the legal adviser or other counsellor is not thereby severely limited or rendered impossible.”

e - Protection of vulnerable persons in detention

As previously mentioned, the Reception Conditions directive sets out a certain number of obligations for Member States in terms of the protection of vulnerable persons seeking asylum. This protection also applies to detained asylum seekers. It should be noted that the directive states that Member States must ensure “adequate” living conditions for asylum seekers and persons in detention (article 13 (2)).

The asylum seekers considered to be vulnerable persons belong to the following categories: minors, unaccompanied minors, persons with disabilities, elderly persons, pregnant women, isolated relatives and victims of torture, rape, and other forms of sexual, physical, and psychological violence (article 17).

The HCR 1999 guidelines on the detention of asylum seekers state that minors (unaccompanied or not), pregnant women in the final stages of pregnancy, women who are breastfeeding, elderly persons, victims of trauma or violence, and persons with physical or mental disabilities, should be detained. If this was however the case, the HCR would publish specific recommendations, in particular concerning minors.

Again the vulnerable persons who are not asylum seekers are not specifically protected by European law. The standards set out in international law and the European Convention on Human Rights should therefore be referred to for the protection of vulnerable migrants in detention.

Each of the categories below describes the standards in force for the specific protection of asylum seekers and more generally detained migrants.

Minors

General protection : International law does not explicitly prohibit the detention of minors.

However, article 3.1 of the International Convention on the Rights of the Child sets out the principle of the best interests of the child, that should apply to these situations. It is in light of this principle, reiterated in most of the relevant European Directives (Reception, Procedure) that the rights of detained minors should be considered.

Finally, article 9 of the CRC states that children should not be separated from their parents.

The United Nations rules for the protection of minors deprived of liberty, adopted by the UN General Assembly on 14th December 1990 sets out the right to education for detained minors, and the need to make provision for the special needs of minor foreign nationals (§ 38).

The ECHR recently condemned Belgium for the detention of a minor aged 5 years²⁴, on the basis of articles 5, 3 and 8 which set out the conditions for detaining minors: the detention of a lone young girl in a centre for adults, cut off from her family for over two months is inhumane treatment.

The Council of Europe guidelines detail the regimes applicable to the detention of minors (guideline 11): separate accommodation and detention spaces, right to education and leisure activities, and so on.

Specific protection for asylum seekers: The Reception Conditions Directive (article 19 (2) c) states that minors should be accommodated in specialised centres. If minors are detained, it should also take into account this requirement. The measures for the specific protection of minors outside of detention as outlined above are applicable to detained minors.

²⁴ Mubilanzila mayeka and Kaniki Mitunga vs. Belgium, ECHR, n° 13178/03 12th October 2006

Families

General protection: Article 8 of the European Convention on Human Rights enacts the right to private and family life, which should, in principle, apply to the families in detention. All the jurisprudence concerning this article should be consulted to define private and family life. The requirement to maintain family unity in detention and separate them from other detainees to preserve the privacy of the family unit should also be noted.

International conventions also protect family life (ICCPR article 23 and ICESCR article 10).

Guideline 10 of the Council of Europe guidelines on forced return also covers the maintenance of family unity in detention and the installation of families so as to respect this.

People with disabilities

The International Convention on the Rights of Persons with Disabilities provides a general framework without specifically referring to detention.

People with diseases

Once again it is the European Court of Human Rights that has recently dealt with the issue of protection for people with diseases in detention²⁵

“On the subject of persons deprived of their liberty, the Court affirms the right of any prisoner to detention conditions that respect human dignity in such a way that the methods for implementing the measures taken do not subject the individual concerned to distress or trying situations, the intensity of which exceeds the unavoidable suffering inherent to detention.

Although a general obligation to free a detainee for health reasons or place them in a civil hospital in order to allow them to obtain a particular type of medical treatment cannot be deduced (see aforementioned Kudla v. Poland, § 93), article 3 of the Convention requires States to protect the physical integrity of persons deprived of their liberty, notably through the administration of the required medical healthcare (see Mouisel v. France, no 67623/01, § 40, CEDH 2002-IX).

Therefore the lack of appropriate healthcare, and more generally, the detention of a person suffering from illness in inadequate conditions, can, in principle, constitute treatment that violates article 3 (see, for example, Ilhan v. Turquie [GC], no 22277/93, § 87, CEDH 2000-VII; Gennadi Naoumenko v. Ukraine, no 42023/98, § 112, 10th February 2004; Farbtuhs v. Lettonie, no 4672/02, § 51, 2nd December 2004).”

1.3.4 - THE LEGISLATION OF MEMBER STATES

A major disparity in the “legal maturity” of the different Member States as far as the inclusion of measures for asylum seekers and migrants in their national law. For certain State Members the measures on asylum and immigration, and therefore on reception and detention, are several decades old. The original Member States, founders of the Schengen area, are countries of immigration equipped with reception and detention systems that are extremely disparate and often out of date. The issue of migration and asylum has been the subject of constant political debate in these States for a number of years.

In contrast, the issues related to migration do not take centre stage in some "small" Member States (Baltic states, Luxembourg), due to their geographical location or their recent transformation into

²⁵ Vincent against France, 2nd November 2006

immigration destinations. Apart from Luxembourg, which has been involved in European policy on movement for a long time due to its geographical location, the Baltic States, recent members of the European Union, passed legislation on foreign nationals in the 1990s (Estonia, 1994, Lithuania 1996 on detention, Latvia 1995). It should be noted that Estonia ratified the 1951 Geneva Convention on refugees in 1997.

This is not the case for Malta and Cyprus who also joined the European Union in 1994 and are also “small States”, but since 2001 have been confronted by an influx of migrants and asylum seekers. Immigration may be a recent phenomenon in these States but it nonetheless raises fundamental concerns.

Generally, the new Member States which joined the European Union on 1st May 2004 have more recently introduced measures on asylum and immigration as well as reception and detention into their legislation.

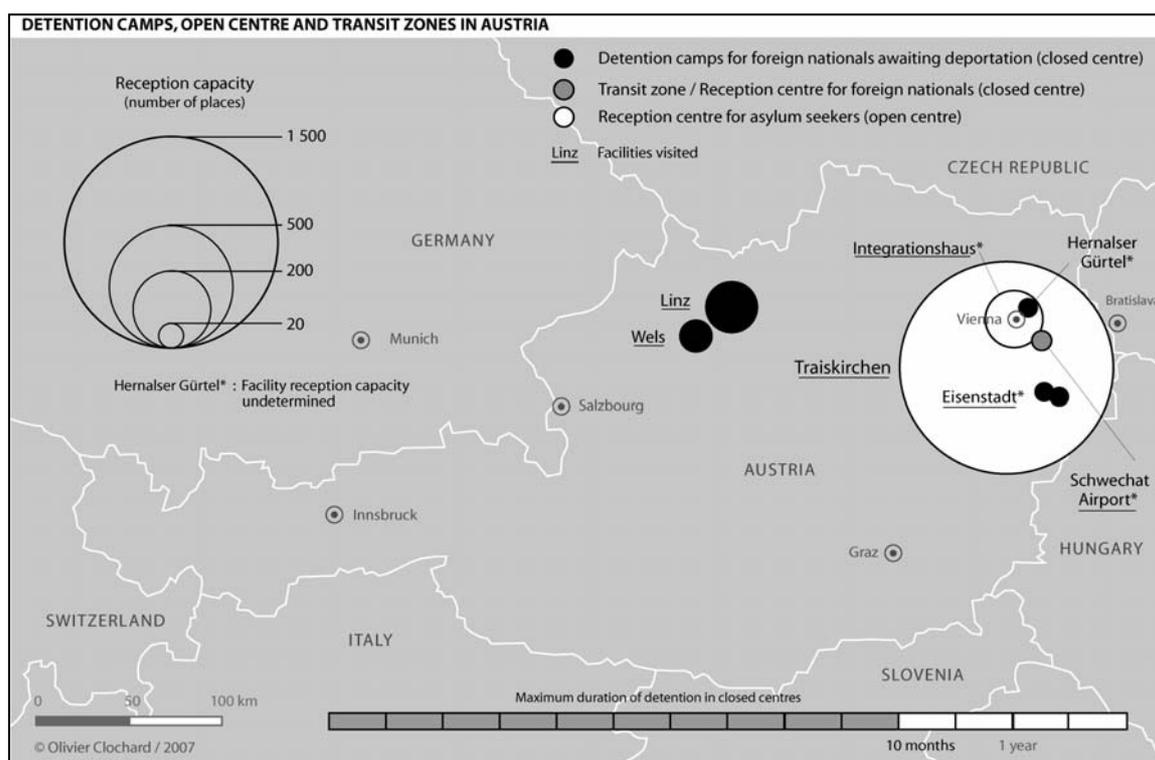
It should be noted that the legislation in all European Union Member States is under continual reform and all the acts pertaining to entry, residence or asylum have been amended on several occasions since coming into force. Legislation has recently been reformed (2006 – 2007) in Germany, Belgium, Austria, Hungary, France, Luxembourg, Poland, Portugal, Czech Republic and Slovakia. Reforms are underway in Finland, Great Britain, Greece and Italy.

The incorporation on the Asylum, Reception and Qualification Directives has taken place at least partially in all European Union Member States. The aim of this study was not to assess the progress of these transpositions as this is the subject of another study but rather to observe the practices of the Member States in relation to the conditions for third country nationals, and in particular for vulnerable persons in open and closed centres. The measures contained in the Reception Conditions Directive were used to assess the protection given to vulnerable persons. It was however impossible to produce a comprehensive update on practices regarding the measures in the Reception Conditions Directive, due to the fact that some Member States have not yet transposed the directive, but also because the measures applicable to asylum seekers do not cover the cases of vulnerable persons who are not asylum seekers. However in a certain number of States (Spain, Greece, Portugal, Italy), the issue of asylum in the general context of migration is not as critical as in others (Great Britain, Sweden, Germany etc.).

CHAPTER 2 – COUNTRY REVIEW FILES

2.1 AUSTRIA

Field study summary



1 – Brief description of how the study was carried out:

Our local partner, Diakonie, is a non-governmental organisation which provides legal support for asylum seekers and other migrants. They were responsible for documentary research and the practical organisation of field visits. Different types of centre were selected for the field study: detention centres, the transit and non-admission zone at Schwechat airport near Vienna, a reception centre for asylum seekers.

Staff from the Ministry of the Interior departments responsible for detention centres for foreign nationals (*Schubhaft*) cooperated satisfactorily with the investigators. In terms of the visit to asylum seekers reception centres, we were unable (due to the reservations of the legal affairs department of the Austrian Federal Ministry of the Interior) to visit inside the Traiskirchen induction centre, nor to meet the vulnerable persons residing in this centre. This is regrettable, due to the size of this centre, in

which a large number of vulnerable persons (persons with disabilities, single women or single mothers, families).

2 – Background

Due to its strategic geographical location, at the centre of Europe, Austria has long been a transit nation for asylum seekers, mainly from Eastern European countries, heading for other Western European countries or preparing to cross the Atlantic.

Since the beginning of the 1990s and the fall of the Berlin wall, Austria's asylum and immigration policy has undergone radical changes.

Asylum and immigration legislation has recently been extensively modified. The Austrian legislator has adopted a collection of laws known as the “Foreign nationals law package” (*Fremdenrechtspaket*) which have led to more severe living conditions for asylum seekers and made detaining them easier, in particular those concerned by a Dublin II procedure.

3 – Description of detention and reception systems:

There are 3 main types of centres in Austria:

3-1- Detention centres for foreign nationals: these are often located in prisons for people convicted of administrative infractions (public order disturbances etc.). Some, such as the centre in Linz, detain both those convicted of administrative infractions and foreign nationals awaiting expulsion.

3-2 – The reception system

The system is made up of a large number of induction centres and reception centres, managed by the *Länder* (we were unable to obtain a list of these centres).

3-3 - The zone for transit and non-admission onto Austrian territory at Schwechat airport, near to Vienna (recently renovated following the criticisms of the CPT).

4 – Findings/conclusions:

4-1 – Concerning detention centres

- Excessively long detention periods of up to ten months (instead of six months, situation observed since 2006) with severe conditions (heavy restrictions on movement).
- Flagrant lack of activities, despite the efforts of State departments who have installed games tables.
- Insufficient provision for medical and psychological care for detainees.
- Detainees are unable to exercise their rights (no access to independent legal counsel and a lack of translators).

- Pathogenic nature of detention: has led to a large number of hunger strikes in the centres (2,338 cases in 2006 according to the Austrian Federal Ministry of the Interior (BMI)). Since 2005, the forced feeding of hunger strikers - widely condemned by NGOs, scientists and legal specialists - has proved to be ineffective.

Concerning vulnerable persons:

- Minors aged between 16 – 18 years can be detained in police prisons and are guaranteed to be treated according to an adapted procedure. They must be separated from adults.
- According to the representatives of the Federal Ministry of the Interior we met, families are not detained. They may be separated: the men are detained, whilst the women and children are transferred to reception centres for asylum seekers.
- Any person suffering from a chronic disease, and elderly people undergo a medical examination on arrival, as for all other detainees. A medical certificate is drawn up establishing compatibility or incompatibility. According to the stakeholders involved (NGOs) the provision of healthcare in the detention centres is insufficient.
- Up until 2005, torture and trauma victims were considered as a special group and received adapted treatment throughout the procedure. The scope of this measure was reduced by the law passed in 2006.

4-2 – Concerning reception centres for asylum seekers:

It has proven difficult to draw conclusions on the conditions for reception in Austria: we were unable to visit inside the buildings that make up the Traiskirshen centre.

In this context, one positive point should be highlighted: The setting up of “*Integration Haus*”, a reception centre for victims of trauma who require intensive psycho-social monitoring.

5 – Recommendations

Detention centres:

- Reduce the duration of the detention, relax detention conditions (increase freedom of movement).
- Ban the detention of minors.
- Promote alternatives to detention.
- Do not detain persons awaiting return or expulsion in spaces intended to receive delinquents, even those convicted of administrative infractions, as this penalises migrants.
- Ensure systematic referral to a judge to rule on the motives for and the conditions of detention.
- Implement a legal aid system to ensure detainees’ rights are upheld (legal information, helping to write appeals where necessary)
- Improve the medical, psychological and psychiatric care available to detainees.

- Improve access to interpreters for detainees and medical staff.

Non-admission and transit zone: Improve access to legal assistance.

Reception centres:

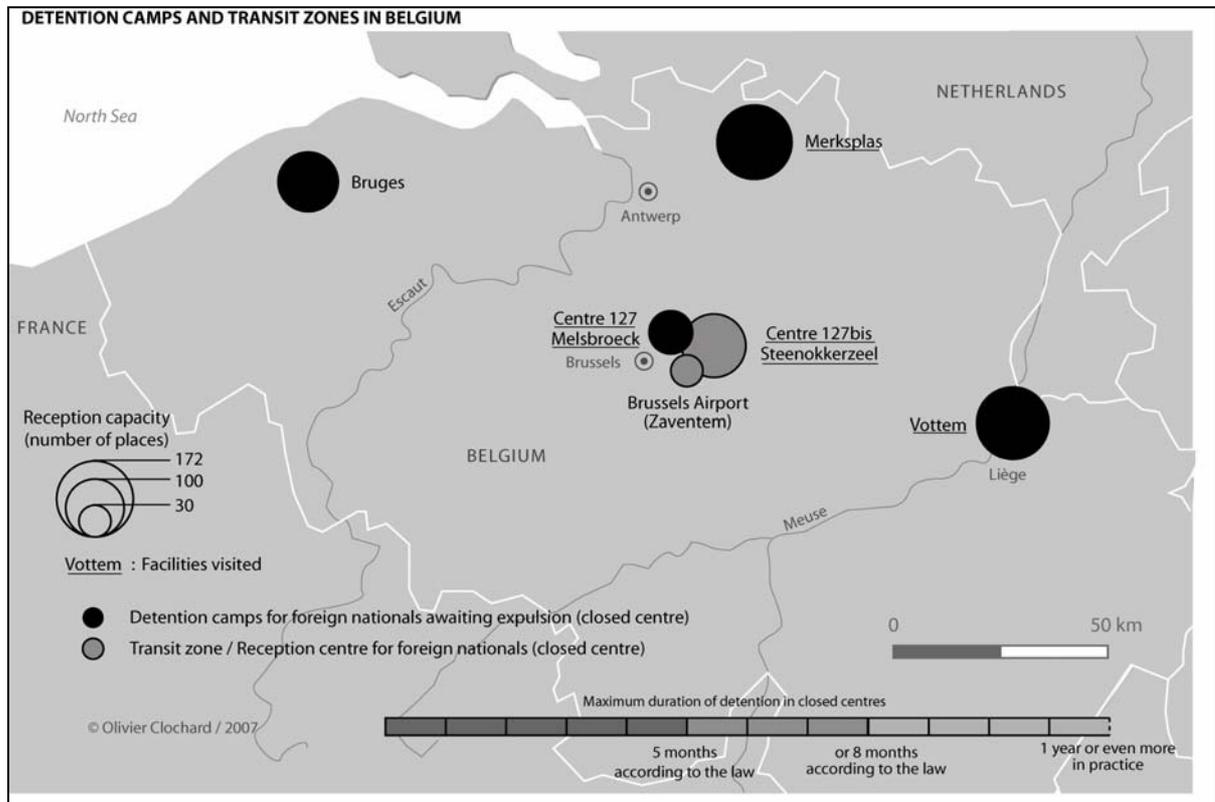
In terms of the reception of vulnerable persons, services should move towards the “*Integrationhaus*” model, providing services focussed on the specific social, legal and medical needs of vulnerable persons. Funding should be found for existing specialised structures, and new adapted centres should be created.

Centre for unaccompanied minors:

- Set up a reception system for unaccompanied minors to improve the coordination between different stakeholders: police, asylum services, child support services, and NGOs, and clearly define their specific responsibilities, the allocation of funding and the qualifications required for their personnel.
- Minors aged 16 – 18 years should not be considered as adults: it should be possible for them to apply for asylum up until their eighteenth birthday and they should be represented by a legal guardian who will guide them through the administrative procedures.
- It should be made easier for asylum seekers aged 15 years and over to attend school.

2.2 BELGIUM

Field Study Summary



1 – Brief description of how the study was carried out:

Our local partner CIRE is an association working in the field of asylum seekers and migrants' rights and notably intervenes in transit and administrative detention centres. They were responsible for documentation research and the practical organisation of field visits. The following centres were visited: a centre for unaccompanied minors (Fedasil Steenokkerzeel), transit centre 127, removal centre 127b, the Merksplas and the Vottem detention centres, the "Bocq & Pierre Bleue" and Florennes reception centres for asylum seekers.

Furthermore, we were able to meet with the Immigration Service, the "Sum Research" team, who have conducted a study into alternative solutions to detention and the team of visitors to closed centres (*Service Social Solidarité Socialiste*, JRS, MSF, Centre for equal opportunities and the fight against torture, the League of Human Rights, Caritas International, *Point D'Appui*, *Aide aux Personnes Déplacées*)

2 – Background

The majority of migrants from outside of the European Union are nationals from Turkey, Morocco, the Democratic Republic of Congo, the former Eastern bloc countries (former Yugoslavia and Soviet Union), and Asia (China and India). The main countries of origin of asylum seekers are the Democratic Republic of Congo, Russia (Chechnya), Kosovo and Iraq.

Extensive reforms to asylum, reception and regularisation procedures were adopted in 2006, and came into force on 1st June 2007.

3 – Description of detention and reception systems:

3-1 - Closed centres: Any person who infringes the regulations concerning entry and residence requirements may be detained prior to their removal. Asylum seekers can also be detained: there are two types of centres, managed by the Immigration Service:

- Transit and repatriation centres (situated in international zones of the airport): These are closed INAD centres: centres 127 and 127b.
- Detention centres for illegal migrants (3 centres: Bruges Merksplas Vottem).

3-2 – Open reception centres:

During the period over which their asylum application is being considered, asylum seekers can be housed in a reception structure and receive material assistance (food, clothing, healthcare, education, social and legal guidance, daily welfare benefits and community services). This reception and asylum seekers' assistance network is coordinated by the FEDASIL (Federal Agency for the Reception of Asylum seekers).

- The open accommodation centres for asylum seekers are directly managed by FEDASIL or by the Belgian Red Cross. There are over 40 centres with a total capacity of nearly 7,500 places.
- The families of asylum seekers can also reside in individual accommodation units proposed by the FEDASIL's partner organisations (CIRE, Caritas), or the municipal social services (CPAS).
- A reception and guidance centre for unaccompanied foreign minors.
- Special reception centres for victims of human trafficking.

4 – Findings/conclusions:

4-1 – Concerning closed centres (administrative detention and transit zones):

- The duration of the detention is limited to five months, but a released foreign national can be immediately re-arrested and detained for a further five-month period.

- The detention conditions inside the closed centres are severe and correspond to a prison regime, with severe constraints.
- Living conditions are particularly bad in some centres: the transit centre 127 is dilapidated and insalubrious, and suffers from severe overcrowding which means adults and children are forced to live together.
- These centres are equipped with isolation cells for detainees requiring a differentiated regime (isolation of people suffering from illness) or subject to a disciplinary regime (for those who cannot adapt to communal living). There is a risk that the distinction between the differentiated regime and the disciplinary regime is unclear.
- Detainees' access to interpreters and information on their rights remains unsatisfactory,
- Problems related to the grouping together of people detained due to their administrative status, and people leaving prison.

Concerning vulnerable persons:

- The detention of families with children is particularly harmful, especially in view of the consequences this detention may have on them (psychological impact, de-structuring of the family, or of the child).
- Due to overcrowding, the duration of detention, and the particularly stressful living conditions, a large number of detainees suffer from psychological disorders.
- The issue of providing care for people suffering from psychiatric disorders is also problematic: they are often kept in centres due a lack of adapted structures that agree to take them in: this situation means these people may become isolated within these centres.
- It should also be noted that the reception centres are not adapted to the needs of people with disabilities and that there is no provision for monitoring people with chronic diseases.
- Unaccompanied minors are not detained but are referred to a specialised observation and guidance centre with a system of legal guardians. Unaccompanied minors are however, on occasions, temporarily detained in centre 127.

4-2 – Concerning reception centres for asylum seekers:

- The open centres for asylum seekers are welcoming and in good condition. The directors do however point out that the resources they dispose of to fulfil their mission of accompanying residents are insufficient.
- The application procedure can take a very long time and the combined effect of communal living, their total dependence on benefits and uncertainty about their future is particularly stressful for some residents (some rejected asylum seekers can remain for years in these centres).

Concerning vulnerable persons:

- Within families there is a risk of “deparentalisation”, with parents losing their authority over their children. The alternative option of individual accommodation units should therefore be preferred.

- An interesting and innovative initiative undertaken by the Red Cross in partnership with FEDASIL, has led to the creation of a mental health centre for asylum seekers suffering from psychological difficulties. They have also undertaken a project to provide information and guidance for the personnel in asylum seekers centres to increase the detection of people at-risk or suffering from psychological problems.

5 – Recommendations

5-1 – Concerning detention centres

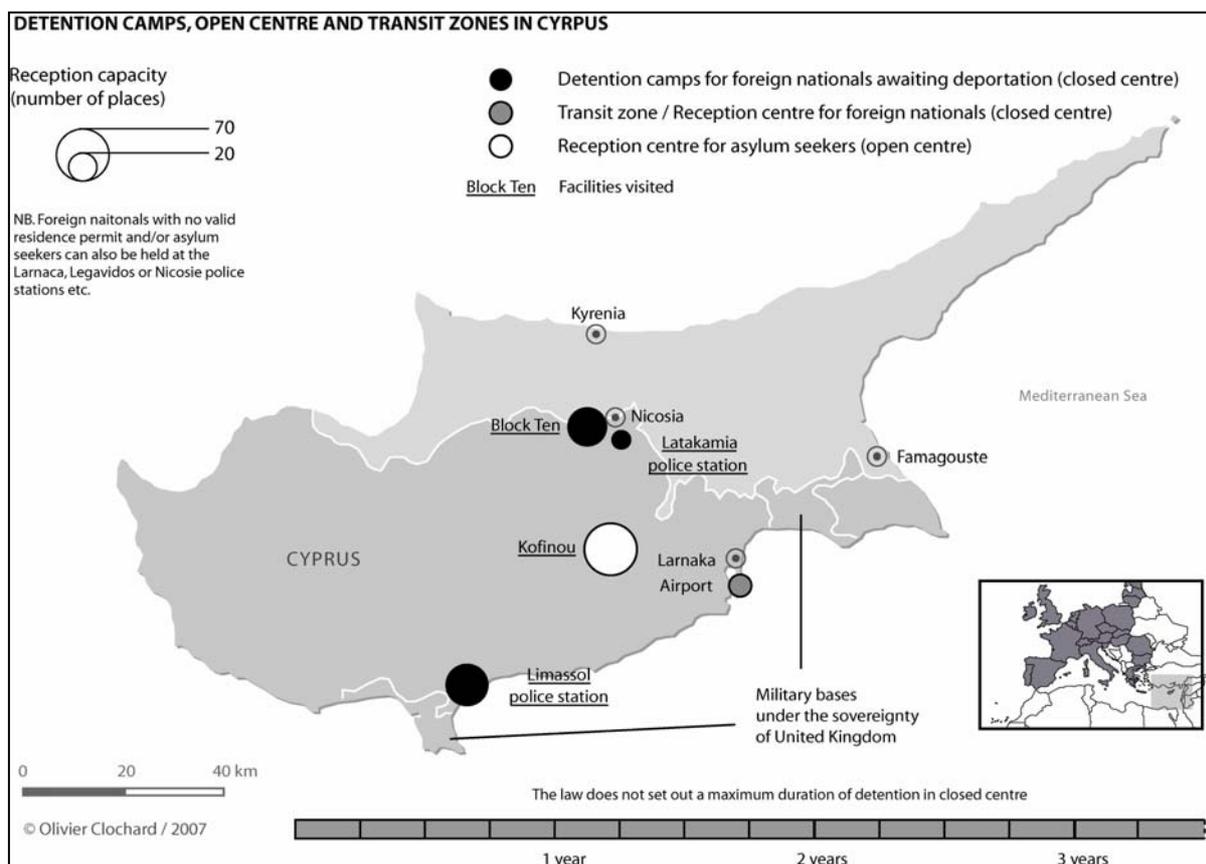
- Limit the duration of detention which can be up to five months.
- No longer use centre 127 for detention (totally insalubrious).
- Alternatives to detention should be considered, especially for families with children (e.g. “coaching” system as proposed in the study conducted into alternatives to detention. The nature of the coach's mission should however be clearly defined as a mission to provide social and legal guidance and not to encourage asylum seekers to return to their country of origin, nor to investigate their status.
- Mixing populations with a criminal background and populations of illegal foreign nationals and asylum seekers should be avoided.
- The issue of people suffering from psychological or psychiatric disorders being detained in closed centres should be considered by the Immigration Service, the Ministry of Health and other socio-medical bodies with a view to implementing adapted care systems in open centres using healthcare personnel who are entirely independent from the centre management.
- The detainees' access to information concerning their rights must be improved (access to an interpreter, qualified lawyers, regular access to NGOs providing assistance to migrants).

5-2 – Concerning reception centres for asylum seekers:

- The families of asylum seekers should have priority access to individual accommodation units to ensure they move in as quickly as possible.

2.3 CYPRUS

Field study summary



1 – Brief description of how the study was carried out:

Our partner KISA is an NGO created in 1998 following racist and discriminatory incidents in Cyprus. They set up activities for migrants, asylum seekers, and Cypriot society (information and awareness-raising concerning racism and discrimination). They were responsible for documentary research in the country and the practical organisation of field visits.

For the purposes of the study, the following centres were visited: two police stations able to detain migrants (alongside common law criminals), the only administrative detention centre in the country Block Ten, the Kofinou reception centre for asylum seekers, and the Nicosie psychiatric hospital (where foreign nationals are sometimes held).

Meetings were organised with representatives of NGOs and administrative authorities (Ministry of the Interior, Asylum Service, Welfare Office etc.).

2 – Background

During the period 2003 – 2007, a significant decrease in the number of foreign nationals arrested by the Cypriot authorities and held in administrative detention was observed. This change may be due to the combined impact of the Cypriot authorities' wish to show the European Union that they are capable of handling migratory flow; the unrestricted duration of detention which has limited the arrival of new foreign nationals; and the reduction in the number of illegal foreign nationals arrested.

The countries of origin of detained migrants are highly diverse: in 2006, the main nationalities were Syrian, Turkish, Georgian, Iranian, Pakistani and Jordanian.

3 – Description of detention and reception systems:

The island of Cyprus has three centres specifically intended to receive third country nationals from outside of the European Union:

- The Kofinou reception centre, an open centre for families and women who have applied for asylum.
- The Block ten administrative detention centre, a closed centre where male foreign nationals without a residence permit and rejected asylum seekers are held.
- The transit centre at Larnaka airport, a closed centre where foreign nationals awaiting expulsion and those arriving on Cypriot soil without a valid residence permit are held temporarily (a few hours according to the police).

Foreign nationals without a valid residence permit and/or asylum seekers can also be detained in Cypriot police stations. The stations in Limassol and Lakatamia hold a large number of illegal immigrants and run the administrative detention centre.

4 – Findings/conclusions:

Open centre: the Kofinou reception centre.

The main problem in this, the only reception centre for asylum seekers, is its isolated location which means residents feel excluded (they have to go two kilometres to get the bus). The asylum application procedure may last several years and asylum seekers are not allowed to work except in agricultural jobs.

The conditions are very mediocre in terms of the physical conditions and hygiene (not enough beds, accommodation units divided into two or three bedrooms, plumbing defects).

Closed centres:

- The unrestricted duration of detention means that detention can last for an extremely long time, sometimes over 36 months.
- The detention conditions are extremely severe (especially in the Limassol police station).

- The specific needs of vulnerable persons (e.g. detainees having been subjected to inhumane and degrading treatment, or men held for several years) are not taken into account.
- Separation of families (an Iranian detainee whose wife has been accorded refugee status has been held in Limassol for several months).
- The physical conditions and hygiene are very poor, the men detained suffer from overcrowding and the lack of privacy in the centres (in Block Ten several foreign nationals informed us both verbally and in writing that 40 people had been removed from the centre on the eve of the planned visit from the study team).
- Various types of violence are commonplace in these places: police brutality, suicide attempts, hunger strikes.
- The criminalisation of migrants and the assistance they are provided with by charitable organisations is a common phenomenon: Foreign nationals are detained in the same places as common law criminals (Limassol police station) and organisations such as KISA have difficult relationships with the authorities.
- There is no qualified body or personnel, capable of identifying people suffering from trauma.
- Detained foreign nationals find it difficult to be seen by a doctor.
- Access to a telephone is also difficult.

Vulnerable persons in detention

- Minors can be held in closed centres and are not separated from adults.
- No mention is made of specific measures for vulnerable persons.
- The personnel are not trained in or made aware of the identification of vulnerable persons.

5 – Recommendations

Open centre: for the Kofinou reception centre.

- Implementation of reception alternatives (accommodation in town etc.) for families with specific needs (medical etc.).
- Ensure the presence of personnel with experience in accompanying asylum seekers and foreign nationals in Cyprus.
- Allow asylum seekers to work in sectors other than the agricultural sector.

Closed centres:

- Limit the duration of administrative detention.
- Implement alternatives to detention.

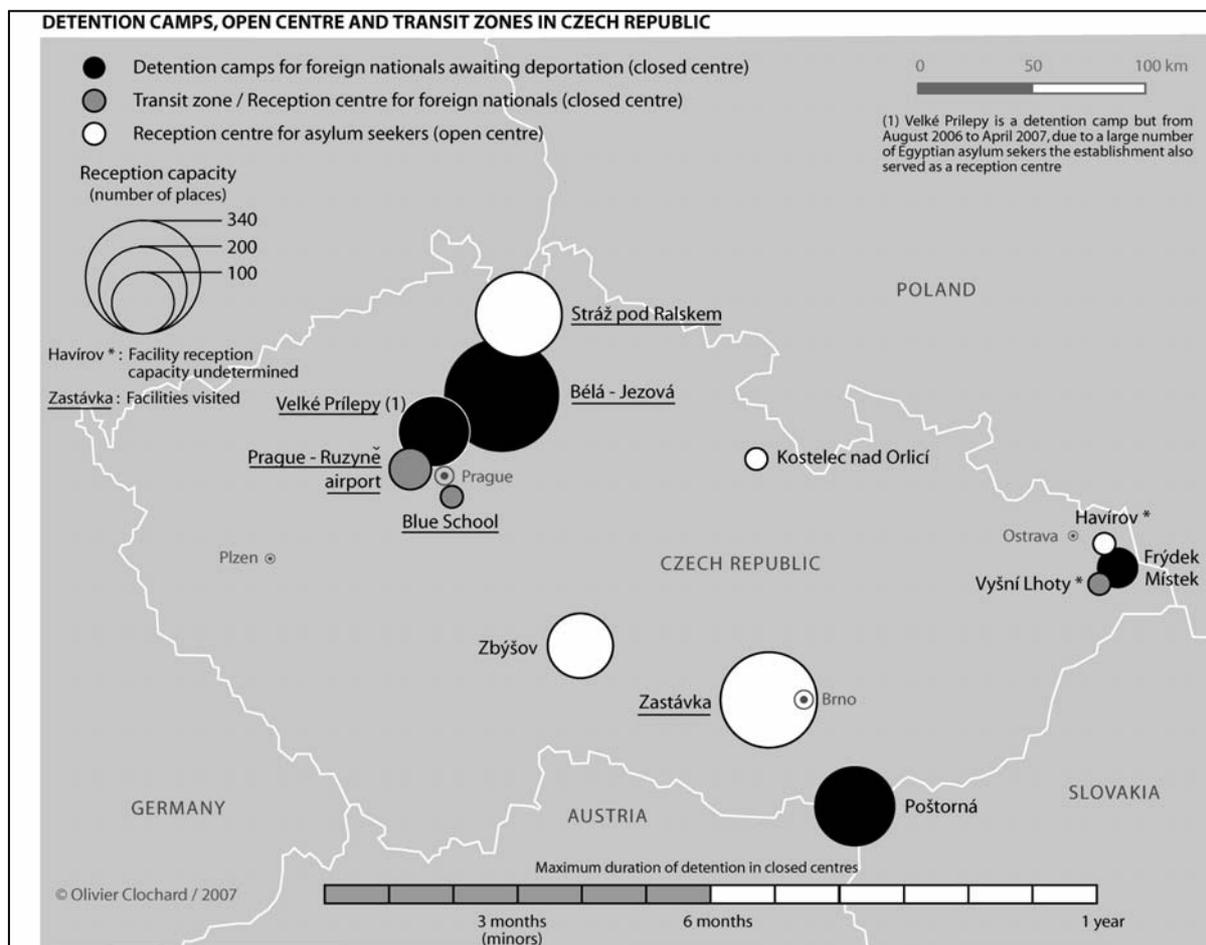
- Conform to the minimum standards for physical conditions (overcrowding) and hygiene.
- Ensure that social workers, doctors and psychologists capable of identifying vulnerable persons are present on a fortnightly basis.
- Set up regular consultation sessions so detainees can meet with NGOs and organisations with experience in accompanying asylum seekers and foreign nationals in Cyprus.

Closed centres: Limassol police station

- Limit the maximum duration for administrative detention in the police station.
- Avoid detaining foreign nationals arrested for administrative offences with common law criminals.
- Conform to the minimum standards for physical conditions (overcrowding) and hygiene.
- No longer hold people who have been subjected to inhumane and degrading treatment in administrative detention; refer them to adapted structures and organisations.
- Relax detention conditions (stop the temporary confinement of foreign nationals to their cells at night).
- Ensure permanent access to a telephone.
- Set up activities (sport, games etc.).
- Ensure the presence of external stakeholders (NGOs, organisations, lawyers etc.).
- Ensure social workers and doctors are available for consultation within the centre, to improve the identification of vulnerable persons in the two floors where the asylum seekers live.

2.4 CZECH REPUBLIC

Field study summary



1 – Brief description of how the study was carried out:

Our local partner, OPU (Organizace pro pomoc uprchlikum), is a non-governmental organisation which provides legal, social and psychological support for asylum seekers and other migrants in the Czech Republic. They were responsible for documentary research and the practical organisation of field visits.

The specificity of the centres, their geographical location and the presence of vulnerable persons were taken into account when selecting which centres to visit: The Praha Ruzyně airport transit zone reception centre and the Bela – Jezova reception centre (where unaccompanied women, families with or without children and unaccompanied minors aged 15 – 18 years are detained), the closed Velke Prilepy reception centre close to Prague airport (where only single men are detained) and the Zastavka u Brna reception centre for asylum seekers (where vulnerable persons including single women and people with motor disabilities) and the Straz pod Ralskem reception centre. We also visited the “Blue School”, a special centre for unaccompanied minor foreign nationals in Prague.

We were also able to meet with representatives from the HCR, IOM and representatives from the relevant Czech authorities.

2 – Background

Following an increase in the number of asylum seekers and migrants in the 1990s, mainly from former Soviet Union states (Moldavia, Russia, Romania, Armenia and the Ukraine) and then from the Middle East and Asia (Afghanistan, Irak, Vietnam, Sri Lanka), there has been a sharp decline in the number of asylum seekers and migrants arriving in the Czech Republic since 2004 when the country joined the European Union.

The national legal framework concerning foreign nationals and asylum is made up of laws passed in 1999 (“*Act 326/1999 on Residence of Aliens in the Territory of the Czech Republic*” and “*Asylum Act 325/1999*”). The Asylum Act was modified on 1st September 2006 by a law which aimed to incorporate European asylum regulations.

3 – Description of detention and reception systems:

There are three types of centres which fall under the responsibility of the Ministry of the Interior (“*Refugee Facilities Administration Unit*” = *SUZ* : “*Sprava Uprchlickych Zarineni*”).

Closed centres:

- **Reception centres** (Vysni-Lhoty and Prague Ruzyně Airport): these closed centres are used for the identification of asylum seekers. The duration of residence in these centres should, in theory, last no longer than the time it takes to carry out identification procedures and a medical examination.
- **Detention centres** Foreign nationals who have infringed the conditions for entry and residence can be held in one of four centres in the Czech Republic (Bela Jezova, Postorna, Velke Prilepy and Frydek Mistek). Detention is based on the issuing of a expulsion order. It is limited to a maximum duration of 180 days (six months).
- **Open accommodation centres for asylum seekers** (5 centres: Zastavka u Burna, Straz Pod Ralskem, Zbysov, Havirov, Kostelec nad Orlici). Asylum seekers stay in these centres whilst their application for asylum is processed, and sometimes beyond.
- Two centres receive unaccompanied minors whether or not they are seeking asylum. These centres fall under the responsibility of the Ministry for Social Affairs.

4 – Findings/conclusions:

4-1 – Concerning closed centres: Reception and detention centres

- Excessively long duration of detention, up to six months in the detention centres. In most cases the duration of detention lasts the maximum length of time of six months, and in the transit zone of the Prague Ruzyně Airport it can last longer, due to the administration’s procedures which have been criticised by the HCR and various NGOs.

- The strict security measures in place are unjustified and poorly suited to the detention of foreign nationals who have committed no crime (no free access to outdoor spaces).
- Detainees lack information on their rights, a problem which is accentuated by the language barrier and their inability to communicate with camp personnel.

Vulnerable persons:

- In some centres there is a lack of personnel capable of identifying vulnerable persons.
- Unaccompanied minors aged 15 – 18 years are detained (in a separate zone) and accompanied minors are detained for the same length of time as their parents: This detention is particularly harmful to their development and the structures used are not adapted to this purpose.
- The pathogenic nature of detention, which may provoke psychological disorders, has been reported by social workers operating in the centres.

4-2 - Open centres: accommodation centres for asylum seekers:

- Accommodation in camps leads to exclusion and hinders progress towards integration.
- Asylum seekers have difficulties obtaining healthcare (since the system was changed in September 2006 it is no longer possible to make an appointment with a doctor in the centres, theoretically asylum seekers have access to social services, but in practice it is very difficult to find doctors prepared to treat these populations).
- Insufficient housing benefits for beneficiaries of subsidiary protection who have to leave the centres.
- One positive point should be highlighted: the creation of protected areas for some categories of vulnerable persons (unaccompanied women)

5 – Recommendations

5-1 – Concerning detention centres

- The maximum duration for administrative detention should be lowered.
- Alternatives to detention should be developed (for example, obligation to report regularly to the authorities) and used systematically for minors, families with children and other vulnerable persons (people with diseases or disabilities, trauma victims) for whom detention is a factor which aggravates their vulnerability.
- Relax detention conditions; the prison regime in force is inappropriate and disproportionate.
- Increase the availability of social workers (only present, in insufficient numbers, at the Bela centre, just one for the centres for single men only) and psychologists to prevent violence and identify vulnerable persons.
- Improve training for centre personnel on the identification of vulnerable persons.

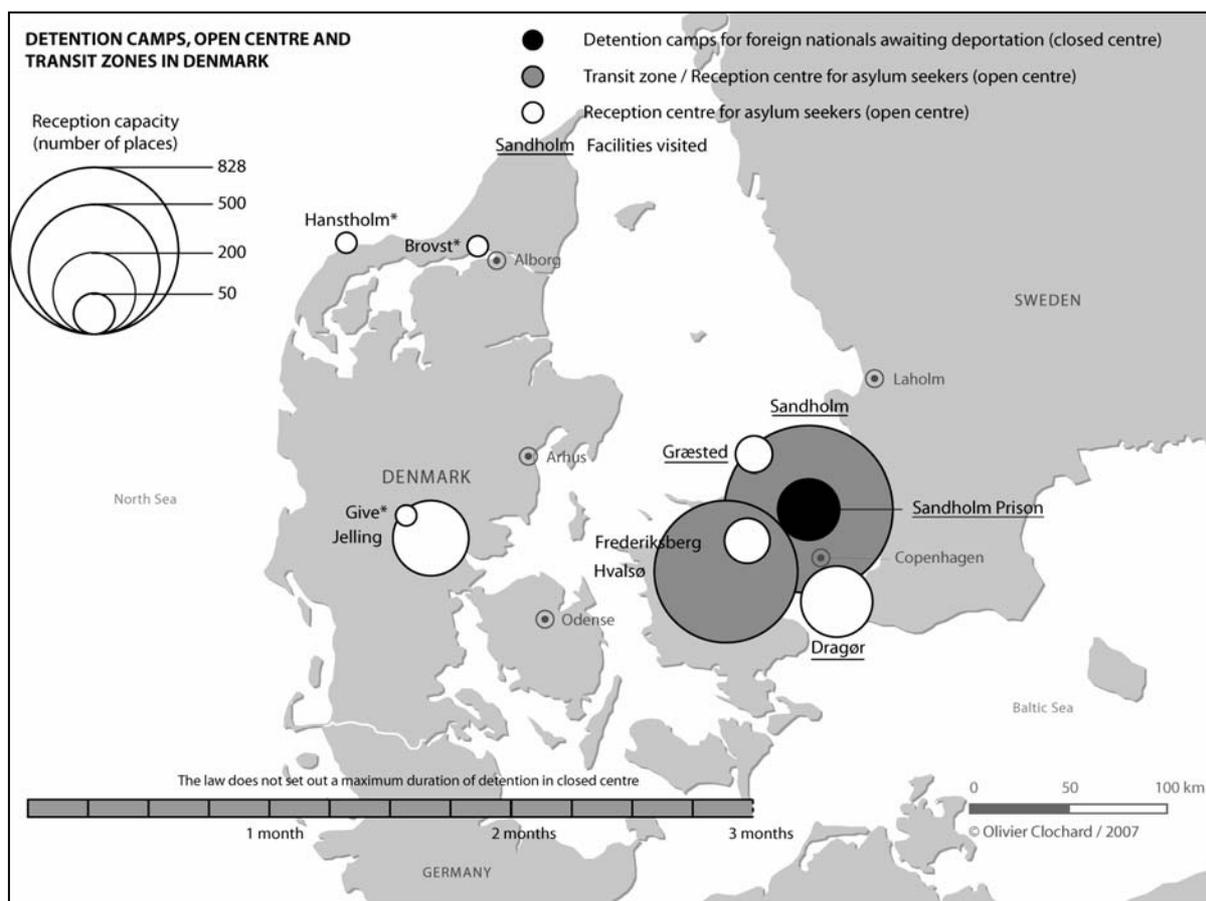
- Improve access to information on detainees' rights and to those rights themselves (more reliable access to interpreters, possibility to communicate with the outside world, purchasing of phone cards).

5-2 – Concerning reception centres for asylum seekers:

- Prefer individual accommodation solutions and develop and use individual accommodation units more frequently.
- Improve the prevention of violence and abuse, and the identification of people with psychological disorders by opening up improved access to psychologists and psychological monitoring.
- Ensure access to healthcare with a more systematic approach to guiding asylum seekers through the procedure to obtain a medical appointment.

2.5 DENMARK

Field study summary



1 – Brief description of how the study was carried out:

Our local partner, the Danish Institute for Human Rights, is a national institution working on protection, promotion of equality and fair treatment, and notably on migration policy and conditions for migrants and asylum seekers. They were responsible for documentary research in the country and the practical organisation of field visits.

The choice of places to visit was guided by our priority of investigating the treatment of vulnerable persons. The mission visited three centres specialised in the reception of vulnerable categories of asylum seekers, the Sandholm centre for rejected asylum seekers, which is the largest centre of this kind and holds a large number of families with children, and finally, the Sandholm detention centre (the only detention centre for foreign nationals in Denmark).

We also met with a manager from the Asylum seekers Centre Department of the Danish Immigration Service, a manager from the legal division of the Danish Asylum seekers Advice Bureau, and members of civil society (journalist, lawyer).

2 – Background

The issue of how asylum seekers are treated has been subject to extensive political debate in Denmark, following media reports on the living conditions of asylum seekers confined to centres for years whilst awaiting a decision on their application. The press has also widely reported the critical comments of the Committee Against Torture, made public in May 2007, concerning the living conditions in centres.

A further cause for concern is the increasingly restrictive and selective immigration policy implemented by the Danish government, which breaks with a long tradition in Denmark of welcoming and accepting victims of human rights violations. There has been a dramatic reduction in the number of asylum seekers (down from 8,385 in 2001 to 1,918 in 2006) and the number of residence permits issued under the Geneva Convention or on humanitarian grounds (which dropped from 6,263 to 1,095 in five years).

The immigration and welcome policy is defined under the 1983 Alien Act which has been periodically amended. Due to Denmark's reservations concerning the European Directives on asylum, these directives and minimum standards are not integrated into national law.

3 – Description of detention and reception systems:

3-1- Open centres for asylum seekers:

Asylum seekers are first referred to reception centres and then accommodation centres (either "normal" or "specialised"), and finally to "deportation" centres if their application is rejected. There are currently nine asylum centres in the country, with a total capacity of around 2000 places. Seven of them are managed by the Danish Red Cross, three of the centres managed by the Red Cross are reserved for vulnerable persons.

Rejected asylum seekers, who refuse to return voluntarily to their country of origin but cannot be deported due to insecurity in that country (Iraq, Somalia, Afghanistan), are authorised to reside for an indefinite period with minimal benefits, in two Red Cross accommodation centres.

3-2- One closed detention centre for foreign nationals:

Officially known as the "Institution for imprisoned asylum seekers", this centre, with a capacity of 118 places (of which 55 were occupied the day of our visit), is overseen by the Ministry of Justice Prisons Department. The detainees are those subject to a deportation order and who present a significant risk of attempting to avoid removal procedures. They are detained for the time it takes to organise their return. There is no maximum duration for detention. The current average duration is 42 days.

4 – Findings/conclusions:

- The most serious issue is the time it takes for asylum applications to be considered and the fact that rejected asylum seekers are "left to rot", their status as "neither accepted nor removed" means they are kept in accommodation centres for indefinite periods. The average duration of residence for asylum seekers in these centres quadrupled between 2001 and 2006.
- An alarming indicator of the deterioration in the psychological state of asylum seekers, is the increase in the number of suicide attempts made by asylum centre residents. According to the latest report from the Danish Asylum Seekers Advice Bureau, the percentage of suicide

attempts has tripled since 2001, increasing from 0.6% of the population residing in the centres in 2001, to 1.7% in 2006 (a rate 6 times higher than for the general Danish population!).

Concerning vulnerable persons:

The restrictive immigration policy is paradoxical given the remarkable material and professional resources available for the reception and accompaniment of asylum seekers, notably the centres specially designed to receive vulnerable persons:

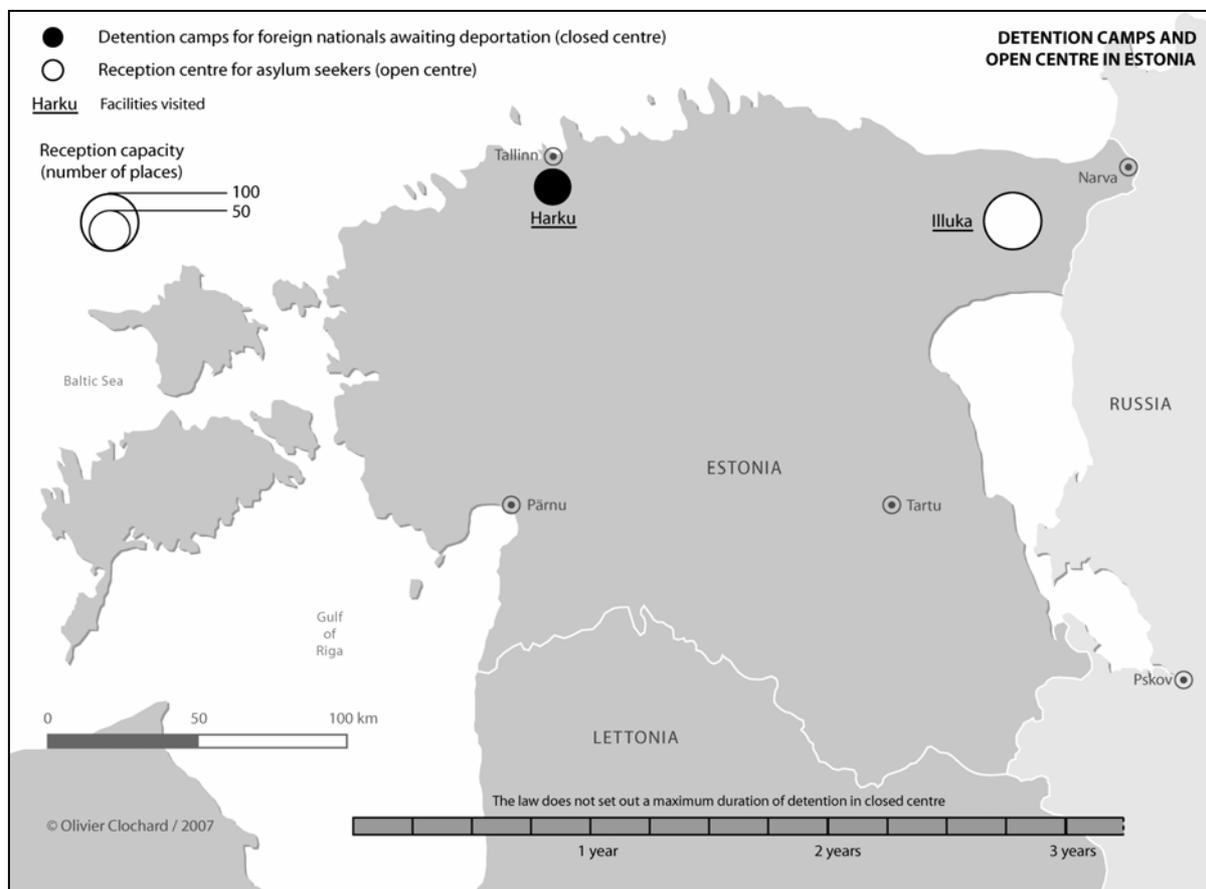
- The Gribskov unaccompanied minors centres.
- The Fasan centre for single women or mothers with young children.
- The Kongelunden centre for asylum seekers with physical or mental impairments. This unique centre, takes in adults with serious difficulties, and "at-risk" families where the parents suffer from impairments. The average duration of residence is 3 – 7 years.

5 – Recommendations

- A measure to regularise rejected asylum seekers who cannot be deported and have been in accommodation centres for over 3 – 4 years (similar to the recent measures implemented by the Dutch government for example).
- An urgent review of application procedures in order to reduce unnecessarily long waiting times.
- Better use of available reception capacity. The centres for unaccompanied minors, single women and people suffering from psychological traumas have the experience and infrastructure which could serve as a model for reception and integration if they did not meet with hostile political and administrative decisions which counteract this investment in the integration and healing of the people concerned.
- A more integrated approach should be used by the immigration services when considering asylum applications. Information provided by the services responsible for the day-to-day accompaniment of the people concerned, who know the difficulties faced by the most vulnerable, should be taken into account.
- Finally, and most importantly, the Danish authorities should be more open to welcoming in asylum seekers, in line with the material resources available and the traditions of this country.

2.6 ESTONIA

Field study summary



1 – Brief description of how the study was carried out:

Our local partner was the Jaan Tõnisson Institute, a research and training centre, which works on implementing programmes aiming to reinforce democracy in Estonia, notably within civil society. They were responsible for documentary research in the country and the practical organisation of field visits. Recently, the JTI has set up programmes related to the reception of migrants and asylum seekers.

For the purposes of the study the two main centres most likely to receive families or vulnerable foreign nationals were selected (the Harku administrative detention centre and the Illuka asylum seekers reception centre). Meetings were set up with two staff members from the Ministry of the Interior (from the department in charge of migration), and an Estonian MP (from the Pro Patriae Union party) who participated in drawing up the laws governing the reception of asylum seekers and the management of migratory flow in Estonia.

2 – Background

The issue of migrants and asylum seekers in Estonia does not appear to be a major one, given the low numbers of migrants and asylum seekers.

The asylum law (Refugee Act) was adopted in 1997, the year Estonia ratified the 1951 Geneva Convention on asylum seekers.

3 – Description of detention and reception systems:

Estonia has two centres specifically intended to receive third country nationals from outside of the European Union:

- **The Harku administrative detention centre**, under the responsibility of the Ministry of the Interior, where people without a residence permit, awaiting expulsion are held. The total capacity for the centre is 42 places.
- **The Illuka open centre** for asylum seekers awaiting a decision on their application.

Foreign nationals whose residence permits are not in order and/or asylum seekers can be held temporarily (for a few hours, or sometimes a few days), in the port and Tallinn airport transit zones, or at land border control posts (Ikla, Narva, Luhamaa, Koidula). Finally, there are other places such as Tallinn, Harku, Rummu, Amari and Tartu prisons, where illegal foreign nationals can be detained.

4 – Findings/conclusions:

4-1 – Concerning the Harku detention centre

- The situation of illegal immigrants held in administrative detention is reviewed every two months by the administrative tribunal. This legal and administrative system can however lead to imprisonment for an indefinite period, as no maximum duration for detention is defined by the law. There is for example a Russian national who has been held in Harku for three years.
- Detention conditions are severe, with unjustified restrictions on detainees' freedom of movement (foreign nationals are placed in isolation if they do not respect the centre's rules, visits are limited to one hour and supervised by a member of the centre's staff).
- Although the different rooms of the administrative detention centre are clean and well-maintained, detention remains of a pathogenic nature due to the absence of a maximum detention period set by the law.

Concerning vulnerable persons:

- The security guards (some of whom are employed by a private company), do not appear to be trained in identifying vulnerable persons. There are no specific measures in place for vulnerable foreign nationals.
- To date the centre has not taken in unaccompanied minors, but this may happen as it is permitted by the law.

4-2 – Concerning the Illuka reception centre for asylum seekers

- All foreign nationals who apply for asylum in Estonia are accommodated at the Illuka centre. Residence is obligatory whilst their application is being processed. There were six people in the centre when we visited.
- Three hours away from Tallin, the Illuka centre is located six kilometres away from the Russian border in a clearing in the middle of a forest. The isolation of the centre (built in 2000) and the severe weather conditions in the winter, mean that a certain number of asylum seekers leave the centre before a decision is made concerning their status. Four people obtained refugee status for the period of 2002 - 2005.

5 – Recommendations

Harku detention centre

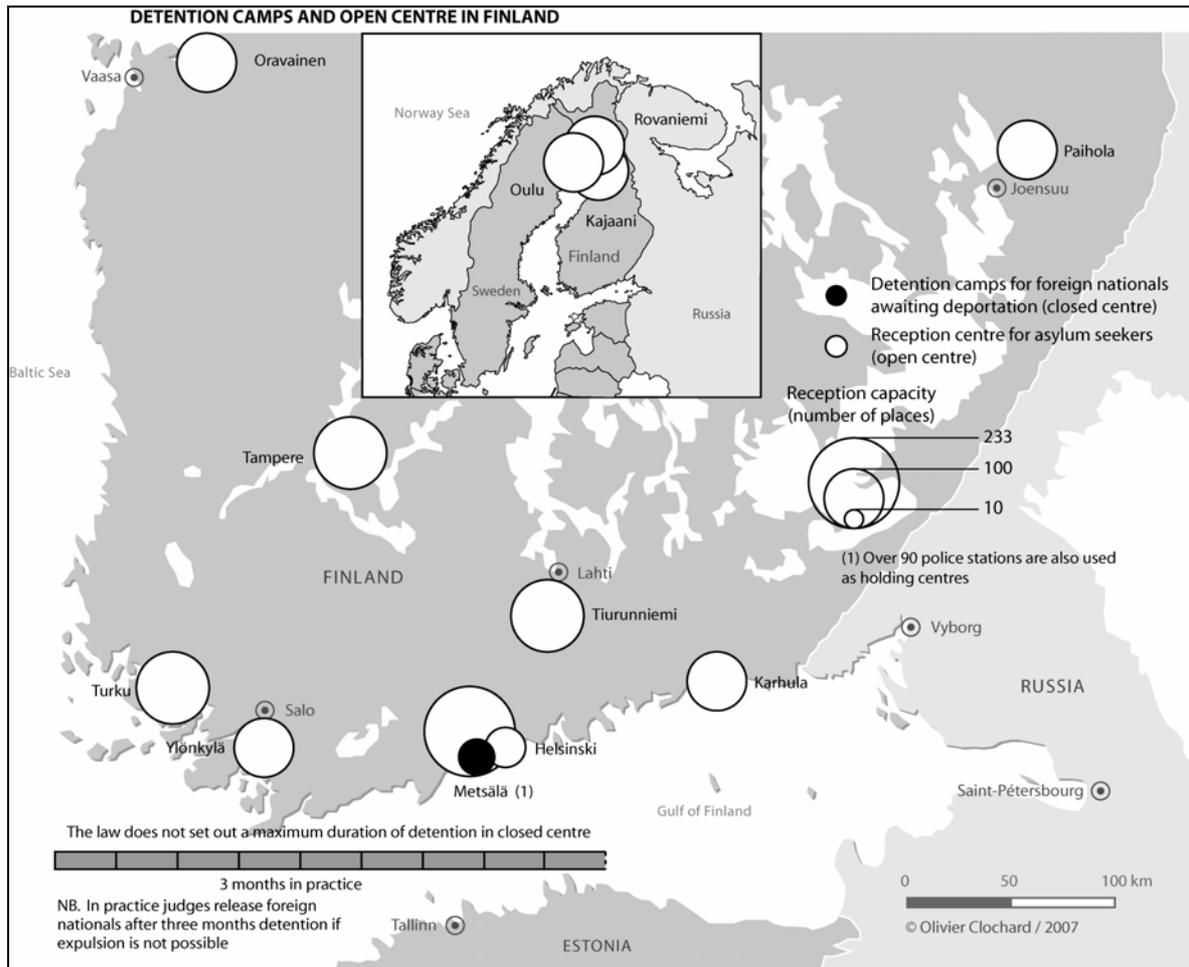
- Limit the duration of administrative detention.
- Implement alternatives to administrative detention, in particular for families with children and vulnerable persons (people with diseases, people with disabilities, victims of trauma etc.). These foreign nationals could for example, be obliged to report regularly to the relevant authorities.
- Relax detention conditions by stopping the confinement of detainees to their cells or in isolation, and by authorising visits without requiring the presence of centre personnel.
- Ensure that social workers and psychologists to identify vulnerable persons are present.
- Set up regular consultation sessions so detainees can meet with NGOs and organisations with experience in accompanying asylum seekers and foreign nationals in Estonia.

Recommendations for the Illuka centre:

- Offer alternatives to the mandatory accommodation in the centre by proposing accommodation in large conurbations.
- Train the centre personnel in the identification of victims of violence and people suffering from psychological disorders (special training for medical personnel who may intervene in the centre and support staff in identifying victims of violence).
- Ensure the possibility of regular medical visits in the centre.

2.7 FINLAND

Field study summary



1 – Brief description of how the study was carried out:

Our local partner, the Refugee Advice Centre, is the largest non-governmental organisation in Finland, and provides legal assistance to asylum seekers and other immigrants. They were responsible for documentary research in the country and the practical organisation of field visits.

The locations visited were chosen according to their representativeness: the three reception centres were selected as each falls under the authority of one of the three bodies in charge of administering centres in Finland (the State, the municipalities and the Red Cross), others were selected as they receive vulnerable persons (two centres for unaccompanied minors were visited) or due to their geographical location, or their uniqueness (the only administrative detention centre for foreign nationals was visited).

Our visits were expected and we were well received on all occasions.

2 – Background

For geopolitical and economic reasons, Finland has a long tradition of emigration. Following the break up of the Soviet Union and Finland's entry into the European Union in 1995, the country was subject to a massive wave of immigration.

Recent arrivals have led the Finnish authorities to reform legislation concerning foreign nationals. The country needs to prepare to meet the needs of a booming economy in nation with an ageing population. Important changes will take place in 2008, and a new Ministry, the Ministry of Migration and European Affairs, has been created within the Ministry of the Interior.

Given the considerable increase in the number of immigrants arriving in the 1990s, the 1991 Alien Act was modified several times before a new Alien Act was promulgated in 2004. The main objectives of this law were to speed up and simplify the procedure for issuing residence permits and to harmonise Finnish legislation with that of other European countries.

3 – Description of detention and reception systems:

There are currently 13 centres located throughout Finland (see map) which have a total capacity of around 1,600 places:

- **A detention centre** located in Metsälä, in the borough of Helsinki, this centre with a capacity of 40 places is designed to hold foreign nationals awaiting expulsion (double punishment), rejected asylum seekers suspected of harbouring intentions to hide and foreign nationals who have been refused entry onto Finnish soil. There is no legal limit on the duration of detention, in practice, judges free detainees after three months if they cannot be returned.
- **12 open accommodation centres for asylum seekers**, with a total capacity of around 1,600 places. These centres are administered by the State (Ministry of Labour), local municipalities or the Finnish Red Cross. In June 2007, only three quarters of the available places were used.
- **Seven specialised reception centres for unaccompanied minors** (group homes).

4 – Findings/conclusions:

4.1-1 – Concerning detention centres (one centre in Finland, the Metsälä detention centre):

This centre is run by the Helsinki Municipal Department for Social Affairs, which means centre personnel are not perceived as being police officers.

Vulnerable persons:

- During the visit the centre Director expressed their view that some categories of vulnerable persons should not be imprisoned, notably those with serious psychological problems, and mothers with children.

4.2-2 – Concerning reception centres for asylum seekers

- Conditions in the centres are highly pathogenic: the long waiting period, uncertainty concerning the final outcome and the isolation of certain centres are factors contributing to psychological destabilisation. The situation is particularly difficult for children whose parents are suffering from depression.
- On a positive note, asylum seekers can reside outside of these centres and receive financial benefits.

Concerning vulnerable persons:

- Education for children: the municipalities have no legal obligation to provide schooling for children in local state schools (according to the law education is only obligatory for children residing in Finland on a permanent basis). This infringement of the European Union Directives has been denounced by human rights organisations.
- Concerning unaccompanied minors: the seven specialised centres provide a high quality educational and human framework but this guidance stops abruptly on the minor's 18th birthday.
- Single women, with or without children: the Alien Act makes reference to the requirement to take into consideration these people's specific needs. In the centres vulnerable women often receive special treatment from the supervisory staff.
- Victims of torture or ill treatment, people with disabilities, and victims of human trafficking also receive special treatment in the centres.

5 – Recommendations

Concerning asylum seekers:

- Expand the criteria for conferring refugee status or subsidiary protection to help people fleeing theatres of war or in other vulnerable situations to find long-term solutions in this country.
- Speed up application procedures.
- Prefer alternatives to accommodation in camps which does not provide the appropriate living conditions, or the necessary preparation for integration. These factors, combined with the extreme geographical and social isolation of some of these centres (such as the Joutseno centre we visited), and the anxiety induced by the length of the application procedure, create highly pathogenic conditions which affect women and children the most.

Concerning the situation of vulnerable populations:

- Alternatives to placement in a communal accommodation centre should be sought on a more systematic basis for people with mental health problems (in particular if they are held in an isolated, unequipped centre which can generate problems with depression).

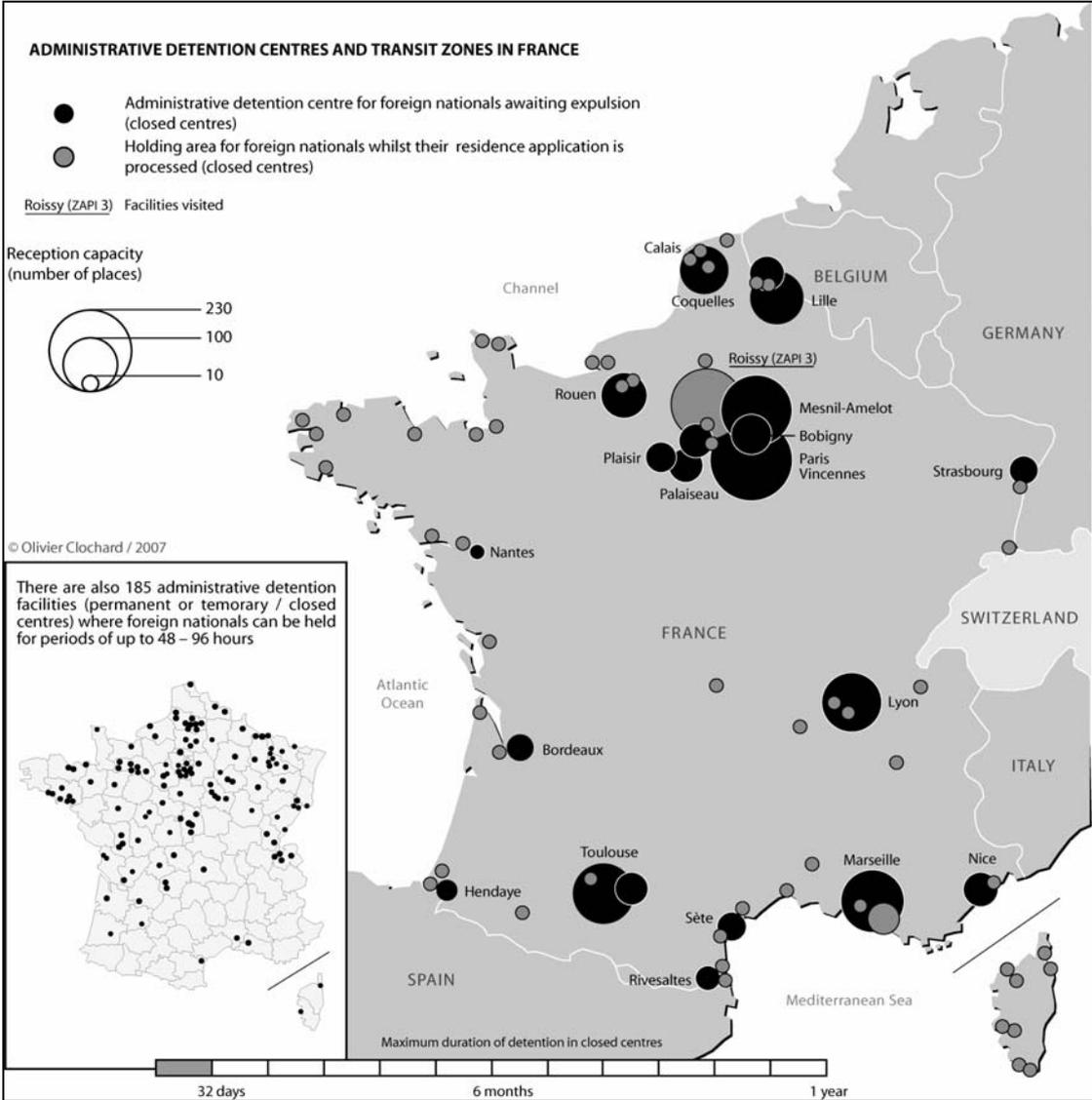
- The children of asylum seekers and their families should reside for no longer than one year in a communal centre, as these centres may contribute to de-structuring the family unit and worsening the trauma caused by circumstances in their country of origin.
- Specialised support for those suffering from psychological or psychiatric problems should be extended to all long-stay centres.
- Young people who have just turned eighteen but still require support should continue to be referred to the remarkably high quality specialised centres for unaccompanied minors for guidance.

Concerning detention:

- The duration of detention should be limited.
- Alternative to detention should be sought and preferred in particular for certain categories of vulnerable persons such as women with children, or people suffering from psychiatric disorders who should not be placed in these centres.

2.8 FRANCE

Field study summary



1 – Brief description of how the study was carried out:

Our local partner, CIMADE is an association that implements various programmes for migrants and asylum seekers and works in detention centres on a day-to-day basis. They were responsible for documentary research in the country and the practical organisation of field visits.

The study was limited in terms of the number of centres visited: One holding area (ZA), 5 administrative detention centres (CRA) and one administrative detention facility (LRA). Due to time constraints we were unable to visit lower capacity centres (other than the LRA in Nanterre and the women’s CRA in Paris). For the same reasons we were unable to visit closed centres outside of mainland France.

Thanks to the frequent presence of humanitarian organisations and their reports and publications, we were able to obtain an overall picture of the situation that is reliable and relatively up-to-date.

2 – Background

In recent years the French government's immigration and asylum policy has been increasingly tightened. The change in government in May 2007 confirmed this trend and a ministry with specific responsibility for immigration issues has been created.

The most recent changes in legislation – the CEDESA law – came into force in March 2005 and have restricted entry and residence conditions for foreign nationals.

Pressure to meet quotas set for the number of removals, has, over the last few years led to an “industrialisation” of the process for arresting illegal foreign nationals and depriving them of their freedom. Pressure to meet quotas set for the number of removals, has, over the last few years led to an “industrialisation” of the process for arresting illegal foreign nationals and depriving them of their freedom. Stakeholders responsible for regulating these procedures, legal authorities and in particular medical and social workers, find it increasingly difficult to do so.

3 – Description of detention and reception systems:

3-1 - Open centres for asylum seekers

Asylum seekers can be accommodated in reception centres for asylum seekers (CADA) for the duration of the asylum application procedure.

3-2. Closed centres

- Holding areas: designed to hold foreign nationals arrested on arrival in France.
- Administrative detention centres and facilities: illegal immigrants subject to a deportation order (rejected asylum seekers who have been refused a residence permit etc.) are placed in administrative detention centres or facilities whilst awaiting expulsion. The maximum duration of detention **is 32 days**.

4 – Findings/conclusions:

4-1 – Concerning reception centres for asylum seekers:

As there are more asylum seekers than available places in the CADA, many asylum seekers are refused access. Priority is given to families and vulnerable persons. Some of those who cannot benefit from a place in a centre are accommodated in hotels or in emergency accommodation. Others have to find their own solution.

4-2 – Concerning detention centres

- Overall, there has been an improvement in the physical handling of detained foreign nationals, over the years. This is largely due to the strong presence, within the centres themselves of representatives from humanitarian organisations, who are stakeholders, witnesses and a counterbalance.
- The general improvements in physical conditions seen in new detention centres are counterbalanced by the increased size of these detention centres, and the extension of the maximum duration of detention. These factors have led to deterioration in the atmosphere in these closed centres and in particular a rise in the number of desperate acts committed, including physical assaults. In some circles it is thought that the improvement in physical conditions has the perverse effect of making this type of detention seem banal when the very principle of detaining people in this position and in particular families with children can be questioned. The detention of vulnerable persons has increased due to the setting of quotas for the number of expulsions.
- The presence of children in these places where they are deprived of their freedom, even if these are “family zones” and they are kept here in order to keep families together, was particularly shocking for the study team.
- Administrative detention facilities are places which rarely meet the standards set out in the legislation (many custodial facilities temporarily change status), and where rights are rarely upheld and cannot be exercised by detainees.
- Concerning the overall functioning of the system, there is a strong indication that it is unable to take individual cases into account. Despite everyone’s best efforts, the individual processing of cases is insufficient, and the general intentions of the law and the basic principles of respect for human beings are flouted.

5 – Recommendations

Concerning the reception of asylum seekers

- The CADA should keep to their mission of providing social and legal guidance for asylum seekers and sustainable socio-economic independence by remaining as reception facilities. Under no circumstances should the CADA turn into detention facilities which would encumber them with issues of public order that do not concern them, and undermine the social work carried out by teams in the centres.
- All asylum seekers, including those subject to a fast-track procedure or the Dublin II regulation, should benefit from immediate access to the CMU (free national health insurance) as of their first visit to the *préfecture*.

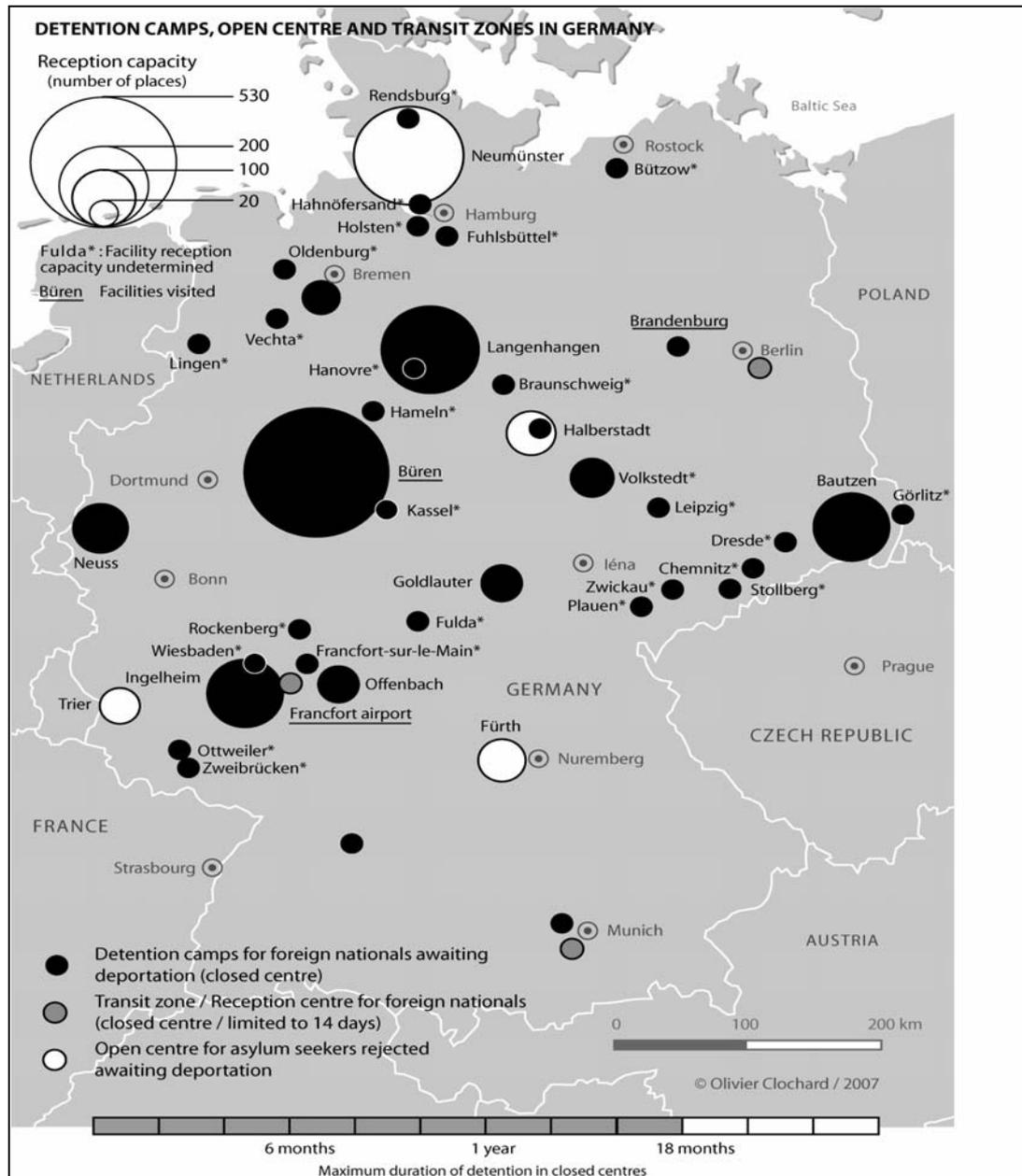
Concerning detention centres:

- Produce an exhaustive list of administrative detention facilities, keep this up-to-date and ensure legal standards are upheld.

- Subsequently, draw up a situation review for all detention facilities and immediately close those which do not meet the legally required standards.
- Subsequently ensure the systematic presence of medical staff and humanitarian associations in detention facilities.
- Review the situation of minors in holding areas: prohibit the return of unaccompanied minor and subsequently forbid the return of minors to countries of origin which do not provide adequate guarantees for their safe return.
- Prohibit the almost immediate removal of illegal immigrants during “on-board inspections”, which is contrary to asylum law.
- Encourage the *préfectures* to consider in more detail individual cases for whom detention is unacceptable, and to do so prior to their detention: families with young children, AIDS sufferers, people having lived in France for a long time and who are integrated both in terms of their professional and family lives.
- Introduce the right to an interpreter, paid for by the State, to assist the detained foreign national in making their asylum application.
- Help to reinforce the presence of humanitarian organisations (with priority given to the CIMADE) in the CRA.
- Clarify the ANAEM’s mandate and provide them with the appropriate financial and human resources.
- Introduce regular information and coordination meetings between those intervening in the CRA: administrative, security, medical, social, legal etc.
- Reinforce psychological support services.
- Set out clear procedures for the use of handcuffs when transferring detainees.
- Implement a bill setting out the procedure for placing a detainee in isolation.
- Implement a protocol for hospital transfers.

2.9 GERMANY

Field study summary



1 – Brief description of how the study was carried out:

Our local partner, Pro Asyl, was founded in September 1986 with the aim of supporting and defending the rights of victims of persecution. They took responsibility for documentary research in the country and the practical organisation of field visits.

Five centres were selected and the following visits organised: Frankfurt airport transit zone, the Bramsche/Niedersachsen open integrated detention centre, the Eisenhüttenstadt/Brandenburg closed

detention centre, the **Nostorf-Horst/Mecklenburg-Vorpommern-Hamburg reception and accommodation administrative centre, the Tübingen/Baden-Württemberg as well as the closed detention centre at Büren/Nordrhein-Westfalen for an interview with an expert (standardised interviews were not conducted in this centre).**

Our relations with the authorities and most of the centre management were good: **however, the authorities at the Neumünster/Schleswig-Holstein open reception and detention centre refused the visit.**

2 – Background

Since 2004, there has been a steady decline in the number of asylum seekers and migrants in Germany. These changes are mainly due to the combined impact of the admission of new Member States into the European Union, the implementation of the Dublin II Regulation, and the strengthening of external borders which has accompanied the entry of these countries into the European Union.

The migrants in Germany mainly come from Serbia, Iraq, Turkey, Russia, Lebanon, Syria, Iran, India and Nigeria.

Germany's immigration policy has undergone significant changes in recent times. The most recent legislative change resulted in the amendment of the "Zuwanderungsgesetz" (law on immigration), which came into force in January 2005, and constitutes a complete overhaul of German immigration laws. The Bundestag recently adopted a new amendment which came into force on 28th August 2007, and aims to integrate European directives into national law.

3 – Description of detention and reception systems:

In Germany, the type of accommodation varies from one region to another, as each region (Länder) is responsible for accommodating asylum seekers. Furthermore, in many Bundesländer, "non citizens", who have tolerated status, are accommodated in communal reception centres. This is a new situation compared to previous years. The Bundesländer are gradually moving away from a decentralised, personalised accommodation system, towards the setting up of larger, multi-function, collective centres (reception, accommodation, detention, preparation for expulsion), and the grouping of foreign nationals with differing administrative status (asylum seekers, illegal immigrants, those awaiting deportation).

Due to a lack of centralised data, the number of centres holding foreign nationals can only be estimated:

Closed centres:

- 3 closed detention centres, located in airport transit zones (duration of detention officially limited to 14 days).
- Approximately 32 closed detention centres: the duration of detention is limited to 18 months.

Open centres:

- 20 reception centres for asylum seekers (who stay here for the first weeks following their asylum application, for a duration of between 6 weeks and 3 months maximum).
- Around 900 community centres (there has been a continual reduction in their number since 2003), with no time limit on the duration of the residence of foreign nationals with no permanent status.
- 6 open removal centres, whose declared aim is to encourage foreign nationals with no permanent status to return voluntarily (with no time limit on the duration of residence).

4 – Findings/conclusions:

- The objective of the amendment to the “EU implementation law”, which came into force on 28th August 2007, was to integrate the EU Directives, which had not taken place as far as access to healthcare and protection for minors, torture victims and the victims of human trafficking were concerned.
- Conformity of provisions in national and international law for vulnerable persons.
- Detention for readmission (Dublin II) has become widespread and allows for detention during the asylum application procedure, despite this being against the international measures in place. Furthermore, it is no longer possible to appeal against detention orders for asylum seekers, which deprives unaccompanied minors, separated family members and other vulnerable groups of their right to legal counsel.
- The measures contained in the EU Reception Conditions Directive concerning vulnerable persons have not been implemented. Access to healthcare is not guaranteed for those that need it.
- The imposition of financial sanctions or the imprisonment of asylum seekers who do not respect the duty of residence imposed on asylum seekers during the application procedure (obligation to remain within the immediate vicinity of the centre or accommodation unit), do not conform with the EU Reception Conditions Directive.
- The EU Qualification Directive only constitutes a partial reference in the second amendment to the German law, which contains no concrete definition of the prerequisites for subsidiary support, nor the eligibility of asylum seekers with subsidiary protection for a residence permit (there will only be an option for a residence permit).

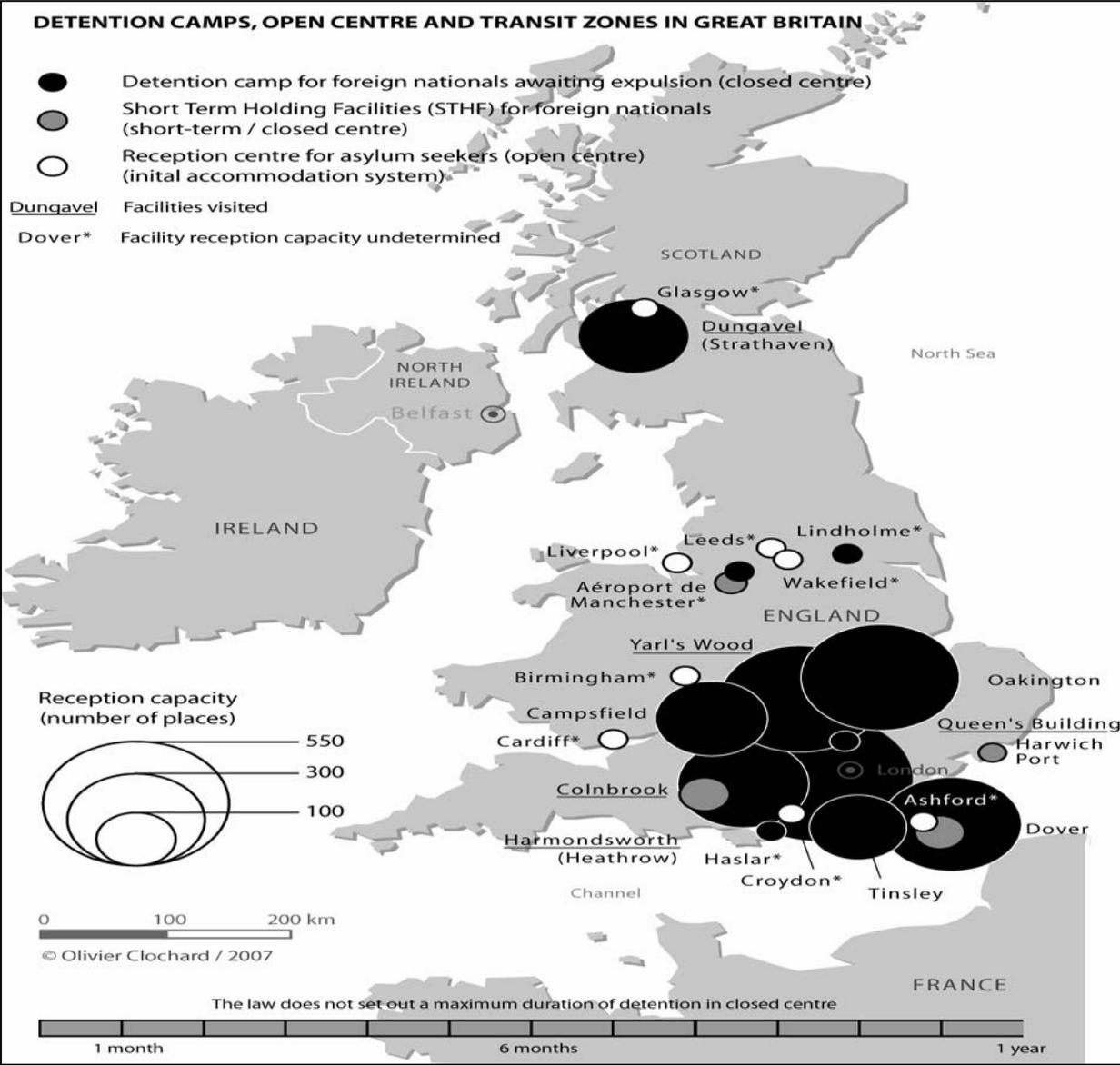
5 – Recommendations:

- Reduce the maximum duration of detention and look for alternatives to detention.
- Prohibit the detention of minors, elderly persons, persons in a disabling situation.
- Relax the conditions of detention: Detained foreign nationals should not be subject to the same conditions as criminals. The rules governing expulsion procedures should take into account the administrative as opposed to criminal nature of this type of detention. The right to access to legal counsel should be upheld as well as the international ban on detaining asylum seekers.

- With regards to the social support system in the detention centres: Set up an independent social service to identify the symptoms of trauma which make it possible to register a person as vulnerable, which in turn gives them specific rights.
- With regards to the asylum application procedure: Define and follow a transparent procedure for determining vulnerability (this procedure differs between the Bundesländer, and vulnerability is not determined when the asylum seekers are first received).
- With regards to asylum application procedures at the airport: the time limit for interviewing an asylum-seeker should be extended to ensure the person has time to recover physically and psychologically and that the interview is fair. An immigration permit should be put into place to clarify the issuing of a residence permit for humanitarian reasons to vulnerable persons whose vulnerability is a risk factor in the event of return to their country of origin.

2.10 GREAT BRITAIN²⁶

Field study summary



1 – Brief description of how the study was carried out:

Our local partner, the *Association of Visitors to Immigration Detainees (AVID)*, is an NGO which provides legal aid, and support to detainees and groups of visitors to the detention centres. They were responsible for documentary research in the country and the practical organisation of field visits.

²⁶ As the field survey did not cover North Ireland, Great Britain will be regularly mentioned instead of United Kindown, in the parts of the report related to the survey findings

Different types of centres were selected for this study: an initial accommodation centre, detention centres, and a holding facility.

The personnel from the Home Office departments cooperated satisfactorily with the study team. Our request to meet with detainees at the Colnbrook centre was, however, refused by a representative from the private company that runs the centre.

We were able to meet with representatives from the following NGOs: Refugee Council, Bail for Immigration Detainees, Medical Foundation for the Care of Victims, and the Medical Justice Campaign.

2 – Background

Due to the general population's criticisms of immigration policy, in 2005, the British government set out a five-year plan to implement a new asylum and immigration policy. This mainly involved the implementation of the New Asylum Model (NAM) including: a fast-track procedure for processing asylum seekers' applications, an increase in the number of removals and deportations and the introduction of a points scheme for immigration.

It was difficult for the study team to obtain precise information concerning how the asylum and immigration system in its entirety is working, as the system is still evolving and many measures are still in the experimental stages.

3 – Description of detention and reception systems:

The Border and Immigration Agency (BIA) is under the authority of the Home Office who deals with detention and reception issues.

3-1 - Reception centres:

The system for the reception of asylum seekers is complex, as different bodies operate under the authority of the BIA (National Asylum Support Service, NASS), including six contracted NGOs: Refugee Council, Refugee Action, Migrant Helpline, Refugee Arrivals Project, Scottish Refugee Council and the Welsh Refugee Council.

If their application is accepted, an asylum-seeker can receive assistance from the BIA and can obtain welfare benefits in order to rent private accommodation or obtain a place in initial accommodation.

Following a temporary stay in an induction centre, asylum seekers are transferred to another accommodation centre in line with the dispersion policy introduced in 2000, which aims to accommodate asylum seekers outside of London and the South-East.

People who do not qualify for this type of assistance (notably rejected asylum seekers) are classified as "destitute".

There are accommodation centres devoted to the reception of unaccompanied minors. We were unable to visit any of these centres.

3-2 - Detention centres:

- There are some Short-Term Holding Facilities (STHF).
- 11 removal centres, in which foreign nationals awaiting removal are detained. These centres are run by private companies contracted to the BIA. A new removal centre, “Brock House”, is being built and will have a capacity of 426 places for both men and women.
- Some prisons are also used to detain migrants or asylum seekers who have committed crimes.
- There are no transit zones as defined in this study: foreign nationals stopped on the borders are detained on that border in a short-term holding facility and then transferred to detention centres.

4 – Findings/conclusions:

4-1 – Concerning detention centres

- The duration of detention is unlimited: in September 2006, 35 people had been detained for over 12 months.
- Detention facilities are run by private companies.
- There are no permanent legal support services in the centres.
- In some short-term holding facilities (non-residential) there is a lack of facilities to accommodate foreign nationals in the event of their flight being cancelled or a refusal to embark etc.
- We noted that doctors from the Medical Justice Campaign, with no connection to the centres, carry out visits in the centres.

Concerning vulnerable persons:

- Only unaccompanied minors are not detained. Children accompanied by their parent and families are detained: we were told by several mothers that they had grave concerns about their detained child’s health.
- People with reduced mobility can be detained, as well as pregnant women in some circumstances.
- In theory vulnerable persons are not subject to the fast track application processing procedure, but in practice, we met a woman at Yarl’s Wood, who was 3 months pregnant, it seems difficult to identify torture victims over such a short period.
- Medical personnel in the centre lack training in recognising and providing care for people suffering from psychological disorders and victims of torture.
- Victims of torture can be referred to the Medical Foundation for the Care of victims of torture.

4-2 – Concerning reception centres for asylum seekers:

- Asylum seekers: The induction centres are, by definition, temporary, but do not provide appropriate conditions for the accommodation of vulnerable persons, despite the best efforts of the organisations responsible for running them.
- Within the NAM framework, personnel from the immigration service carry out visits to reception structures.

5 – Recommendations

Concerning detention centres:

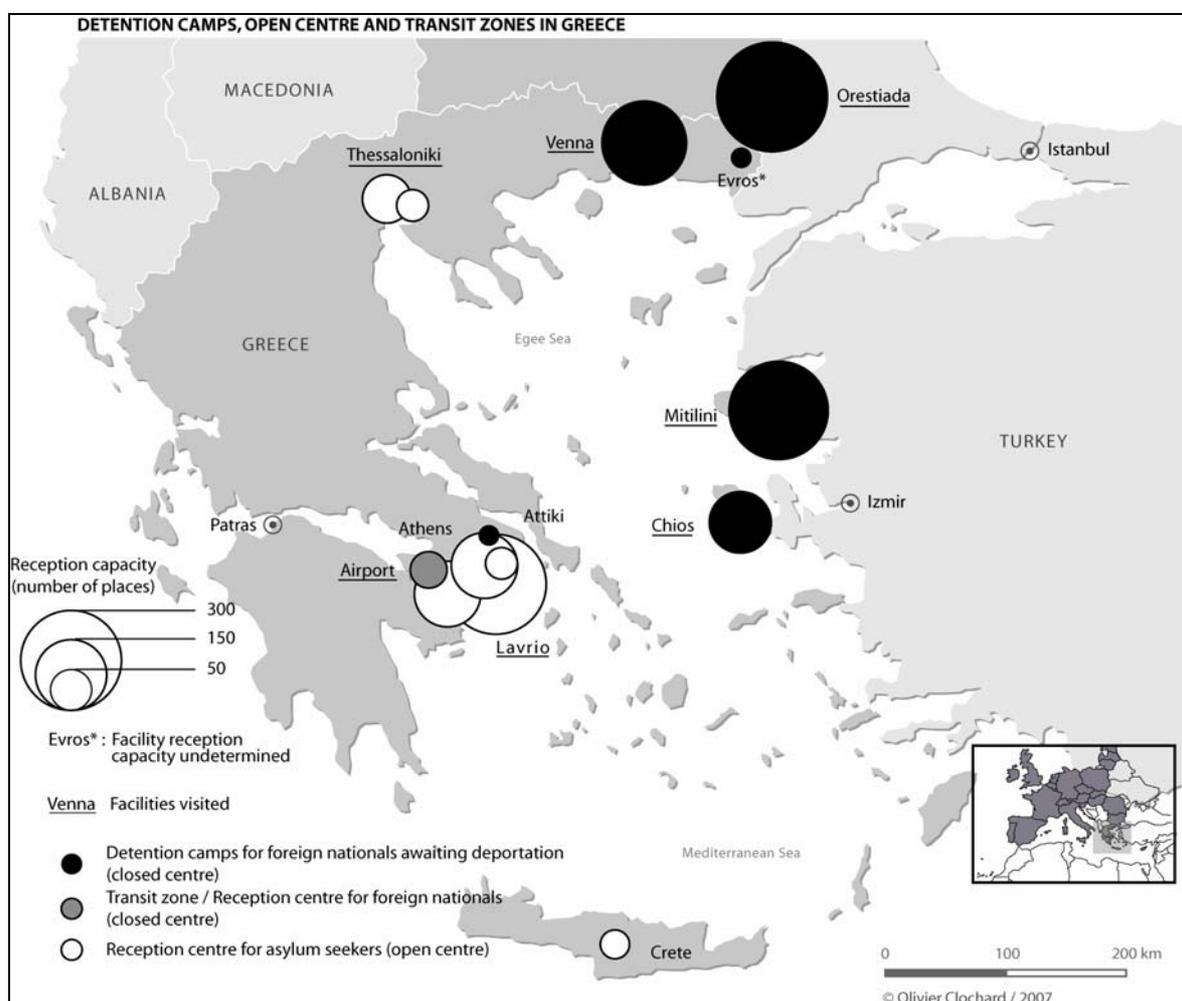
- The duration of detention should be limited and the detention of minors accompanied by their families, and pregnant women should be prohibited.
- Prefer alternatives to detention and use them systematically for families.
- Ensure the motives for, and the conditions governing the detention are examined by a judge.
- Ensure the rules drawn up by the Home Office in favour of vulnerable persons are applied in practice.
- Improve medical, psychological and psychiatric care for detainees (by ensuring clear separation between medical and immigration services).
- Take into account both the eventual lack of adequate treatment in the country of origin and the accessibility of this treatment.
- Implement a legal aid system to ensure detainees' rights are upheld (legal information, help to write appeals where necessary)

Concerning reception centres:

- Provide more financial resources for the reception of asylum seekers.
- Enact clear rules defining the duties of the different stakeholders responsible for the reception of asylum seekers, and in particular vulnerable persons.

2.11 GREECE

Field study summary



1 – Brief description of how the study was carried out:

Our local partner, “Antigone”, is an organisation that works on the defence of human rights, non-violence, peace and conflict resolution. They were responsible for documentary research and the practical organisation of field visits. They run a number of programmes for migrants in Greece.

The centres visited were chosen according to the size of the country, their geographical location, their accessibility and the proportion of vulnerable persons in the centre.

We encountered a specific problem due to the policy of opening and closing centres according to arrivals, in particular in the Evros region and the Dodecanese.

2 – Background

A gateway to the European Union, Greece is a geographically strategic country for migrants due to its land borders with Bulgaria, Macedonia and Albania and the maritime and land borders with Turkey, country of origin of most of the migrants in Greece. Afghans, Iraqis, Iranians, Turks, Pakistanis and Palestinians transit through Greece to get to Europe. Greece is therefore primarily a transit country for those who hope to continue their journey into Italy. There are also a large number of migrants from former Eastern European countries (Albanians, Georgians, and Bulgarians).

The number of foreign nationals in Greece may be up to 1 million people, including 13,000 asylum seekers (HCR figures 2006). The number of illegal immigrants is very high.

The main legal instruments are Law 3386/2005 governing the entry, residence and social integration of third country nationals and the 1996, 1998 and 1999 asylum laws (a reform to the law was being drawn up whilst we were carrying out this study).

3 – Description of detention and reception systems:

3-1 - Detention centres:

Administrative detention takes place under the authority of the police. Facilities can be created on the decision of one of the appropriate ministries (Ministry of the Interior, of Public Services, of Public Order, of Health or of Finance) who also set out the operating conditions for these facilities. In practice, arrested migrants are detained:

1. In police stations located on the borders for a limited period.
2. In ad hoc detention centres.
3. In prisons for people being prosecuted for criminal offences.
4. In the Athens airport transit zone.

An official list of detention facilities was provided by the Ministry of Public Order. This list does not correspond to the real number of detention centres we heard about.

Migrants are most often detained on their arrival in Greece, and the detention centres are mainly located on the countries' land (Evros region) and maritime borders (Islands) with Turkey. Any person who has illegally entered the country is systematically detained for a duration limited to three months.

3-2 – Concerning reception centres for asylum seekers:

There are 10 reception centres, including three for unaccompanied minors. An official list of reception centres was provided by the Ministry of Health, which lists just seven.

Furthermore, the HCR funds an emergency accommodation programme in hotels for the most vulnerable asylum seekers via the Greek Refugee Council (GRC) in Athens.

4 – Findings/conclusions:

The asylum system is defective (lack of transparency in the asylum application procedure, no independent second body, lack of legal aid, lack of access to healthcare and accommodation, detention of asylum seekers) with an excessively low number of migrants granted refugee status (less than 2%) which reveals the authorities unwillingness to develop an effective system of protection.

The overall situation in detention centres in Greece is worrying.

Detention is characterised by:

1. The almost systematic use of detention for any person arriving in Greece.
2. A total lack of transparency in the procedures, both on a legal level and in their application, hygiene conditions and excessive overcrowding in some centres.
3. Very poor hygiene conditions and overcrowding.
4. A flagrant lack of information concerning rights (no legal aid system, severe lack of interpreters), an ineffective appeal system.
5. Centres not subject to outside inspections (civil society, NGOs).
6. Deficiencies in access to healthcare and medical services.
7. Acts of police brutality have been denounced on numerous occasions (NGOs and detainees reported cases of police brutality during the study, notably at the police stations on the land border with Turkey, and at Patras).

Concerning vulnerable persons:

The vulnerability of detainees, in terms of the categories defined by the reception conditions directive, is not taken into account by Greek law, nor in practice by the authorities. There is no identification procedure for vulnerable persons on arrival in Greece, nor during their detention.

The situation for unaccompanied minors is particularly worrying, as they are not protected against detention or expulsion by Greek law, and can be detained or deported without their circumstances, age or conditions in their country of origin being taken into account.

5 – Recommendations

An overall reform of the asylum and detention system is required, in particular this should introduce:

- A clear identification process for vulnerable categories who should be assisted by trained social workers as soon as they arrive in Greece. Vulnerable categories and asylum seekers should be protected from being detained.
- Medical and psychological assistance should be provided on arrival and throughout detention.

- The duration of detention in police cells should be limited, and the maximum duration of detention should be reduced. Detention procedures should be tightly controlled and should not be used as a systematic means of managing foreign nationals.
- Migrants should be systematically informed of their rights, in a language they understand, as soon as they arrive in Greece, in particular those pertaining to asylum and other types of legal status, access to free legal aid and interpreters, medical and psychological monitoring and social assistance.
- An automatic judicial detention monitoring process within the time limits set out by law.
- Incorporation of the Reception Conditions Directive into Greek legislation.
- Access for NGOs and lawyers to the closed centres according to nationally defined, and locally implemented procedures.
- Centres should be managed by administrative bodies and not by the policy authorities.
- Application procedures for readmission agreements such as that signed with Turkey should be clear and transparent.
- Article 4 of protocol 4 of the European Convention on Human Rights should be ratified and put into practice.

Concerning asylum in particular:

- An end to removals on the border.
- An end to the systematic detention of asylum seekers, and a clear, decentralised asylum application procedure with an interview, carried out by a body that is independent of the police authorities.
- A second, independent body to ensure protection for asylum seekers.
- Funding for new reception centres and the involvement of local authorities in the management of these centres, as well as the clarification of the authorities' competence in this area and an end to return to Iraq.

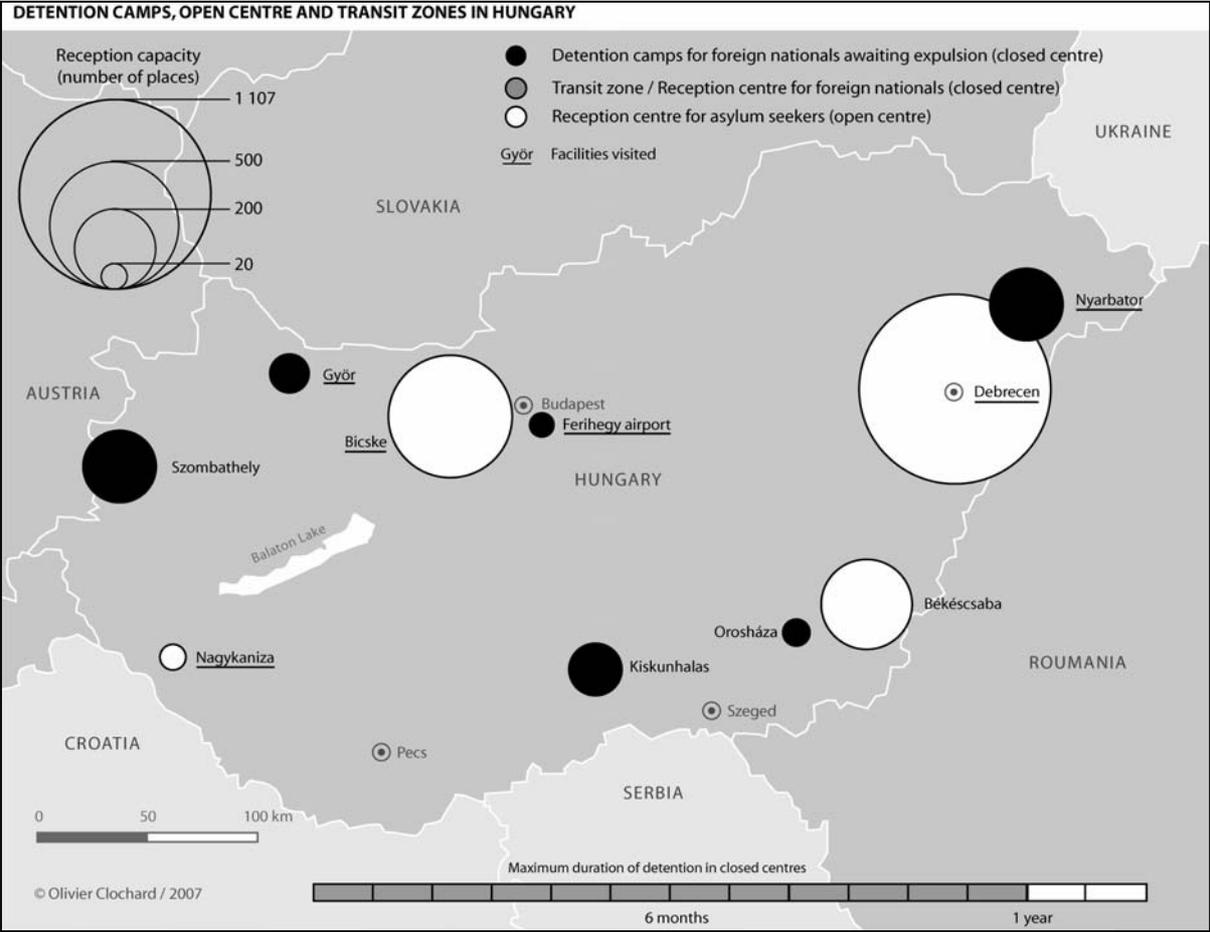
In particular, concerning unaccompanied minors:

- Protection offered as soon as these minors are identified, and the strengthening of measures for legal representation and protection to ensure their rights are upheld.
- End to the detention and transfer to specialised open centres for all minors.

The International Convention on the Rights of the Child should be respected.

2.12 HUNGARY

Field study summary



1 – Brief description of how the study was carried out:

Our local partner, the Helsinki Citizen Assembly (HCA), is a non-governmental organisation which has been working in partnership with the HCR to implement an aid programme for asylum seekers since 1998. They were responsible for documentary research in the country and the practical organisation of field visits.

The selection criteria for the centres visited were: geographical location and proximity to the various borders, the size of centres, the possible presence of vulnerable persons and our aim to have an overall view of reception conditions. Visits were made to two detention centres (Győr and Nyarabator}, two reception centres for asylum seekers (Bikse and Debrecen}, and a reception centre for unaccompanied minors.

2 – Background

The issue of the reception of asylum seekers and migrants is not considered to be a major one in Hungary, due to the regular reduction in the number of asylum seekers and other migrants recorded since 2002, and notably since 2004 (date of Hungary's entry into the European Union).

This reduction is mainly due to the combined effect of the end of the war in Kosovo and the tightening of border controls as required for their admission to the European Union.

The New Alien Act on the Entry and Stay of Third Country Nationals came into force in July 2007. It replaces the 2001 Alien Act, and aims, notably, to integrate European regulations on asylum. This law has made several improvements to the national legislative measures concerning asylum, as well as the entry and residence of foreign nationals. It reduces the maximum duration of detention from 12 to 6 months, and prohibits the detention of minors.

3 – Description of detention and reception systems:

- **Detention centres for foreign nationals:** there are six operational detention centres in Hungary (Kiskunhalas, Szombathely, Oroshaza, Győr, Nyarbator, Budapest), run by the border guards under the authority of the Ministry of Justice and the Application of the Law.
- Any illegal foreign national can be detained in these centres. Asylum seekers can be detained: They are subject to the same conditions of detention as other migrants.
- **Open reception centres:** designed for the reception of asylum seekers whilst their application for asylum is processed. There are three such centres. The administration in charge of asylum is the Office of Immigration and Nationality, under the authority of the Ministry of Justice and the Application of the Law.
- **Unaccompanied foreign minors are accommodated in a special centre,** the Nagykaniza centre whether they are asylum seekers or not.

4 – Findings/conclusions:

4-1 – Concerning detention centres

- The excessively long duration of detention, up to six months (since July 2007, this duration was previously fixed at 12 months).
- Excessively severe conditions of detention (facilities built for common law criminals, detainees confined to their cells, limitations on outside exercise).
- Environment encourages different types of abuse due to the lack of measures in place to identify abuse and violence and the lack of external interventions (presence of NGOs limited, access to a telephone in theory only, lack of information provided to detainees concerning their rights).
- Pathogenic nature of detention: the length of detention, the lack of any social activity, the severity of the conditions, the impossibility of communicating with personnel due to the language barrier, and the lack of links with the outside world, are factors which create or exacerbate situations of vulnerability.

Concerning the situation of vulnerable populations:

- There are specific measures in place for minors: the detention of minors is now banned (since July 2007), and unaccompanied minors are sent to the Nagykaniza centre (open centre, access to schooling and social workers to accompany minors). 27
- Victims of trauma or those suffering from psychological disorders do not receive sufficient attention. Aside from the medical presence, the personnel is primarily made up of border guards whose main duty is to supervise detainees. Training for border guards in identifying the victims of mental health traumas has however been organised by the HCR in partnership with the local NGOs, the Cordelia Foundation and the Menedek organisation.

4-2 – Concerning reception centres for asylum seekers:

- Accommodation in camps leads to exclusion, particularly when they are located in former army bases, far from urban areas.
- Various violent incidents take place in these camps (domestic violence, sexual abuse) and these incidents are often not recorded due to the lack of available social workers.

Concerning vulnerable persons:

- Unsuitable environment for vulnerable persons (children, people suffering from psychological disorders).
- Some groups are particularly vulnerable: especially lone women who are often abused due to the precariousness of their situation.
- Lack of adapted structures for people with reduced mobility or suffering from psychological disorders.

27 - In practice, even prior to the new law coming into force the Hungarian authorities did not detain families or vulnerable persons. Families were usually sent to an open asylum seekers reception centre or a community shelter, open centres where foreign nationals already detained for the maximum legal duration of detention, or rejected asylum seekers are accommodated.

5 – Recommendations

Concerning detention centres:

- Reduce the maximum duration of detention and develop alternatives to detention (eg. obligation to present themselves regularly to the authorities), which should be systematically applied to families with children and vulnerable persons (people with disabilities or suffering from illnesses, trauma victims).
- Relax the conditions of detention.
- Ensure that social workers, and psychologists who can identify vulnerable persons and prevent violent incidents are present.
- Ensure NGOs are present in centres and can inspect conditions.
- Improve detainees' access to information on their rights.
- Develop the setting up of activities in the centres.

Concerning reception centres for asylum seekers:

- Prefer alternatives to accommodation in camps where possible, for groups of vulnerable persons (families with children, unaccompanied women and people suffering from psychological disorders).
- Improve the prevention of violence and abuse and the identification of victims of psychological disorders, with an increased presence of social workers, and psychologists and by improving the training of camp personnel in the identification of victims of violence and people suffering from psychological disorders.
- Ensure NGOs are present in each centre, by providing the means for intervention and the development of social activities in the centres.

We were able to meet with the authorities responsible for asylum including the director of the Reception and Integration Agency (RIA), Noel Dowling when we visited the Mosney reception centre. Another member of the RIA personnel Shioban O'Higgins, accompanied us on all our visits to the reception centres.

We were also able to meet with representatives of NGOs (Irish Refugee Council and SPIRASI).

2 – Background

With its long history as a country of emigration, Ireland only became a destination for immigration as of 1996.

The reason for this change is the rapid economic development of the country which has created new levels of prosperity and significant employment opportunities.

The rate of unemployment dropped by 15.9% in 1993 to an all time low of 5.7 % in 1999.

For the first time in Ireland's history the country was faced with a massive influx of immigrants.

In order to react to this new phenomenon Irish asylum and immigration policy underwent profound and rapid changes at the end of the 1990s.

The measures related to immigration and asylum are found in the 1996 law on asylum seekers, the 1999, 2003 and 2004 immigration laws, and the law on illegal immigration in 2000.

3 – Description of detention and reception systems:

3-1 - Reception centres

Within the framework of the direct aid policy, asylum seekers are accommodated during the asylum application process and are provided with humanitarian protection in reception centres run by private companies, as well as the Reception and Integration Agency (RIA).

Asylum seekers are initially accommodated by the RIA in a reception centre in Dublin and then transferred to another centre. Since April 2000, the dispersion policy has led to the transfer of asylum seekers to reception centres located throughout the country. In May 2007, there were 56 centres with different types of structures: purpose-built reception centres for asylum seekers including the Mosney and Baleskin centres, former hotels, guest houses, nursing homes etc. Some centres are intended for specific categories such as unaccompanied minors, and young adults.

3-2 - Detention centres:

Third country nationals awaiting expulsion can be detained for a short period (24 hours) in police stations. There are no regulations governing their detention outside of the general rules of penal procedure.

There are nine facilities for people awaiting expulsion. In practice however, 90% of these people are detained in the Cloverhill prison and the women's section of the Mountjoy Prison, Dochas centre. The Irish prisons' service is responsible for their detention.

There are no transit zones: According to the Irish authorities, non asylum seekers are held for a short period in police stations near the airport before being returned as quickly as possible to their country of origin, or released. Asylum seekers are asked to report to the Office of the Refugee Applications Commissioner in Dublin to fill in an application form.

4 – Findings/conclusions:

4-1 – Concerning detention centres

- The maximum duration of detention is eight weeks, but asylum seekers can be detained for successive periods of 21 days, and this for a potentially indefinite period.
- The detention of foreign nationals awaiting deportation or removal in penitentiary establishments designed for common law criminals is entirely unsuited to their circumstances and leads to confusion between migrants and criminals.

4-2 – Concerning reception centres for asylum seekers:

- There are disparities in the living conditions between centres linked to the implementation of the dispersion policy. Conditions in centres further away from Dublin are the best, and often better suited to the reception of vulnerable persons.
- The two reception centres we visited outside of Dublin (Mosney and Baleskin) were purpose-built or specially adapted for the reception of asylum seekers. The vulnerability of residents is taken into consideration in a highly satisfactory manner (adapted accommodation, supervisory personnel seek to adapt to each individual's situation, schools in the centres for younger children, state education for older children, social, medical and psychological care provided in the centre, organisations specialised in the psychological monitoring of victims of trauma present in the centre etc.).
- Interventions by the SPIRASI make it possible to monitor the psychological health of torture victims and people suffering from psychological problems.
- The setting up of a centre for young adults should be highlighted, although the centre does not provide social services and there are not enough activities in place for the residents.
- **Centres for minors:** The Gloucester House centre visited during the study, offers no services adapted to the specific situation of minors (no medical or psychological services in the centre, no activities).

5 – Recommendations

Concerning detention centres:

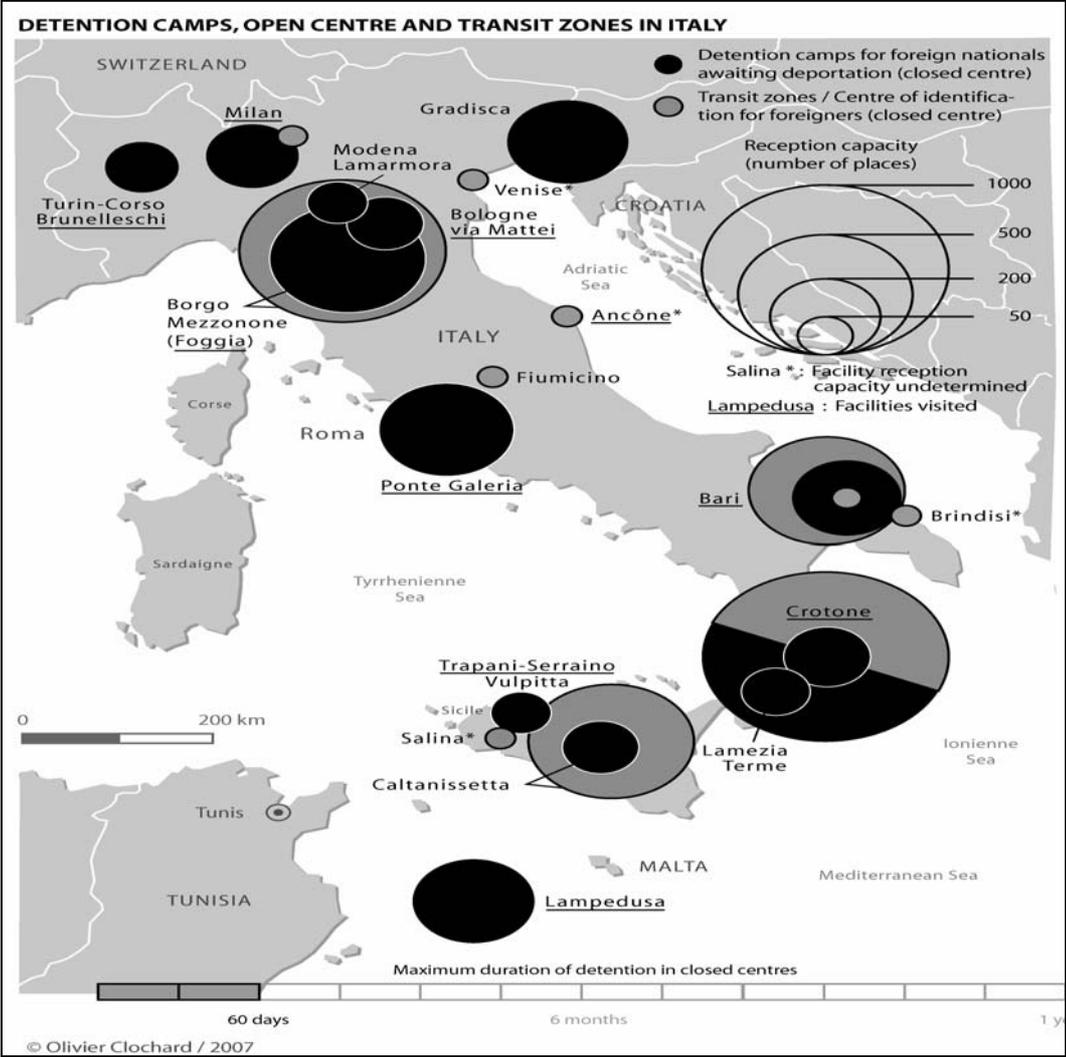
- The duration of detention should be limited.
- The detention of foreign nationals awaiting removal or deportation in penitentiary establishments intended for common law criminals should be stopped.

Concerning reception centres:

- There should be more supervisory members of staff in the centres.
- The services provided for vulnerable persons in the Baleskin and Mosney centres should be provided in all centres.
- Centres for minors: the reception conditions should be improved and social and medical staff permanently present in the centre, there should be access to psychological support, increase supervision, particularly during the school holidays, and each minor should have a tutor.
- Centres for young adults: socio-educational services should be available in the centres on a permanent basis.

2.14 ITALY

Field study summary



1 – Brief description of how the study was carried out:

Our local partner, ARCI (the Italian Cultural and Recreational Association), is an organisation working in several areas including the defence of migrant and asylum seekers rights. They were responsible for documentary research in the country and the practical organisation of field visits. Given the geographical dimensions of the country and the various categories of centres, the study was divided into two field missions: The first in the Centre and North of Italy comprised of visits to CPTA centres (Temporary Reception and Assistance Centres) in Milan, Turin, Bologna and Rome, a CID centre (Identification Centre) in Milan and an induction centre in Ancone. A second mission in the South comprised of visits to the Bari and Trapani CPTA, the Crotona CID, the Foggia and Crotona CPTA and the emergency services and assistance centre in Lampedusa.

2 – Background

Italy is a gateway to Europe with multiple land, sea and air access routes. Although the arrival of migrants by sea on the Sicilian, Sardinian and Pouilles coasts has monopolised media attention and fuelled the concerns of a section of the Italian population, it seems that the number of migrants using these routes is decreasing (from 38,134 in 1998 to 22,016 in 2006). There has indeed been a significant increase in the number of migrants which started the 1990s but which has since stabilised and started to decrease.

The law n°189 of 2002 known as the *Legge Bossi Fini* modified the measures implemented by the 1998 Alien Act, in order to tighten up immigration policy and reinforce illegal immigration control. The government is currently studying proposals to modify these measures with a view to relaxing the legal measures governing asylum and immigration.

3 – Description of detention and reception systems:

3-1 - Closed detention centres: There are several categories of closed centres whose management is contracted out to associations and organisations (Italian Red Cross, catholic cooperatives) by the Ministry of the Interior, the police are responsible for supervising detainees in the centres:

- **The CPTA (Temporary Reception and Assistance Centres):** closed centres where arrested foreign nationals subject to a deportation or removal order within the framework of a penal procedure are detained. The maximum duration of detention is 60 days (two months).
- **The CPA (Induction Centres):** foreign nationals who arrive in Italy by sea are held in these centres. The duration of residence is in theory limited to *"the time required to establish the legitimacy of the foreign national's presence in the country"*. In practice the duration of detention is unlimited and can extend to several months, or even several years. These centres created in 1995 to handle the increased migratory flow into Italy have never been subject to clear regulations. They have a hybrid status and they should, in theory be semi-open, but migrants are often detained under the same conditions as in the CPTA.
- **The CID (Identification Centres for asylum seekers):** asylum seekers are held here for the time it takes to identify them. The duration of residence is theoretically limited to 20 days but on average is one month. Run by various regional bodies (town halls or provinces), detention conditions depend on the type of centre, sometimes semi-open, or sometimes the same as found in closed detention centres. The use of CID was initially intended to be sporadic but there use has become widespread and led to the systematic detention of asylum seekers.

Although there are very precise criteria to decide where an asylum-seeker should be detained, the decision to place them in a CID or CPA is arbitrary and primarily depends on the number of available places.

In some centres, the same complex houses a CPA and a CID (Crotone) or a CPTA or a CID (Milan). The detention conditions are based on the conditions in force in the existing structure (CPA or CID).

3-2 - Open centres:

- **Centres for Asylum seekers:**

Asylum seekers can be accommodated here for the time it takes to process their application. There are not however enough places available in these centres and some asylum seekers have to resort to emergency accommodation or find accommodation themselves.

- **Centres for unaccompanied minors:**

Following bone age testing, minors are usually directly transferred to reception centres for minors run by the town hall or private cooperatives.

4 – Findings/conclusions:

4-1 – Concerning closed detention centres CPTA, CPA, CID:

- Poor living conditions in the centres which are sometimes dehumanising (use of large cages and containers to detain people in some CPTA or precarious structures such as caravans or trailers in some CPA), poor hygiene conditions and overcrowding, were observed in some centres.
- Wide disparity in living conditions which depend on the organisation in charge of running the centre.
- Severe prison-like detention conditions in the CPTA (confinement in blocks), disproportionate security measures and excessive police intervention in some CPA when the law imposes a semi-open regime for these types of centre.
- Lack of access to information on detainees' rights, legal assistance, translators, lack of links with the outside mainly due to the limited presence of NGOs in the centres, lack of appropriate medical and psychological care, lack of activities, no, or insufficient, social support and guidance.
- Pathogenic nature of detention for already vulnerable migrants who often arrive in a poor psychological or physical state following a difficult journey.

Detention of vulnerable groups in closed centres

- A large number of people who have been subjected to physical or mental violence are held in closed centres. They are suffering from traumatic incidents which have occurred in their country of origin, in transit countries, or during the journey to Italy (e.g. accounts of young women who have been raped and imprisoned during their stay on Libyan soil have been reported by centre psychologists).
- None of the centre personnel are able to identify vulnerable persons, the measures for caring for vulnerable groups are inadequate and the medical and psychological support measures in place are unsuitable (even in centres where there is a desire to help detainees, the lack of personnel and the inadequacy of centre structures mean no real support can be offered).
- Minors cannot be detained in the CPTA. Under some circumstances however, one parent is detained, which leads to the separation of families.

- Following bone age testing, unaccompanied minors should be directly transferred to reception centres for minors run by the town hall or private cooperatives. In practice however, some minors are detained (minors who are declared adult and for whom no verifications are carried out, bone age testing being unreliable).
- People with disabilities are not usually detained due to the lack of adapted facilities.
- Pregnant women are not held in CPTA, but they can be held in CID and the Lampedusa induction centre where the conditions are precarious and unsuitable.
- Certain groups of vulnerable persons suffer from specific difficulties in the detention centres: transsexuals (harassed and humiliated by other detainees or centre personnel), multiple drug addicts suffering from psychological disorders related to drug addiction, people with chronic diseases.

4-2 – Concerning reception centres for asylum seekers:

- An insufficient number of places available in reception structures means that asylum seekers have to turn to emergency accommodation structures or find themselves out on the streets.
- Mix of different types of population (asylum seekers and homeless people) and problems relating to communal living.
- Lack of medical and psychological support and social and integration projects in the centres.
- The law requires special consideration to be given to some categories of vulnerable persons: children, people with disabilities, elderly people, pregnant women, lone women, single parent families, victims of physical, sexual or psychological violence), no adapted measures have been put into place.

5 – Recommendations

Closed centres:

- Relax the strict, prison regime in force in some centres (CPTA, CPA) which is disproportionate and unsuitable and leads to the criminalisation of migrants.
- Open up the CPA which are not intended to be closed centres.
- Create and prefer alternatives to detention, in particular for some categories of vulnerable persons.
- Improve the physical and hygiene conditions in the centres, restructure some centres (stop holding detainees in cages and containers in the CPTA).
- Improve links between the centres and external organisations by allowing NGOs to have permanent access to these centres in order to provide legal and social assistance and to regularly monitor the centres to ensure migrants rights are upheld and potential abuses

prevented (centres should be monitored by a group of external stakeholders: institutions, NGOs).

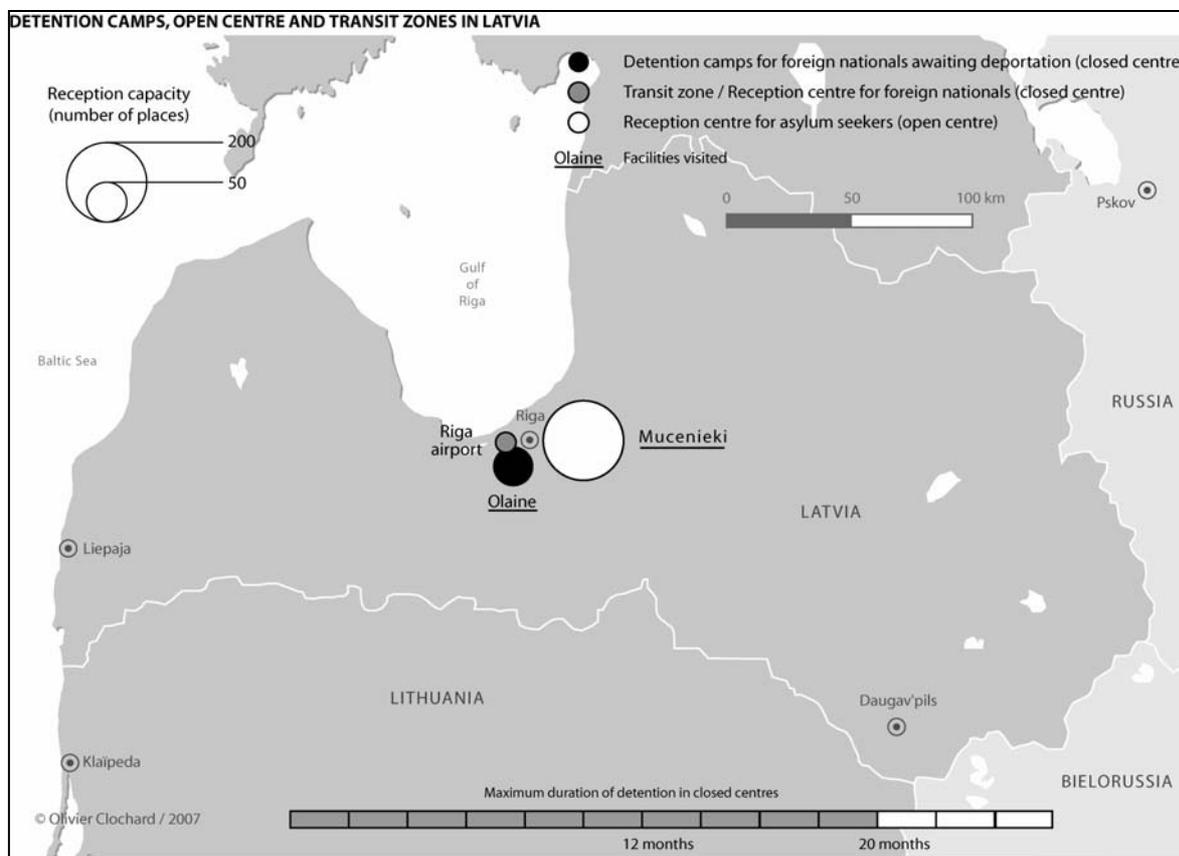
- Implement measures to assist detainees severely weakened by the conditions of their journey to Europe (due to difficult sea crossings or land journeys across the African continent).
- Improve the identification and handling of certain categories of vulnerable persons and/or those suffering from psychological disorders, and ensure the presence of social workers, psychologists, interpreters, medical staff and mediators.

Open centres:

- Increase the number of places available for the reception of asylum seekers.
- Improve and develop social guidance and integration services for asylum seekers.

2.15 LATVIA

Field study summary



1 – Brief description of how the study was carried out:

As we were unable to find an organisation able to provide us with the assistance required, this study was carried out directly by the investigator dealing with this country, without support from a local partner.

We visited the only two centres in the country for foreign nationals: the Olaine administrative detention centre and the Mucenieki asylum seekers reception centre.

Meetings were held with representatives of the authorities in charge of migration: an advisor from the *Office of Citizenship and Migration Affairs*, the *Director of the Olaine* detention centre and organisations working on issues related to the entry and residence of migrants and asylum-seekers in Latvia (*Latvian Center for Human Rights*).

2 – Background

A gateway to the European Union, Latvia shares a border with Russia. It is primarily a transit country. The issue of migrant reception is not considered to be a serious one due to the very low numbers of asylum seekers and migrants.

Over the last few years, the majority of asylum seekers came from the Russian Federation, Azerbaijan and Georgia, and more recently, from Asia and Sub-Saharan Africa (Somalia) Between 1998 and June 2006, eight asylum seekers were granted refugee status out of 161 asylum applications, the last of these cases dates back to 2001. Over the same period, fifteen people received subsidiary protection.

3 – Description of detention and reception systems:

There are two centres for foreign nationals:

The Olaine administrative detention centre, created in 1995, has a capacity of 50 places and is intended to hold foreign nationals with no residence permit, arrested on the border or on Latvian soil (ten people were held here at the time of our visit). The number of foreign nationals held at the Olaine centre in recent years was 283 in 2003, 257 in 2004, and 155 in 2005.

Illegal immigrants and asylum seekers can also be held temporarily in border police stations (SBG), or in state police stations in accordance with an agreement between the SBG and the state police.

The Mucenieki reception centre is a open centre, designed to accommodate asylum seekers under the responsibility of the *Office of Citizenship and Migration Affairs (OCMA)*, a department of the Ministry of the Interior. Between 1999 and June 2006, 68 asylum seekers were placed in this centre.

4 – Findings/conclusions:

4-1- Concerning detention:

- The maximum duration of detention, set by law, is 20 months. The detention of a foreign national in a detention centre is initially an administrative decision. After a ten-day period, a decision can be taken to extend this detention period to two months, on the condition that the person has appeared before a judge. The judiciary then reviews the situation every two months.
- Asylum seekers suspected of seeking to illegitimately benefit from the asylum procedure may also be detained until their application has been processed, for a period which may last over one year.
- Although certain organisations have published an information brochure for immigrants (in Latvian, Russian, French, English, Spanish and Arabic) which outlines detainees' rights (notably by providing information on relevant organisations), foreign nationals have difficulty accessing interpreters and information on their rights.
- No social or psychological support services are offered at the Olaine centre, foreign nationals can however, be referred to a hospital for an appointment.
- Reports have also been received that food provisions for detainees are inadequate. Food is delivered once a week and the detainees prepare their own meals. According to the *Latvian Center for Human Rights*, there have been occasions on which all food products have been

consumed several days before the planned delivery date and no additional food has been supplied by the administration.

- Foreign nationals may be placed in isolation, they are only allowed to walk for two hours a day (the other foreign nationals can walk outside between 10 a.m. and 5 p.m).
- According to the *Latvian Center for Human Rights*, there are persistent issues surrounding the situation of nationals from the former Soviet Union, resident in Latvia for many years and who have not been granted a legal status.

Concerning vulnerable persons:

- Accompanied minors can be detained with their parents, they can only attend school as of three months into their detention (and are escorted to and from school by border guards).
- Only unaccompanied minors cannot, in theory, be detained. They stay in orphanages until they are adult. According to external bodies however, unaccompanied minors may have been detained at the Olaine centre in recent years.
- Elderly people have also been detained.
- The situation of vulnerable persons does not appear to have been satisfactorily taken into account. Within the centre, the administration has made no specific provisions for these groups except to call on the services of external organisations such as the Red Cross from time to time (to provide legal, social and material assistance)

4-2 – Concerning reception centres for asylum seekers:

The Mucenieki centre (for asylum seekers) was set up in 1998 and has a capacity of 200 places. The centre is located in a former Soviet army base and reception conditions are good. Due to the small numbers of asylum seekers accommodated in the centre, the establishment can also be used to accommodate Latvian nationals in social difficulties.

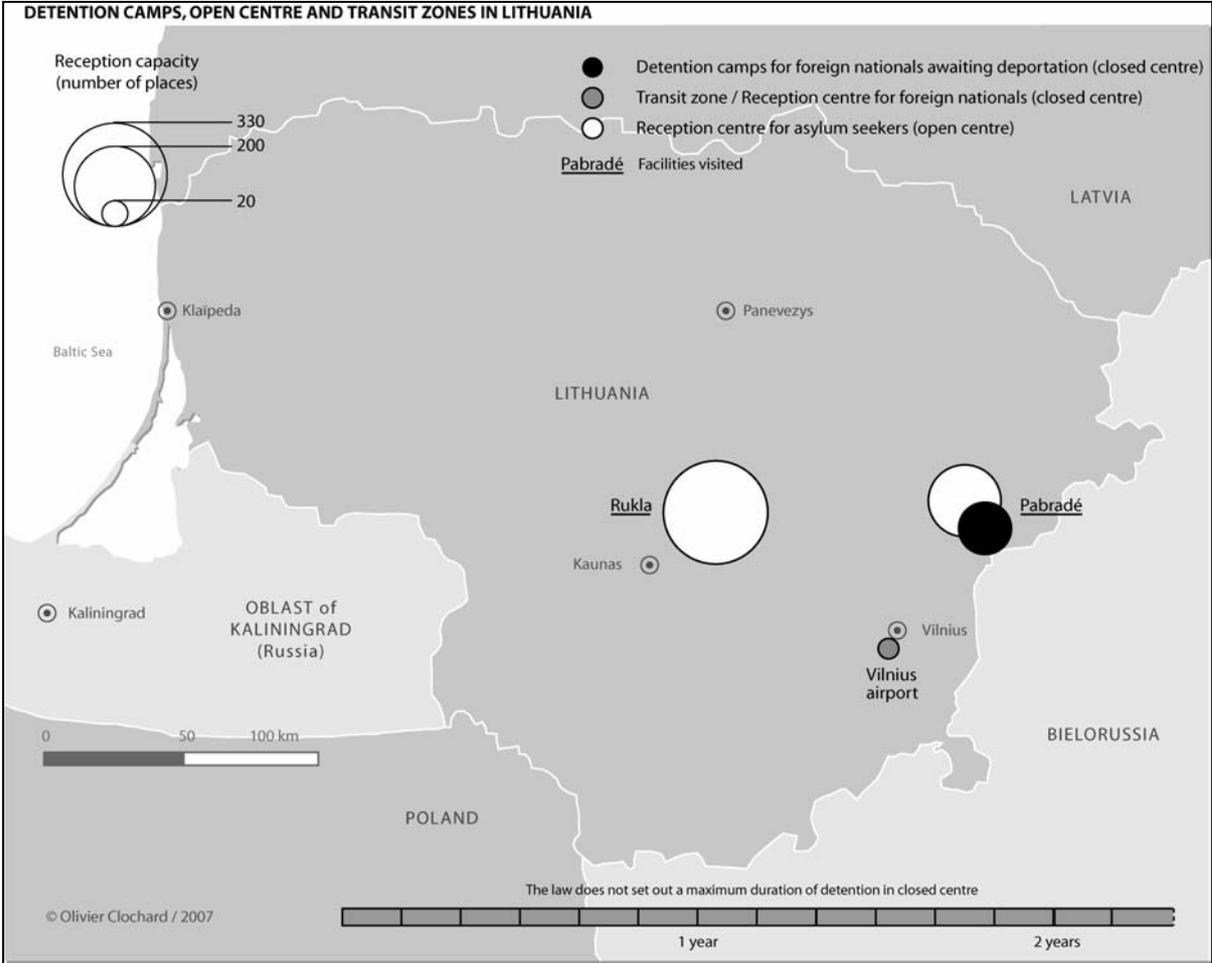
5 – Recommendations

Mainly concern detention

- The duration of detention should be limited.
- Alternatives to detention should be developed (for example, obligation to present themselves regularly to the authorities), which should be systematically applied to families with children and vulnerable persons (people with disabilities or suffering from illnesses, trauma victims, elderly persons).
- Improve the physical and hygiene conditions in the building where the reception conditions are degrading.
- Ensure social workers and psychologists are present in the Olaine administrative detention centre.
- Ensure detainees have access to information on their rights in a language they understand.

2.16 LITHUANIA

Field study summary



1 – Brief description of how the study was carried out:

Our local partner the “Lithuanian League for Human Rights”, a member of the European Human Rights Association in Brussels and the FIDH, have been working for several years on the defence of the rights of legal and illegal foreign nationals.

The two main centres designed for the reception and detention of foreign nationals were visited.

Meetings were held with the management of the centres visited, representatives from the immigration services (and in particular, one from the department responsible for the situations of foreign nationals awaiting expulsion, and the director of the asylum department).

2 – Background

A gateway to the European Union, Lithuania shares borders with Belarus, and the Russian enclave Kaliningrad, it is both a transit country (mainly for foreign nationals from Afghanistan, Pakistan, India or Iran) and a final destination, mainly for foreign nationals from former Soviet Union states (Belarus, Ukraine, Georgia etc.). The large majority of asylum seekers come from Russia (over 80% of which the majority are Chechen).

The migrants' countries of origin include Afghanistan, Pakistan, Belarus and Iraq.

An initial law on refugee status was adopted by the Lithuanian government in 1995 and came into force in July 1997. The legal framework governing the entry and residence of foreign nationals in Lithuania was adopted by the government on 1st July 1999, and was amended on Lithuania's entry into the European Union.

3 – Description of detention and reception systems.

Lithuania has two centres specifically intended to receive third country nationals from outside of the European Union:

- The Rukla open centre for asylum seekers and all unaccompanied minors.
- The Foreigners Registration Centre of the State Border Guard Service in Pabrade, is extremely dilapidated and is divided into two types of spaces:
 - A reception centre for asylum seekers.
 - Detention centres for foreign nationals with no valid residence permit awaiting expulsion.

Foreign nationals with no valid residence permit and asylum seekers can also be held on a temporary basis (for no longer than 48 hours) in the transit zone at Vilnius airport and at the land border checkpoints.

4 – Findings/conclusions:

4-1 - Concerning detention (Pabrade detention centre)

- The administrative detention period is set by the Administrative Court. The law does not fix a maximum duration for detention and the holding of foreign nationals for indeterminate periods increases their vulnerability. In 2006, a person (of Russian nationality) died at the Pabrade hospital following a suicide attempt in the centre.
- The physical conditions are appalling. The buildings are run down, hygiene conditions in the centre are extremely poor, in particular in the women's section which consists of one single room, which deprives them of any privacy. There is no justification for these conditions which mean placement in administrative detention becomes a degrading form of detention.
- The foreign nationals held in the centre have difficulty meeting with external bodies (NGOs, organisations etc.) and obtaining legal assistance. Access to a telephone is restricted.

- Finally there are persistent issues concerning nationals from former Soviet Union states. An Armenian man whose wife is Lithuanian had been held in Palabre for six months despite having lived in Lithuania for twenty years and holding a former Soviet Union passport.

Concerning vulnerable persons:

We noted an insufficient number of employees capable of identifying and caring for foreign nationals in this category. The absence of social workers and psychologists should also be noted.

There are no structures for the reception of people with reduced mobility.

4-2 – Concerning reception centres for asylum seekers (Pabrade detention centre: section reserved for asylum seekers):

- The extremely low number of asylum seekers granted refugee status (2.6% in 2006) must be highlighted.
- Asylum seekers are subject to unjustified restrictions to their freedom of movement and their ability to communicate with the outside: problems accessing a telephone, no mobile phones allowed, cannot leave the centre for more than a 24 hour period, the building where asylum seekers are held is closed from 10 p.m. to 6 a.m. the next day (no personnel present in the centre which can lead to problems in the event of a medical emergency).

Vulnerable persons

- Access to psychological care or support is unsatisfactory and the lack of activities and social support services in the centre make the detainees stay difficult, in particular for women and children, given that the duration of residence in the centre may extend to several years.
- The unaccompanied minors are accommodated in a special department in the Rukla centre where reception conditions are excellent. This centre is also designed to accommodate asylum seekers or people benefiting from temporary protection.

5 – Recommendations

Recommendations for the Pabrade administrative detention centre

- Set a maximum duration for administrative detention.
- Implement alternatives to administrative detention (passport confiscated and/or obligation to report regularly to the relevant authorities).
- Improve the physical and hygiene conditions in the centre (the women's building should be closed, the men's building renovated rapidly).
- Improve telephone access (telephone booths which allow held foreign nationals to communicate freely with the people of their choice).
- Ensure that social workers and psychologists capable of identifying vulnerable persons are present on a fortnightly basis.

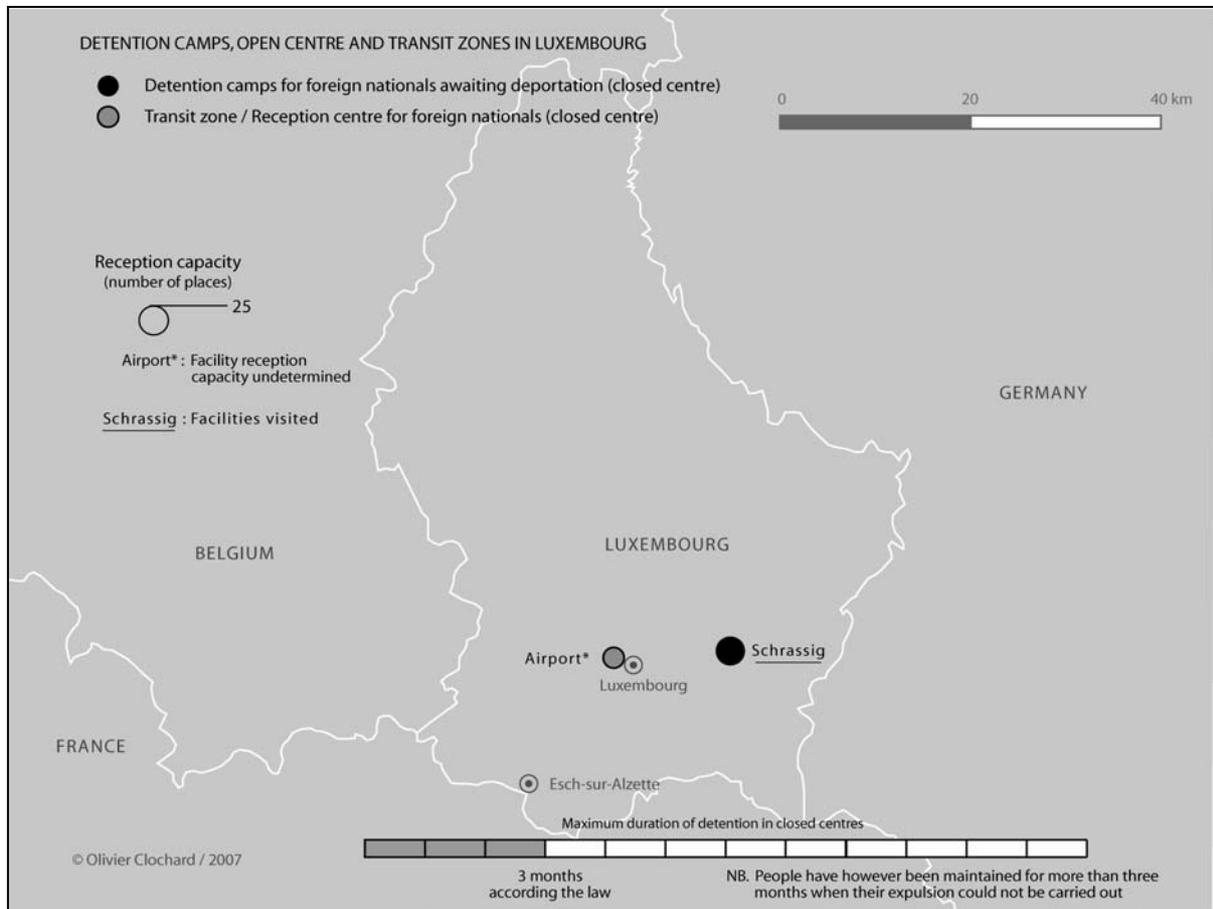
- Set up regular consultation sessions so detainees can meet with NGOs and organisations with experience in accompanying asylum seekers and foreign nationals in Lithuania.

Recommendations for the Padabre asylum seekers reception centre

- Improve asylum seekers freedom of movement. A receptionist should be present at night so asylum seekers do not need to be confined to the centre at night, and can leave the centre freely on week nights.
- Improve physical conditions in the centre.
- Ensure the presence of external stakeholders (NGOs, organisations, lawyers etc.).
- Allow asylum seekers to have mobile telephones and internet access on a daily basis.
- Ensure socio-educational specialists or social workers are available for consultation within the centre, to ensure the identification of vulnerable persons in the two floors where the asylum seekers reside.

2.17 LUXEMBOURG

Field study summary



1 – Brief description of how the study was carried out:

Our local partner ASTI (Support Association for Immigrant Workers) sets up support services for migrants and organises inspection visits for accommodation and detention centres. They were responsible for documentary research in the country and the practical organisation of field visits.

The only administrative detention centre in the country, in Schrassig, was visited. Reception centres for asylum seekers were selected according to their capacity, the presence of vulnerable persons (families, unaccompanied minors) and their distance from the city of Luxembourg. We also wanted to visit centres run by associations and centres run directly by the Ministry. We were able to visit the Don Bosco and Eich hostels (run by the Red Cross), and the Marienthal and Weilerbach hostels (run by the Ministry of Family Affairs).

Meetings outside of the centres were held with the team of administrative detention centre visitors, the group coordinator (Caritas), the Managing Director of the Government Commission for Foreign Nationals for the Ministry of Family Affairs and Integration, and a representative from the Immigration Service in the Ministry of Foreign Affairs.

2 – Background

Given the geographical location of Luxembourg, an enclave within the Schengen area, the migration of third country nationals from outside the European Union and asylum are not major issues. Most foreign nationals in the country come from neighbouring European countries and come to Luxembourg to work (cross-border workers, European civil servants).

The legal framework in place is set out in the modified law of 28th March 1972, and the accompanying application orders which govern the entry, residence and removal conditions for foreign nationals, and the law of 5th May 2006 on asylum and complementary forms of protection. A bill concerning the construction and running of an administrative detention centre with 100 places is being drawn up.

3 – Description of detention and reception systems:

3-1 – One administrative detention centre:

The only administrative detention centre in Luxembourg is located in a wing of the Schrassig prison, under the responsibility of the Ministry of Justice. The detained population comes under the responsibility of the Ministry of Foreign Affairs and Migration. Due to the low capacity (25 places) and the impossibility of dividing the space into two separate sectors, only men can be held in the centre.

3-2 – Concerning reception centres for asylum seekers:

Most reception centres for asylum seekers are run by the CGE (Government Commission on Foreign Nationals) which depends on the Ministry of Family Affairs; some are run by NGOs (Caritas and the Red Cross). There are 15 centres for families and six for single people run directly by the CGE, four centres designed for the reception of vulnerable persons are run by NGOs (Caritas, Red Cross), and 13 centres are located in hotels or guest houses rented by the CGE.

4 – Findings/conclusions:

4-1 – Concerning detention centres

- In theory, the maximum duration of detention is three months, however, people who are released as their removal cannot be organised can be immediately detained again.
- The detention conditions are severe; detainees are almost permanently kept in their cells and can walk for only 1 hour a day.
- The NGOs have reported difficulties in accessing a lawyer, contacting families and problems related to language and the lack of activities.

- Following recent renovation work (after a fire in January 2006, started deliberately by detainees as a protest against poor conditions in the centre), the physical conditions in the centre have improved and the authorities now avoid detaining more foreign nationals than the centre's reception capacity.

Concerning vulnerable persons:

- Any person detained should be seen by a doctor within 24 hours. The doctor will assess whether or not the person can be detained, given their state of health.
- People requiring medical treatment or psychological support can benefit from the health and social services provided by the prison, and when required, are transferred to hospital structures. The organisations who visit the centre mention the frequent use of purely "pharmaceutical" responses to detainees' psychological problems, and problems with translation during medical examinations.
- The authorities and NGOs are concerned about the victims of human trafficking mafia networks.

4-2 – Concerning reception centres for asylum seekers

- We observed a disparity in the conditions for asylum seekers in different centres. Some centres do not provide sufficient supervision and social accompaniment, and the only personnel present on a permanent basis are security staff from private companies. Social supervision is better in centres run by NGOs than in those managed directly by the Ministry of Family Affairs.
- Poor conditions due to insalubrity and the lack of facilities were observed in some of the centres visited (notably Marienthal).
- The complicated procedures in place for authorising entry make accessing the centre too difficult, which means the centre is cut off from the outside world.

Concerning vulnerable persons:

- Asylum seekers are eligible to receive the same health and welfare cover as Luxembourg nationals, but cannot pay the excess costs they are responsible for, nor advance the money for medical costs.
- People who are vulnerable (unaccompanied minors, elderly persons, people with disabilities, people with diseases or suffering from addictions etc.) are referred to centres run by NGOs, where there is more social and educational supervision. Referral to external or specialised services is done in liaison with the social, medical and educational team at the Ministry.
- People requiring psychiatric care are referred to a psychiatrist by the CGE nurse.
- The CGE and organisations have noted the lack of specialised personnel to follow-up and provide care for victims of torture and violence.

5 – Recommendations

5-1 – Concerning the detention centre

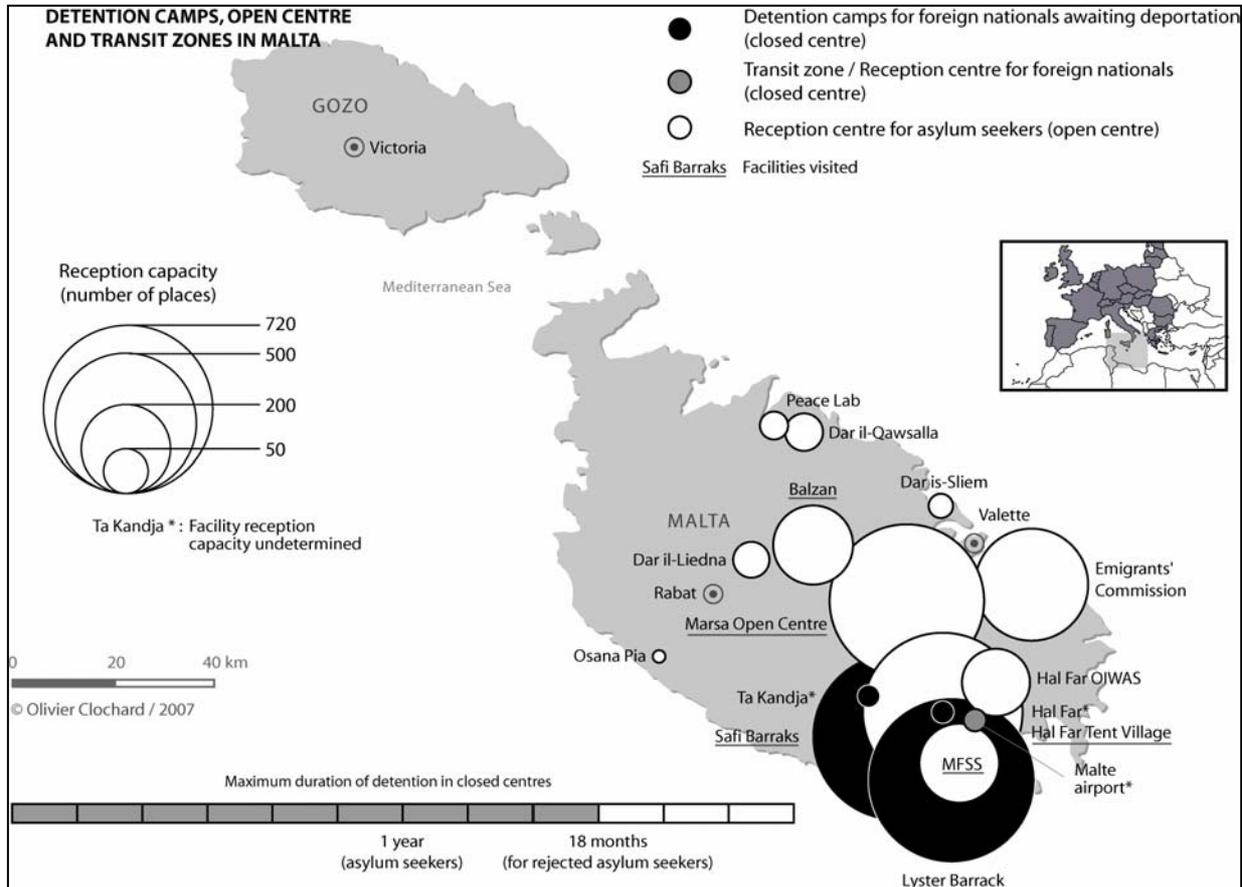
- Relax the current operating procedures for the detention centre (in particular, stop confinement to cells, provide daily occupational activities).
- The issue of foreign nationals detained for common law offences who may be subject to a deportation order when their sentence has been served should be anticipated as early as possible and coordination between the Ministry of Foreign Affairs and the Ministry of Justice on the matter should be reinforced.
- Detainees should have easier access to information on their rights, legal assistance and interpreters.
- Access to healthcare should be improved and in particular access to psychological and/or psychiatric care.

5-2 – Concerning reception centres for asylum seekers:

- Some of the buildings and infrastructure used for the reception and accommodation of asylum seekers should be renovated to meet the national standards on hygiene and security for buildings that admit members of the general public.
- One or more social workers should be present in the centre on a permanent basis.
- The centres should improve links with the outside world, notably by relaxing the rules concerning visitor entry.
- Partnerships with NGOs should be developed to guarantee asylum seekers access to impartial legal and administrative assistance whilst their asylum application and any appeals are processed (help in preparing their file, access to lawyers specialised in asylum issues etc.). More generally, humanitarian organisations should also play a role in signalling and providing special assistance for asylum seekers in difficult situations, beyond the assistance provided by the CGE's social and medical teams.

2.18 MALTA

Field study summary



1 – Brief description of how the study was carried out:

A student from the University of Paris VII, Solène Guérinot, studying for a Masters in the Sociology of Immigration, participated in carrying out the study in Malta. The places visited were selected according to their importance: the main detention centres and open centres in Malta were visited. Vulnerable persons are detained or received in most of these.

Meetings were held with the main stakeholders working on migration issues on the island (management staff from the detention service, the Organisation for the Integration and Welfare of Asylum Seekers which manages the open centres, the NGOs who run some open centres (Immigrants commission, Suret Il Briedem), or provide legal (JRS Malta), or medical (*Médecins du Monde*) assistance to migrants, and international organisations internationals (HCR, but no response from the IOM).

2 – Background

Located on one of the main migratory routes between Libya and Italy, Malta has had to deal with the arrival of a large number of migrants (between 1,200 and 1,500 people per year), especially since 2001, who arrive by sea from Eritrea, Sudan, Somalia, Ethiopia and West African countries, having transited via Libya.

Dealing with these populations is a major challenge for the authorities and has caused the Maltese population to become increasingly insular and xenophobic.

The country has asked for aid from the European Union and for the immigration burden to be more fairly shared. The issue of sea search and rescue became a political one when, in June 2007, Malta refused to take in a number of rescued migrants, as they were rescued in Libyan territorial waters.

To deal with these arrivals, Malta has had to urgently develop a reception and integration system which involves the systematic detention of all migrants and asylum seekers stopped. In the last few years the island has brought in asylum legislation (Refugee Act 2000), and has reinforced its immigration legislation in line with the criteria for admission to the European Union. Since 2005 the Reception Conditions Directive has been integrated into national policy and the authorities have become increasingly concerned about the welfare of vulnerable persons held in open or closed centres (Policy paper 2005).

3 – Description of detention and reception systems:

3-1 - Closed detention centres

These are intended to detain people arriving illegally on Maltese soil by air or sea routes. There are currently three centres in operation: Lyster Barracks, Safi Barraks, Ta Kandja with a total capacity of 1,700 places and may be used to detain a larger number of migrants depending on arrivals.

- Lyster Barracks and Safi Barracks are located on army bases and are run by the army's detention service.
- Ta Kandja is situated in facilities run by the Police.
- The holding area at Malta airport.

3-2 – Open centres

Open centres accommodate asylum seekers, people whose application is being processed, rejected asylum seekers, illegal immigrants and those awaiting removal under the Dublin II regulation. There are 11 centres, run by the authorities or by an NGO. Each centre's reception capacity varies from 600 to 1,787 places, which is sometimes exceeded.

4 – Findings/conclusions:

4-1 – Concerning detention centres

- The systematic detention of asylum seekers is a key feature of the Maltese system. Applicants are detained whilst their applications are processed.
- There is no legal limit to the duration of detention. The detention of asylum seekers is in fact limited to 12 months as the law of 2005 incorporates the Reception Conditions Directive which states that asylum seekers should have access to employment 12 months after their arrival. The 2005 Policy Document states that the detention of rejected asylum seekers should not exceed 18 months.
- Detention conditions do not respect the human dignity of detainees: overcrowding, insalubrity, extremely poor hygiene, arbitrary regimes, deficient healthcare, information and legal aid systems, lack of interpreters, police brutality etc.
- The pathogenic nature of detention: the combination of these factors (duration and conditions) means that the detention period is propitious to the development of psychological disorders and can engender the social and psychological de-structuring of people who will then find it even more difficult to integrate on a long-term basis into Maltese society and whose first experience of Europe will have been synonymous with abuse and the infringement of their fundamental rights.

Concerning vulnerable persons:

- The majority of migrants arrive in Malta at the end of a psychologically and physically trying crossing. During their journey many of them will have been subject to psychological traumas and their physical condition will have been affected. In light of this situation, the medical and psychological care they are offered on arrival is inadequate.
- Only certain categories of vulnerable persons (unaccompanied minors, families, pregnant women, people with disabilities) receive any special care and attention. They can however, be detained for several weeks, or even several months, depending on the time it takes for their vulnerability to be confirmed and medical examinations to be carried out.

4.2-2 – Concerning reception centres for asylum seekers

- It should be noted that most migrants (95%) claim asylum and the rate of protection (humanitarian protection and refugee status) is around 50%. Despite this, rejected asylum seekers are not left on the streets: all detainees, no matter what their status, are released after a detention period of 12 months (asylum seekers) or 18 months (rejected asylum seekers). On release, they are accommodated in open centres and receive social assistance by means of bi-monthly benefit payments. They are usually authorised to work. In theory they have access to free healthcare and medical products, but in practice they have difficulty accessing healthcare.

Concerning vulnerable persons:

- The treatment of vulnerable persons in these centres is satisfactory. The only problems encountered are the structural difficulties generally associated with the reception of asylum seekers.

5 – Recommendations

- Accept that the arrival of migrants in Malta is not set to cease in the coming years and that a long-term strategy must be put in place to deal with the phenomenon.
- Accept that repressive measures are dehumanising and ineffective, and will neither stop the migratory flow, nor protect the country's interests.
- Review migrant reception policy to ensure conformity with Malta's international and European obligations.

Sea search and rescue:

Sign the amendments to the SAR and SOLAS conventions to accept onto Maltese soil people rescued at sea, set up an effective warning mechanism for sea search and rescue operations, and emergency cells to deal with vulnerable persons on arrival on Maltese soil.

Detention:

- Set up a national mechanism for the prevention of torture in line with the measures set out in the optional protocol to the Convention against Torture.
- Promote cost-effective and effectual alternatives to detention.
- Reduce and limit the duration of detention, end the system of systematic detention, and ensure detention is subject to judicial oversight.
- Improve the provision of information on detainee's rights (legal assistance, interpreters, creation of standard operating procedures for all detention centres, available in the detainee's own language.
- Transparency concerning the use of isolation cells.
- Allow independent NGOs unrestricted access to assist detainees in exercising their rights, provide social support and provide the necessary outside perspective on the centres.
- Improve access to healthcare both on arrival and during detention with sufficient access to doctors present in the centres and access to psychological assistance.
- Improve the physical conditions in the centres (renovate structures, ensure sanitary standards are met, improve the hygiene conditions and resolve the problems of overcrowding in the centres).
- Accompany those working in the centres, including the guards and police officers, to help them deal with psychologically and humanly trying situations. Reinforce the teams of social workers in the centres.

Concerning the protection of vulnerable persons

- Clarify the identification procedure with strict time limits for the release of vulnerable persons set by law. Do not detain families. Do not detain unaccompanied minors under any circumstances.
- Include people with chronic diseases, disabilities, psychological disorders and victims of trauma in the groups of people considered as vulnerable.
- Reinforce or create teams of social workers responsible for identifying vulnerable persons, who should work closely with doctors and psychologists in the centres.
- Ensure families are kept together, and men and women are separated.
- Set up a process for determining the age of minors that does not involve bone age testing.

Concerning open centres:

- The general reception conditions in the open centres should be improved.
- Social services should be provided in all open centres and be open to all those accommodated in these centres.
- Implement a system which guarantees access to the healthcare system.
- The Hal Far open centre (tents) cannot remain in its current state but should be converted into a centre with proper buildings. In no circumstances should it be used to accommodate vulnerable persons.

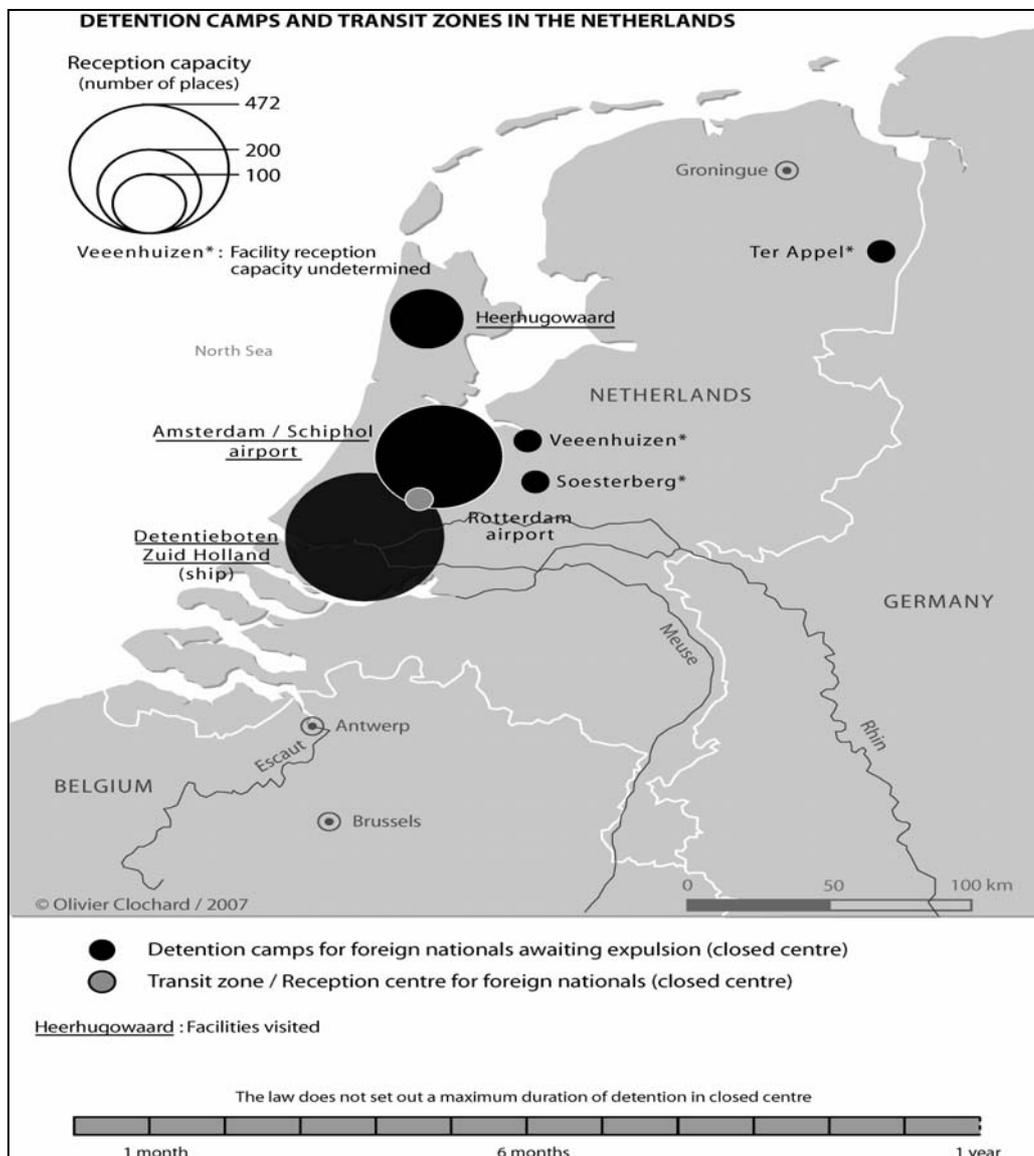
To the European Union and Member States:

There should be political recognition of the specificities of Malta's immigration problem and an action plan for sharing responsibilities. This should include:

- Inviting Malta to radically reform their detention policy to conform to the standards on the protection of fundamental rights they have signed up to.
- Funds should be allocated to sea search and rescue and setting up operational teams to provide support on arrival.
- Asylum seekers and beneficiaries of subsidiary protection should be relocated to other European countries.

2.19 THE NETHERLANDS

Field Study Summary



1 – Brief description of how the study was carried out:

Our local partner, the department of Asylum, Asylum seekers and Integration of the Kerk in Actie (Dutch Protestant Church) works to defend the rights of, and support foreign nationals and asylum seekers. They were responsible for documentary research in the country and the practical organisation of field visits.

Different types of centre were visited: reception centres for asylum seekers, including the largest “orientation and integration” centre in Dronten, a “removal” centre and a centre for unaccompanied minors in Drachten. The three main detention centres were also visited: the Rotterdam prison ship, the Schiphol airport penitentiary complex (Amsterdam) and the Heerhugowaard women’s centre, as well

as two informal emergency accommodation structures for rejected asylum seekers in the municipality of Groningen. Meetings were held with the members of organisations working to support migrants and representatives from the authorities: Officials from the COA (Central Agency for the Reception of Asylum seekers) and the Ministry of Justice.

2 – Background

In the Netherlands, the issues surrounding immigration and asylum are “politically sensitive”. In recent years, an extremely restrictive asylum policy has led to a spectacular drop in the number of people seeking asylum in the Netherlands. Numbers have dropped from 18,700 in 2002 to 4,550 in 2005. The policy of the new Dutch government who came into power following the November 2006 elections has been marked by an important new measure that has come to be known by the general public as the “Law of Forgiveness”²⁸ which aimed to draw to a close the long public debate that had been raging since 2004, when the Office of Immigration and Naturalisation (IND) of the Ministry of Justice announced that some 26,000 asylum seekers who had not received a residence permit were to be deported en masse.

New measures came into force in July 2007 to respond to these concerns. They will not however suffice to deal with all the concerns surrounding the Netherlands’ asylum and immigration policy. The attention of civil society organisations and the Commission for the Prevention of Torture (CPT) is now focussed on the living conditions in the detention centres run under a prison regime. The CPT has recently visited the centre again in June 2007.

3 – Description of detention and reception systems:

3-1. Centres for asylum seekers

The COA (Central Agency for the Reception of Asylum seekers), an independent administration funded by the Ministry of Justice, is responsible for coordinating the reception of asylum seekers who are accommodated in three types of open centres:

- Three Application centres, in which newly-arrived migrants must register before being sent to other centres (duration of residence from two days to one week).
- Seven orientation and integration centres designed for asylum seekers waiting for an initial decision on their asylum application (between six months and one year) with an average capacity of 400 places (apart from the larger Dronten centre),
- Around 40 return centres where asylum seekers who have received an initial application refusal from the IND, and have begun appeal proceedings (average duration of residence over two years),
- Four centres for unaccompanied minors (UMA).
- The total number of people accommodated in these centres is around 23,000 (prior to 2000 this figure was 85,000).

The informal creation by civil society stakeholders of emergency shelters for rejection asylum seekers throughout the country should also be noted.

²⁸ Asylum seekers who applied for asylum before 1st April 2001 and whose application had been rejected or for whom a decision had not yet been made can be granted a conditional residence permit if they respect certain conditions.

3-2. Detention centres

The detention centres, under the direct authority of the Ministry of Justice (Department of Judicial Institutions - DJI) are subject to the same supervision and security regimes and operating procedures as in prisons. There are seven detention centres of which one is for women only, and in which detention conditions are relaxed. Two large penitentiary complexes for foreign nationals, built on floating platforms should be operational as of 2008 and will replace some of the current centres. Foreign nationals are held here mainly for illegal residence, although some of those held are rejected asylum seekers awaiting expulsion or those refused entry onto Dutch soil.

4 – Findings/conclusions:

4-1 – Concerning reception centres

- The living conditions and conditions for those awaiting expulsion in the return centres are very harsh. The duration of residence may be up to several years, and there is a lack of privacy with residents forced to live together in small rooms and a lack of activities (training and cultural activities are no longer provided).
- This extended residence inevitably lead to tensions between residents, extended periods of separation from the reception society and a risk of depression and a feeling of abandonment which affects children and adolescents most keenly.

4-2 – Concerning detention centres

- There is no legal limit to the duration of detention which depends on the decision of a Tribunal, and has to be confirmed or quashed each month. Consequently in 2006 the duration for detention on the prison ship in the port of Rotterdam exceeded three months for some detainees, one detainee broke the record of 13 months detention.
- The internal detention conditions in some centres are excessively severe, identical to those found in prisons, with personnel made up of guards and police officers.
- The living conditions in some centres are particularly harsh, in a confined, overcrowded environment where detainees' personal living space is reduced to a minimum.
- The pathogenic nature of detention: these conditions are considered to be a punishment which should not be the case, especially in cases where the wait can last several months with absolutely no certainty concerning the outcome.
- The lack of contact with the outside world increases anxiety amongst detainees.

Concerning vulnerable persons:

- Detainees (in any section) whose discomfort manifests itself in the form of behavioural problems are placed in isolation cells (known as observation cells) which only worsens their psychological condition.

5 – Recommendations

Concerning the reception of asylum seekers:

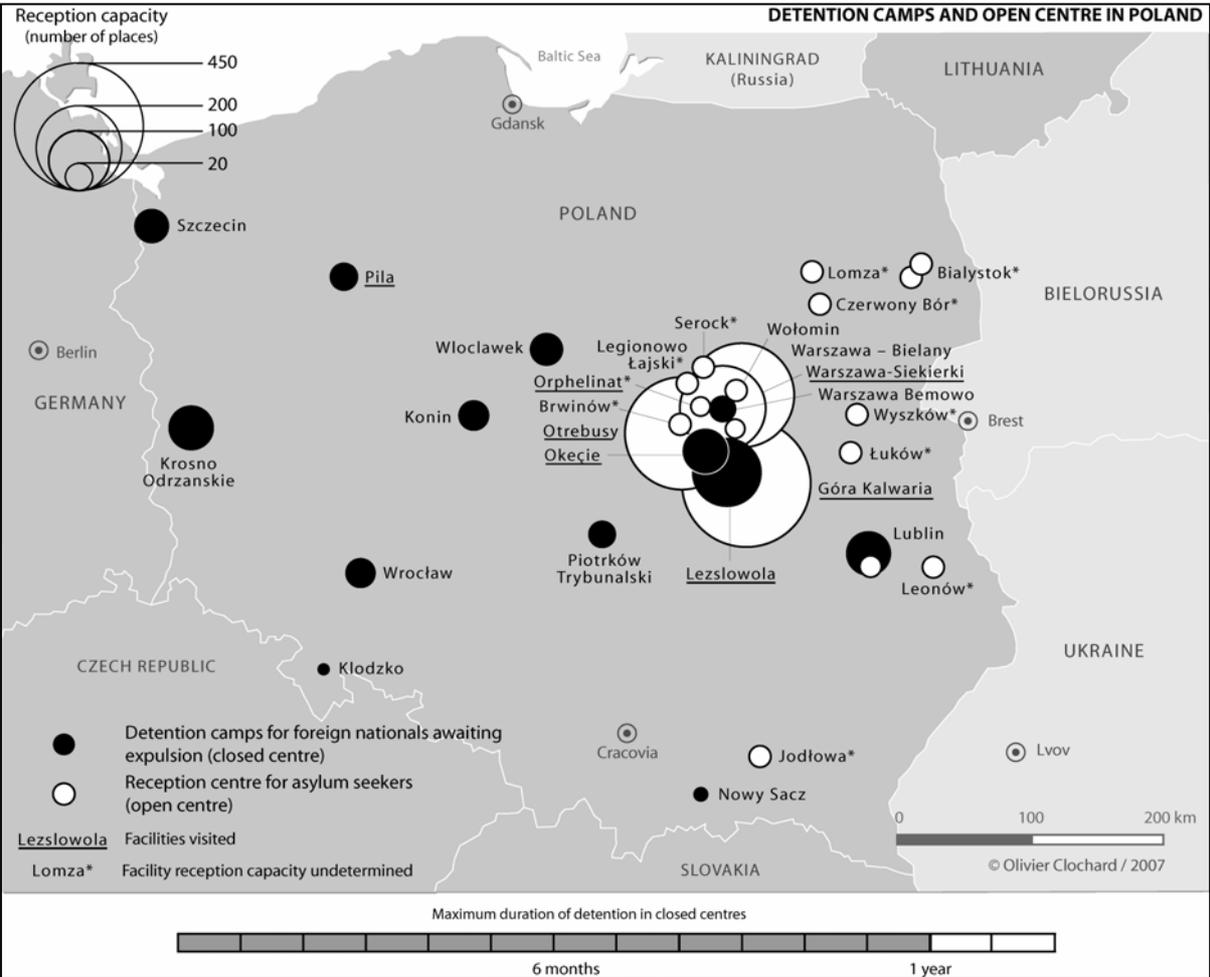
- The time it takes to process new asylum applications should be radically reduced, and decisions concerning asylum seekers who have arrived since 1st April 2001 should take into account the duration of residence and efforts made towards integration.
- The duration of residence in larger centres should be limited.
- Alternative accommodation solutions should be sought, offering smaller accommodation structures, with more contact with the local community as is the case in the emergency accommodation shelters which seem to better encourage integration.
- Smaller structures with less emphasis on supervision and security should be preferred for the centres reserved for unaccompanied minors, which will encourage better, more family-like relationships.

Concerning detention centres

- Create alternatives to detention: foreign nationals who have infringed the conditions of their stay but have not committed a criminal offence should only be deprived of their freedom as a last resort, especially for families with children and people suffering from psychological disorders.
- Limit the duration of detention.
- Relax detention conditions as the regime in force, identical to prison conditions is entirely unsuitable.
- Priority should be given to finding alternatives to detention.
- The use of ships or floating platforms as detention facilities may be less costly for the administration but has a huge cost for detainees in terms of living conditions. Confined spaces, poorly ventilated cells, humidity, and the lack of rest areas reinforce the punishment aspect of the detention which is unjustified given that the foreign nationals are not criminals. As new floating detention centres are being built, the authorities should take into account the numerous recommendations made by the bodies who have inspected the facilities and the independent organisations who work in them.

2.20 POLAND

Field study summary



1 – Brief description of how the study was carried out:

Our local partner, the Halina Niec Association for Human Rights, is a non-governmental organisation which provides legal support for asylum seekers and migrants. They were responsible for documentary research in the country and the practical organisation of field visits.

Given the size of the country, its geographical location, the number of camps (17 reception centres, 13 detention centres) and the distances involved, the centres were selected on the criteria of strategic importance (the main reception centre in Debak was visited), size (Linin centre), relevance to the theme of the study (centres likely to receive families or vulnerable persons, centres for unaccompanied minors), as well as feasibility. We were able to meet with a representative from the HCR in Warsaw, and the main local NGOs working with migrants: SIP (association providing legal assistance), PAH (Polish Humanitarian Action), the Helsinki Committee, and a representative from the URIC (Office for Repatriation and Foreign Nationals), under the authority of the Ministry of the Interior (MAI).

2 – Background

Since their admission to the European Union in May 2004 the two main sources of migration into Poland have been:

- The legal and illegal immigration of nationals from former Soviet Union states (mainly Ukraine and Belarus) seeking seasonal work.
- The large influx, mainly since 2002, of Chechen asylum seekers (90% of asylum seekers).

There are however no clear statistics available concerning the number of illegal immigrants in Poland nor for the number of migrants detained for irregularities concerning their entry into, or residence in the country.

The national legal framework concerning foreign nationals and asylum is primarily made up of the law of 13th June 2003 concerning foreign nationals (Act on Aliens) and asylum (Act on granting protection to aliens within the territory of the Republic of Poland). Some of the measures contained in these laws were modified by the law of 14th July 2006 concerning the conditions for entry and residence on Polish soil.

3 – Description of detention and reception systems:

3-1 – Closed detention centres, where illegal foreign nationals are detained:

- **A guarded centre for foreign nationals**, under police authority. The Lezslowola detention centre with a reception capacity of 132 places, is run by the police and is the only detention centre where families can be detained. The authorities plan to build four new centres in Bialistok, Ketrzyn, Bala Podlarsk and Przemys. The construction work will be partly funded by the European Fund for Asylum seekers.
- **12 deportation arrest centres under the authority of the police or border guards:** For a foreign national to be held in a deportation centre there must be a suspicion that they will not respect the rules in force in the guarded centre. In practice adult illegal foreign nationals without children are detained indifferently in deportation arrest centres or in the Lezslowola guarded centre.

3-2 – Open reception centres accommodate asylum seekers for the time it takes to process their application. Managed by the BOO (Bureau for the Organisation of Centres for Foreign Nationals) a division of the URIC (Office for Repatriation and Foreign Nationals), they come under the authority of the Ministry of the Interior (MAI). Unaccompanied minors are accommodated in two orphanages with special departments for unaccompanied foreign nationals.

4 – Findings/conclusions:

4-1 – Concerning detention centres

- The excessive duration of detention, up to 12 months, and the excessively severe detention conditions (facilities set up for common law detainees, detainees confined to their cells, limits on outdoor exercise, a regime which can be applied to families with children in Leslowona).
- The environment encourages different forms of abuse, and there is a lack of measures to prevent and identify cases of abuse and violence: facilities are closed to the outside, NGOs are not sufficiently present, access to telephones often theoretically, lack of information for detainees concerning their rights.
- The pathogenic nature of detention: The length of detention, the lack of any social activity, the severity of the conditions, the practical impossibility of communicating with personnel, and the lack of links with the exterior, are factors which create or exacerbate situations of vulnerability.

4-2 Concerning vulnerable persons:

- No social activities are organised in the centres.
- The situation of children detained in the guarded centre at Leslowona for the same duration as their parents (one year) is unacceptable. These children are not in education and no social activities are provided (only unaccompanied minor foreign nationals aged under 17 years old cannot be detained).
- There are no members of staff capable of identifying victims of psychological traumas or abuse (no social workers in the centres, no consultation sessions with psychologists or psychiatrists available).
- There are no specific measures in place for unaccompanied women, people with sensorial or motor disabilities, or elderly people.

4-3 – Concerning reception centres for asylum seekers:

- The populations present in Polish reception centres for asylum seekers are particularly vulnerable. Over 90% of asylum seekers come from the North Caucasus (Chechnya, Ingushetia). The population is primarily made up of children, many unaccompanied women (often with children) and many pregnant women. According to the NGOs working in these centres and URIC officials, a large number of these asylum seekers suffer from serious psychological problems and the number of psychologists working in the centres is insufficient.
- Housing populations in camps leads to their exclusion and makes them more insular, which hinders any possibility of integration.

Concerning vulnerable persons:

- Various violent acts reported including domestic violence affecting women and children.
- Lack of social workers in all centres, no after school activities for children, insufficient number of psychologists according to centre officials and NGOs.
- No adapted structures for people with reduced mobility.
- Not enough cleaning and maintenance staff for facilities in certain centres.

5 – Recommendations

5-1 – Concerning detention centres

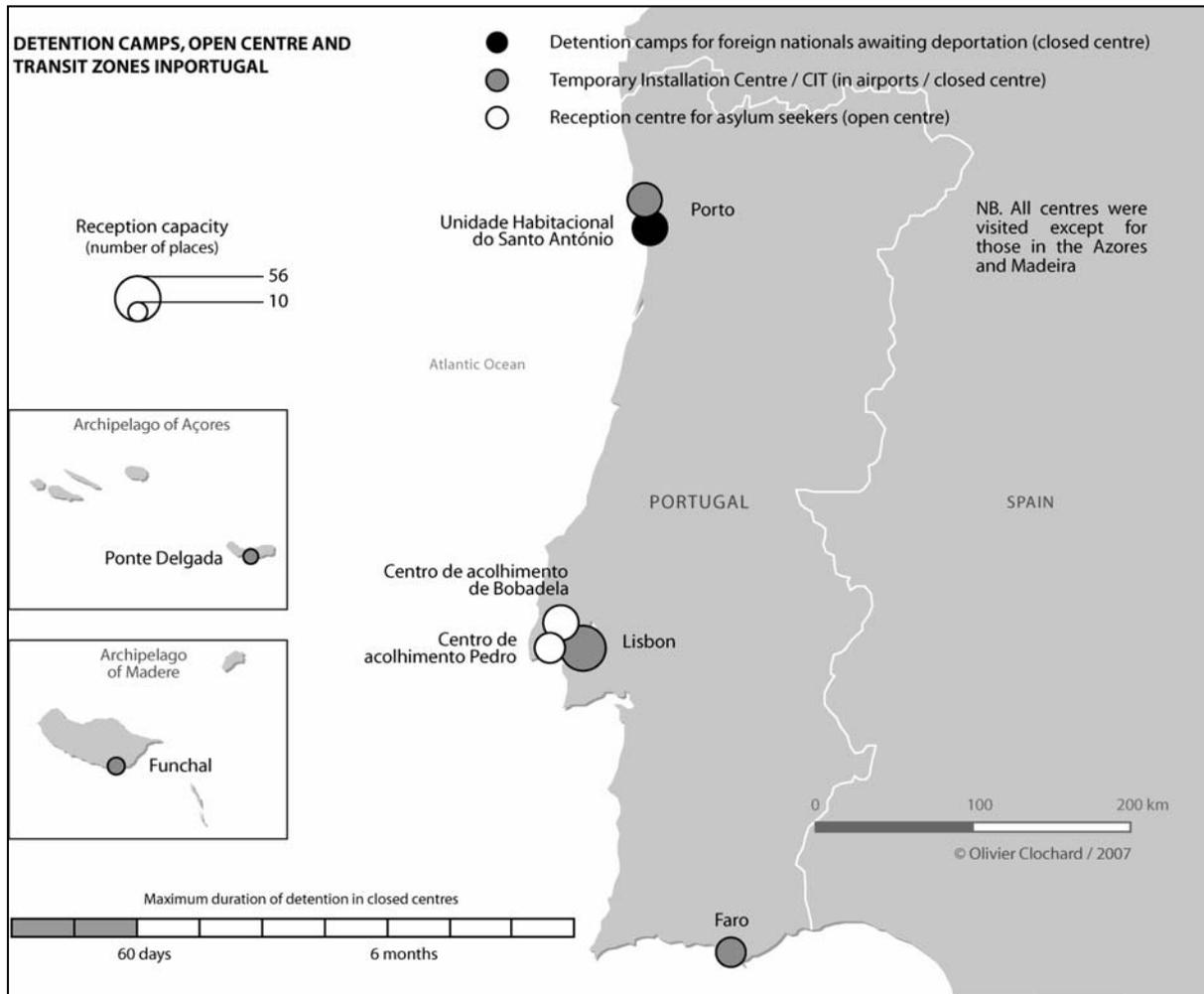
- Reduce the maximum duration of detention and develop alternatives to detention (eg. obligation to present themselves regularly to the authorities), which should be systematically applied to families with children and vulnerable persons (people with disabilities or suffering from illnesses, trauma victims).
- Relax detention conditions (end the confinement of detainees to their cells; ensure a minimum amount of privacy in bathrooms by installing partitions or curtains).
- Ensure that social workers and psychologists who can identify vulnerable persons and prevent violent incidents are present.
- Open the camps up to the outside world and ensure the regular presence of NGOs and other external stakeholders.
- Set up activities in the centres.
- Improve hygiene conditions in detention centres where they are unsatisfactory (ensure a cleaning service for the communal areas in the guarded centre and notably the bathrooms).

5-2 – Concerning reception centres for asylum seekers:

- Prefer individual accommodation solutions to accommodation in camps as this facilitates integration and offer this alternative to all asylum seekers.
- People whose health means communal accommodation is unsuitable should be systematically accommodated in individual accommodation. It is currently possible, in theory, to receive substitute benefits in order to stay outside of the centres but this is rarely awarded.
- Improve the prevention of violence and abuse and the identification of victims of psychological disorders, with an increased presence of social workers, and psychologists and by improving the training of camp personnel in the identification of victims of violence and people suffering from psychological disorders.
- Implement simple preventative measures: separate lone women in separate and secured buildings or floors (it should be possible to limit access to these buildings).

2.21 PORTUGAL

Field study summary



1 – Brief description of how the study was carried out:

Our local partner, the JRS-Portugal (Serviço Jesuita aos Refugiados), is an organisation which provides assistance to asylum seekers and migrants and runs a reception centre and temporary accommodation centre for vulnerable migrants. They were responsible for documentary research in the country and the practical organisation of field visits.

All the centres in Portugal were visited except for two temporary installation centres at the airports of Madeira and Azores which were not accessible during the duration of the study. We visited the Sao Antonio de Porto administrative detention centre, the Temporary Installation Centres (CIT) in Lisbon, Porto and Faro airports, the Bobadela asylum seekers reception centre and the Pedro Arupe open reception centre for vulnerable illegal foreign nationals in Lisbon, run by JRS.

Meetings were held with a representative from the IOM and an inspector for the Foreign Nationals and Borders Service (SEF).

2 – Background

Most migrants come from PALOP²⁹ (in 2005, 35% of foreign residents), Brazil and Eastern Europe (15% each). The first three nationalities are Cape Verdians, Brazilians and Ukrainians. The other residents are made up of nationals from the EU, Asia (China, India, Pakistan), Romania, Bulgaria and the Balkans.

The main entry point in the country is Lisbon international airport.

Asylum procedures are governed by the law of 26th March 1998, modified by the laws of 23rd August 2003 and 23rd June 2006. In terms of the entry and residence of foreign nationals, a new law has just been adopted by parliament the law 23/2007. This law takes some categories of vulnerable persons into account. This law states that residence permits dispensing the holder from visa requirements can be issued to minor foreign nationals in education and to their parents, to victims of human trafficking and illegal workers who have been victims of serious exploitation and who agree to cooperate with the authorities.

3 – Description of detention and reception systems:

Closed centres: There are two types of closed centres:

- An administrative detention centre or *Unidade Habitacional de Sao Antonio (USHA)* in Porto under the authority of the SEF (Foreign nationals and Borders Service) mandated by the Ministry of Internal Administration. With a reception capacity of 30 adults and six children, it was opened in 2006. A new centre with a capacity of 100 places is being built in Lisbon.
- Five Temporary Installation Centres (CIT) are located in each major airport: Porto, Lisbon, Faro, Funchal, Ponta Delgada. These centres are intended to detain foreign nationals arriving at airport border posts without the required documents for entry onto Portuguese soil. Asylum seekers can be detained for the time it takes to process their asylum application. The Faro and Porto centres have a capacity of 24 places, and the centre in Lisbon 56 places.

Open centres:

- The **Bobadela reception centre for asylum seekers** near Lisbon has a capacity of 34 people and is run by the **CPR** (Portuguese Council for Asylum Seekers). It is designed for the reception of asylum seekers whilst their application for asylum is processed.
- **The Pedro Arupe reception centre in Lisbon**, run by JRS Portugal, takes in and accompanies vulnerable illegal foreign nationals or those awaiting regularisation. This centre is funded by the social security and the Gulbenkian foundation. It was built in 2006 and has a total capacity of 25 places.

4 – Findings/conclusions:

4.1-1 – Concerning closed centres:

²⁹ PALOP: African Countries with Portuguese as an Official Language (Cape Verde, Guinea-Bissau, Angola, Mozambique)

- The duration of detention in the administrative detention centre is limited to 60 days.
- In the CIT, the maximum duration of detention is also two months (60 days), but these centres are unsuitable for such long periods of detention.
- In the Porto administrative detention centre, a social support service operates thanks to the work of NGOs (JRS provides a social worker, mobilises cultural mediators, translators, and lawyers, and puts on socio-cultural activities in the centre; Médecins du Monde ensures access to medical and psychological consultations). The NGOs do not regularly visit the CIT.
- The CIT visited were located in modern buildings (Faro and Porto) and it is therefore extremely surprising that the rooms in which people are held have no windows with outside views. This, combined with the lack of activities apart from watching television, means that this type of centre is unsuitable for long periods of detention which can last up to 60 days.

Concerning vulnerable persons:

- Unaccompanied minors aged under 18 years cannot be detained and are transferred to special centres. Minors aged over 16 years are however considered legally responsible and are therefore treated as adults.
- Family separation: there is no specific family sector in the Porto detention centre (minors share accommodation with their mothers, a games room has been set up for these children and activities are organised outside of the centre). In the CIT families are kept together only when possible (according to the available space).
- The airport emergency services are called upon if a CIT resident requires a medical consultation. If necessary, the patient is transferred to a hospital. Alcoholics and drug addicts receive special attention. They may be treated at a psychiatric hospital and admitted for short periods. The Faro centre mentioned cases of people with alcohol or drug addictions. For the latter, methadone treatment may be provided.
- The operating procedures prohibit the detention of pregnant women. None of the three centres have received people with disabilities.

4.2-2 – Concerning reception centres for asylum seekers:

Concerning vulnerable groups of asylum seekers:

- The law guarantees social provision for asylum seekers without resources (this is however, suspended during appeal procedures), the non separation of families, access to education for minors, access to rehabilitation services and psychological support for victims of abuse, negligence, exploitation, torture, cruel, inhumane or degrading treatment and the victims of armed conflicts. Unaccompanied minors are also provided for.
- The only centre for asylum seekers, in Bobadela, directly provides a certain number of services or contracts them out to other bodies (social assistance, material aid, various activities, psychological support, legal aid). The centre continues to provide social support for particularly vulnerable rejected asylum seekers during appeal procedures.
- The creation of the *Pedro Arrupe centre by JRS to take in vulnerable illegal foreign nationals means the most vulnerable residents can receive social support (unaccompanied adolescents,*

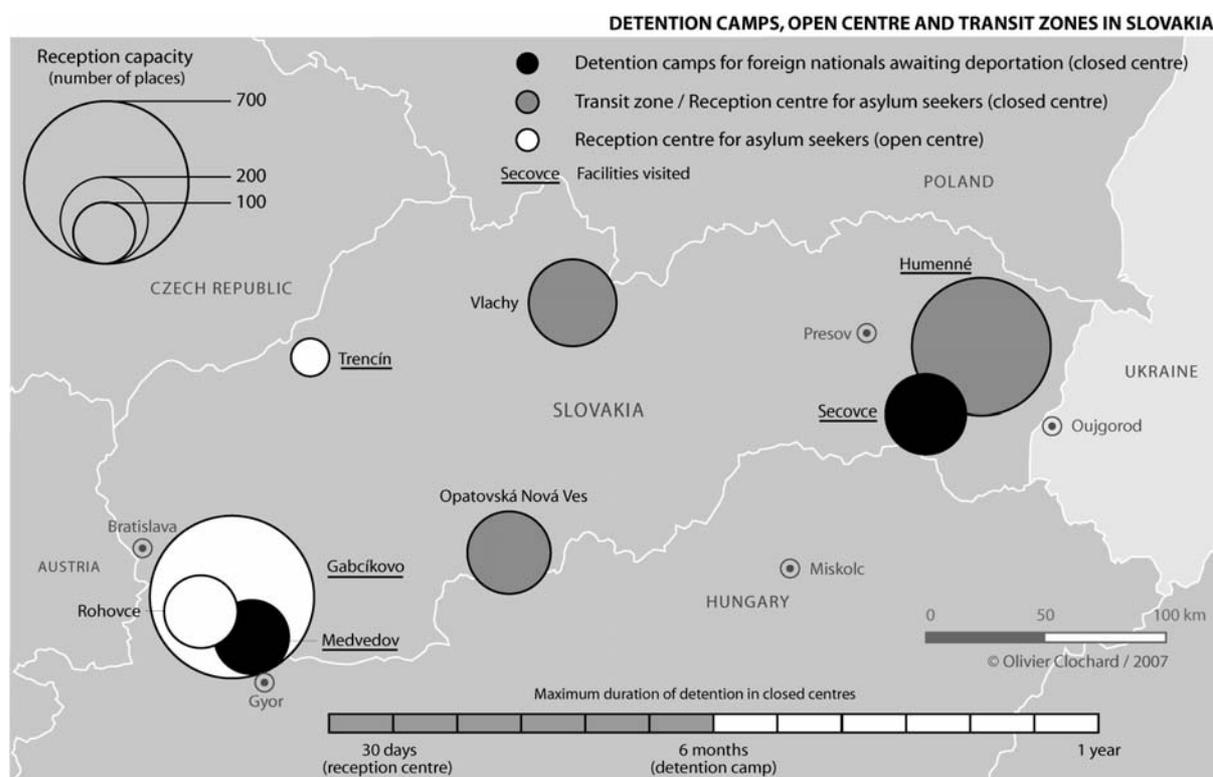
victims of slavery, people suffering from alcohol addictions etc.). There is however a lack of specialised structures to help the victims of physical or mental violence. Only the CAVITOP (Torture Victims Support Centre) is capable of providing the support required.

5 – Recommendations

- Improve access to legal assistance and information.
- Collaborate with NGOs in all detention centres, including the CIT, in order to provide certain detainees with the specific social support that centre personnel are unable to offer. At the Sao Antonio de Porto administrative detention centre (USHA), although the detention conditions are severe the detainees interviewed freely declared that they were well treated. This confirmed the overall positive impression we had of the centre during our visit. There is no tension, freedom of movement within the centre, and the personnel seek to reassure detainees etc. It would therefore appear that the presence of NGOs in the centre is largely responsible for making the detainees' living conditions acceptable.
- Another important control mechanism is the joint accompaniment commission made up of the SEF, the IOM and the JRS. This commission has worked on drawing up the centre's operating procedures. It advises on the admission of vulnerable persons into the centre and advises and controls the daily organisation and management of the centre.

2.22 SLOVAKIA

Field study summary



1 – Brief description of how the study was carried out:

Our local partner, the Slovak Humanitarian Council (Slovenska Humanitna Rada), is an organisation which works to support people with social difficulties or disabilities and works in particular to support asylum seekers and illegal immigrants. They were responsible for documentary research in the country and the practical organisation of field visits.

The criteria for selecting the centres to visit were the type of centres (to ensure a representative sample), their capacity, their geographical location and the presence of vulnerable persons. The following centres were visited: the two administrative detention centres (Medvedov and Secovce), the asylum seekers accommodation centre in Gabčíkovo, the reception centre in Humenné and the orphanage for unaccompanied minors in Horené Orechové. Meetings were held with the director of the Office for Migration, within the Ministry of Interior, and HCR and IOM representatives in Bratislava.

2 – Background

Since joining the European Union in May 2004, Slovakia has primarily been considered as a transit country for migrants hoping to penetrate further into Western Europe in order to find better socio-economic conditions, rather than a final destination. This is also due to the extremely slim chances of being granted asylum in Slovakia.

To conform with the prerequisites for accession, and in order to bring national legislation in line with European directive, the legal framework concerning foreign nationals and asylum has been modified on several occasions. The law on entry and residence for foreign nationals in Slovakia (Act N° 48/2002) has recently been amended (Act N° 693/2006 which came into force in January 2007). Act N° 480/2002 on asylum has also been amended several times. Furthermore considerable resources have been provided by the EU to reinforce border controls and for the renovation of migrant reception services and centres.

3 – Description of detention and reception systems:

Closed centres:

- Two administrative detention centres under the responsibility of the Border and Migrant police (under the authority of the Ministry of the Interior), intended for the detention of foreign nationals issued with a expulsion order. The maximum duration of detention in these centres is six months.
- Three asylum seekers reception centres, under the responsibility of the Office of Migration (within the Ministry of the Interior), intended to quarantine asylum seekers until they have undergone a medical examination. During their residence, limited to 30 days, the asylum application procedure begins.

Transit centres in the country's three international airports will soon be opened within the framework of the Schengen system.

Open centres:

- **Two accommodation centres for asylum seekers**, under the responsibility of the Office of Migration which accommodate asylum seekers.
- **The Horené Orechové orphanage for unaccompanied minors**, under the authority of the Ministry of Employment, Social Affairs and the Family, takes in unaccompanied minor foreign nationals.

4 – Findings/conclusions:

4-1 – Concerning closed centres:

- Long duration of detention: the maximum duration of detention is six months in administrative detention centres and 30 days in the reception centres.

- The conditions in the detention centre correspond to a prison regime; conditions in the reception centre we visited are more relaxed.
- Asylum seekers have been wrongfully transferred to these centres or are held here after having initiated asylum application procedures.
- Thanks to the considerable involvement of NGOs (services providing legal counsel, social assistance, psychological support and help with translation), living conditions have improved and people's rights are better upheld.
- Problems concerning medical care were observed due to the lack of interpreters and failures in the system concerning decisions to transfer patients to hospital which were sometimes made by the hospital director and not the doctor.
- Detainees suffer from a number of psychological disorders, primarily linked to their imprisonment and the wait. There is a lack of psychological care.

Concerning vulnerable persons:

- There are no specific systems in place for the reception and accompaniment of vulnerable persons in detention centres, except concerning access to healthcare for pregnant women, people with disabilities or chronic disease, or people suffering from psychological disorders.
- Accompanied minors may be detained with their parents. There is a special section for accommodating families with children at the Secovcé detention centre, and in the reception centre. Only unaccompanied minors cannot be detained in detention centres. They are referred to the specialised Horené Orechové centre, or a reception centre for asylum seekers.

4-2 - Open centres:

- Reception and accommodation centres for asylum seekers:
- Social and legal support is mainly provided by associations and local structures (schools, healthcare structures).
- Difficulties concerning access to healthcare have been reported (no interpreters available for medical visits).
- The waiting time and the lack of activities in the centres provoke psychological disorders and may lead to tension and violent incidents between residents, or involving security personnel.

Vulnerable persons:

- Unaccompanied minors are taken into specialised centres under the authority of the Ministry of Employment, Social Affairs, and the Family. If they are asylum seekers, they are referred to the reception and accommodation centres for asylum seekers. Decisions concerning their future are taken by their guardian, named by the court.
- People with disabilities are accommodated in the family section but the centre is not suited to this population.

- Appointments for people with psychological problems can be made in the centre. If required, they may be transferred to a psychiatric hospital.
- Women, who have to deal with specific difficulties, and who may be victims of violence, should receive special attention in the centres.

5 – Recommendations

Concerning detention centres for foreign nationals:

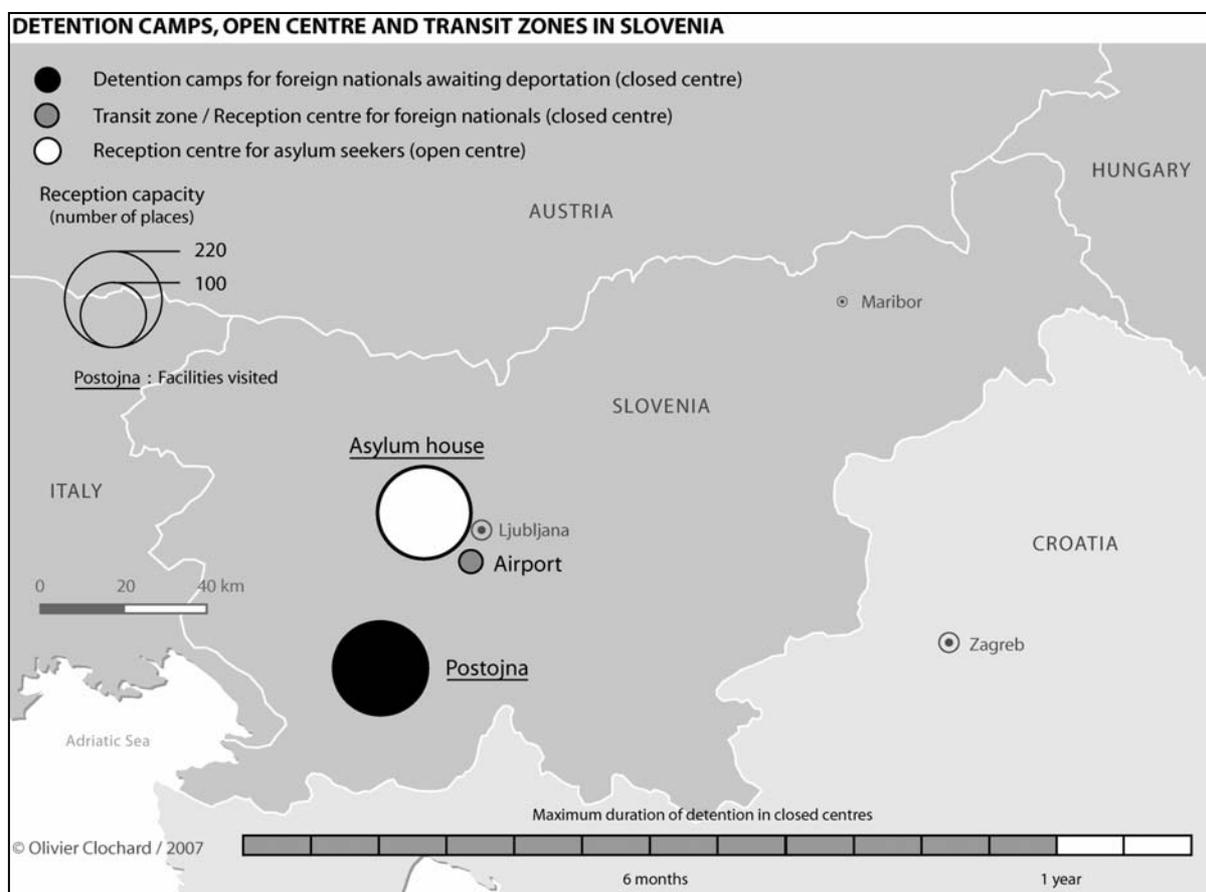
- The maximum legal duration for administrative detention remains long (six months) and should be reduced. Alternatives to detention should be used, at least for certain categories of populations, and in particular for families with children. The detention regime should be relaxed.
- People who apply for asylum during their administrative detention should be transferred to open centres for asylum seekers.

Concerning all centres:

- Reception conditions should meet with minimum international standards.
- Access to healthcare should be improved. There should be access to interpreters and doctors should be able to decide entirely independently whether a patient should be transferred to hospital or not.
- Special attention should be paid to the following groups: pregnant women, couples and families with young children, people suffering from psychiatric and/or psychological disorders (numerous cases of depression or anxiety). Collaboration between external psychologists and centre personnel should be facilitated.
- Staff in the centre should be trained in intercultural relations, conflict management and more social services should be provided in the centre.
- Couples should not be separated, even when detained.
- The issue of families split up across different countries in the European Union should be resolved. Concerns remain over the issue of unaccompanied minors who leave the Horené Orechové centre with no options. Measures to guarantee their protection or, at the very least, to follow them up should be thought about.

2.23 SLOVENIA

Field study summary



1 – Brief description of how the study was carried out:

Our local partner, PICP (Pravno-Informacijski Centre Nevladnih Organizacij), is a non-governmental organisation which works to reinforce the role of associations in Slovenian civil society. PICP also provides legal assistance to asylum seekers and migrants, and works in accommodation and detention centres, as well as border posts where migrants may be intercepted. They were responsible for documentary research in the country and the practical organisation of field visits.

We visited the only two centres for foreign nationals that exist in Slovenia: a reception centre for asylum seekers, the “Asylum House”, and the Postojna administrative detention centre.

2 – Background

Most of the migrants arriving in Slovenia come from former Yugoslavian countries, notably Serbia and Bosnia.

When Slovenia was part of Yugoslavia, there was no immigration or asylum legislation in place and any decisions on the subject were taken by the Federal state. In the whole of Yugoslavia there was only one centre for foreign nationals situated in Padinoka Skela, near to Belgrade.

Slovenia's first asylum law was adopted in 1999 and has been modified several times (in 2000, 2001, 2003 and in 2006). The most significant modifications were made when Slovenia was preparing to join the European Union in 2004. A new bill (the law for international protection), should be approved by the Slovenian parliament, at the end of June 2007.

3 – Description of detention and reception systems: two centres in Slovenia

- **The detention centre for foreign nationals in Postojna:** illegal migrants can be detained here whilst awaiting removal for a maximum duration of one year.

Asylum seekers who the police believe may misuse the procedure can also be detained for a maximum duration of six months.

- **The “Asylum House”, reception centre for asylum seekers** is intended to take in asylum seekers for the duration of their application procedure.

There are no transit centres in Slovenia, migrants stopped on the borders are sent back to their country of origin, or sent directly to a detention centre or the centre for asylum seekers.

4 – Findings/conclusions:

4- 1 – Concerning the detention centre for foreign nationals in Postojna:

- The duration of detention is excessively long and can be up to one year.
- The detention regime is very severe and disproportionate (for example, obliging detainees to wear uniforms provided by the centre is a disproportionate infringement of their personal freedom).
- The presence of asylum seekers in the detention centres seems unjustified, especially as the notion of misuse of the system seems to be applied arbitrarily.
- It is difficult for detainees to communicate with the outside world. In the building intended for the detention of vulnerable persons, there is no telephone.

Vulnerable persons:

- In practice there are no specific measures in place concerning vulnerable persons who may be detained. Both unaccompanied or accompanied minors, and pregnant women can be detained, indeed we met an unaccompanied minor during our visit.
- Prolonged detention is of a pathogenic nature, especially for minors, for whom detention can cause psychological problems. Parents are extremely concerned about the consequences of this detention on their children (although detained children can attend school, the systematic

searches carried out by the security personnel on their return to the centre are particularly disturbing for these children).

4-2 – Concerning reception centres for asylum seekers:

- The extremely low number of asylum seekers granted refugee status in Slovenia should be noted (in 2006, out of 579 asylum seekers only one obtained refugee status and eight were granted subsidiary protection).
- The centre is located in an out of the way area in an industrial zone, which isolates asylum seekers from the Slovenian population and does not encourage their integration into Slovenian society.
- There is a lack of activities in the centre, with no social activities or activities to facilitate future integration into the world of work.
- Cases of alcoholism amongst asylum seekers have been reported, and no specific care is provided for these people.

Concerning vulnerable persons:

- Lack of activities in the centre, especially for children.
- Medical services do not meet the needs of the whole population in the centre.
- Lack of privacy for families and single women.
- The space is not really divided up which is necessary for certain categories of vulnerable persons (trauma victims, single women or families), which leads to difficulties related to communal living.

5 – Recommendations

Concerning the Postojna detention centres:

- - Reduce the duration of detention.
- Ban the detention of certain categories of vulnerable persons for whom detention is particularly pathogenic: unaccompanied minors, minors with their families, families and pregnant women.
- Given the length of the duration of detention and the disproportionate nature of this measure, alternatives to detention should be sought and at the very least, a semi-open regime implemented for the foreign nationals held in these centres.
- In light of the difficulties detainees' have communicating with the outside world, access to a telephone should be improved (notably for people accommodated in a special building for vulnerable persons which has no telephone).
- Increase the duration of authorised visits to detainees.

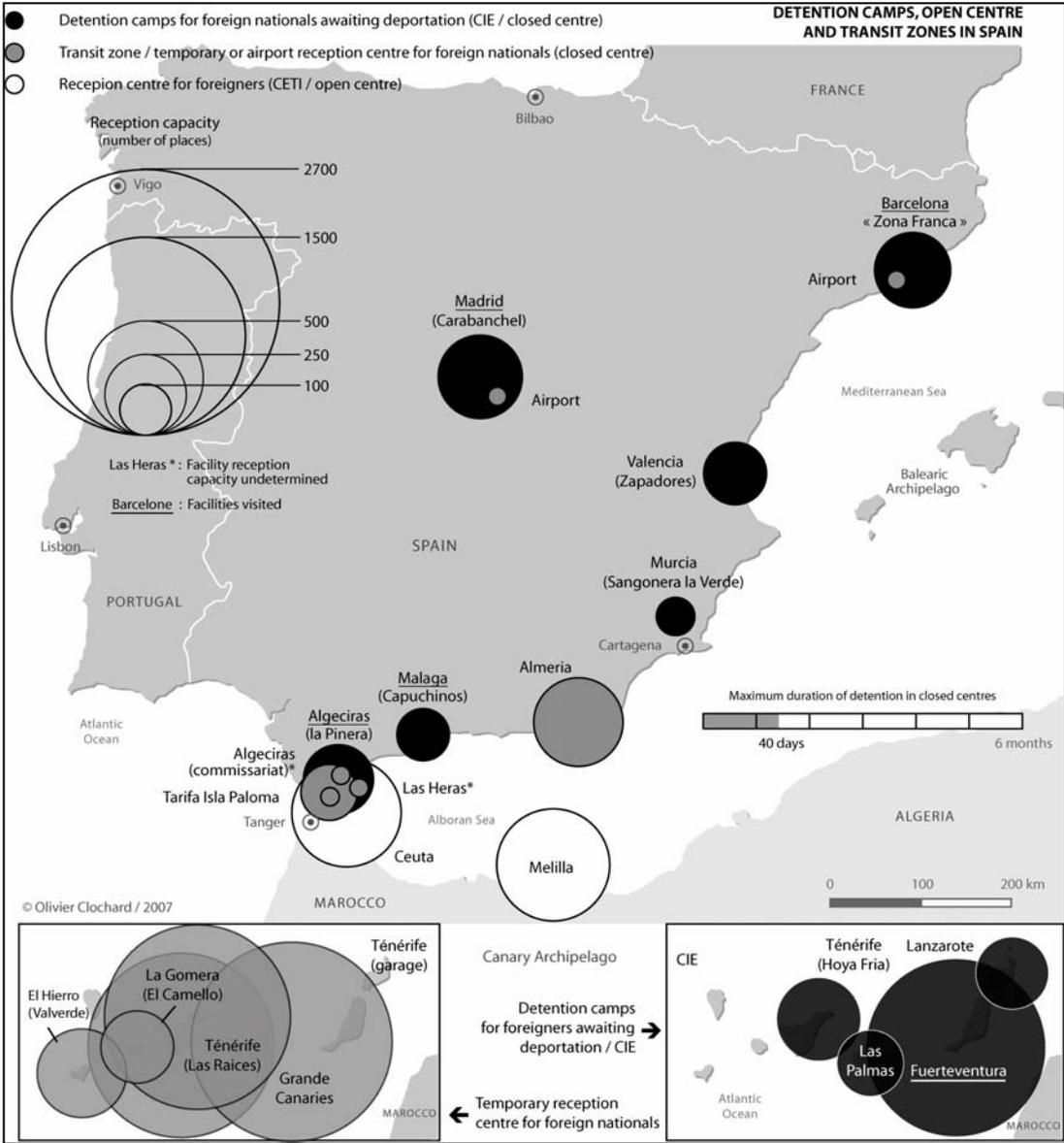
- Allow detainees to wear their own clothes if they wish.
- Set up a system to allow a group of organisations and outside, independent bodies (NGOs) to monitor the centres, to ensure detainees' rights are upheld.

Concerning the reception centre for asylum seekers:

- Create separate spaces for families, single women and people suffering from psychological disorders.
- Develop alternatives to accommodation in camps, in particular for people for whom living conditions in the centre are unsuitable or who are threatened by other camp residents.
- Implement social inclusion projects to prepare asylum seekers for their future integration into Slovenian society.
- Set up psychological care projects for people who are addicted to alcohol or drugs, in order to understand the roots of these problems and deal with them in an appropriate manner.

2.24 SPAIN

Field study summary



1 – Brief description of how the study was carried out:

Our local partner, CEAR, is a non-governmental organisation which provides legal and social support for asylum seekers and other migrants. They were responsible for documentary research and the practical organisation of field visits.

Difficulties in obtaining access to detention centres were met (due to the Spanish authorities’ reservations concerning the study), which meant we were uncertain as to the authorised visiting dates which were given to us at the last minute. We were therefore unable to schedule visits to open centres (for asylum seekers and unaccompanied minors), nor meetings with other stakeholders (NGOs,

international institutions). Finally, we were only able to visit the five selected detention centres (Fuertaventura, Madrid, Barcelona, Malaga and Algerisas). The administrative personnel in these centres participated entirely satisfactorily in the study.

2 – Background

Spain's unique geographical position as the Southern door to the European Union with enclaves in Ceuta and Melilla, and islands close to the African continent, along with its historical and cultural links with certain countries (particularly in Latin America), mean that the issues surrounding immigration policy are particularly important in Spain.

The reinforcement of border controls and the implementation of a restrictive entry policy have had dramatic consequences: the arbitrary removal of Latin American nationals arriving by plane, and an increased number of shipwrecks and deaths of migrants arriving from North and Sub-Saharan Africa by sea.

The tragic events in October 2005 in Ceuta and Melilla led the Spanish and Moroccan governments to reinforce border controls in the Spanish enclaves. This has made it extremely difficult to pass through and has effectively pushed the European border further South. The reinforcement of controls along the African coast has pushed back the departure points for migrants arriving by sea: instead of leaving from Mauritania, ships transporting migrants now leave from Senegal, Gambia, Casamance and even as far as off as Guinea. This phenomenon has had tragic consequences with an increase in the number of deaths (up to 6000 in 2006 according to certain estimates).

The 1st July 1985 law on rights and freedoms for foreign nationals in Spain, modified in 2000 and 2003, and the accompanying implementation regulation, determine the general principles of entry and residence for foreign nationals. The right to asylum is governed by the law dated 26th March 1984, modified in May 1994 and completed by the royal decree of 10th February 1995.

3 – Description of detention and reception systems:

3-1 - Closed detention centres:

The CIE (*Centro internamiento extranjeros*) are intended to hold foreign nationals without the correct papers, awaiting a deportation order. These centres come under the authority of the “*Commissaria General de Extranjeria y Documentacion*”, and are run by the Spanish police force. The maximum duration of detention is limited to 40 days, but in practice, foreign nationals can be arrested on leaving the centre and therefore accumulate several consecutive 40 day detention periods.

3-2 – Open centres: different types of open centres

- **The CETI** (*Centro d'Estancia Temporal de Inmigrantes*), situated in the enclaves of Ceuta and Melilla, on the border. They take in illegal migrants and are run by the Ministry of Social Affairs relating to Labour. Although they are open centres, migrants cannot actually distance themselves from these centres.
- **Open centres for asylum seekers**, designed to receive and accommodate asylum seekers are run by the Ministry of Social Affairs or their management is contracted out to Spanish NGOs. Some centres run by NGOs are intended to receive certain groups of vulnerable persons: pregnant women, female minors with children, asylum seekers suffering from psychological or psychiatric problems.

- **The centres for unaccompanied minors** are run by the regional administration the “Autonomous Communities” (responsible for both foreign unaccompanied minors and those from within the country) or by specialised associations.

4 – Findings/conclusions:

Concerning detention centres (CIE)

- Unnecessarily severe detention conditions, similar to conditions in prison (almost permanent confinement to cells, limited possibilities for outdoor exercise),
- Deplorable hygiene and physical conditions have been observed in some centres leading to degrading conditions for detainees (Algeiras, Fuertaventura, Malaga: damaged buildings, lack of essential items for detainees such as sheets, clothing, personal hygiene kits).
- Violent incidents perpetrated by the security personnel in some centres have been reported by detainees. Some centre personnel have a disrespectful and contemptuous attitude towards detainees, and there is no awareness-raising concerning the particularities of the migrants' situation.
- The staff present is almost exclusively security personnel in charge of supervising detainees.
- Lack of medical services, medical personnel openly reticent about responding to the needs of detainees.
- Absence of, or difficulties obtaining information concerning detainees rights, legal assistance, or translation services, centres which are closed to the outside (limited presence of NGOs due to difficulties obtaining entry authorisation),
- Pathogenic nature of detention for already vulnerable migrants who often arrive in a poor psychological or physical state following a difficult journey.

Vulnerable persons

- There are a large number of people in the centres who have suffered from abuse during, or have been traumatised by, their journey to Europe. The measures in place to assist these people, who are often extremely vulnerable (cases of women being raped when passing through Libya have been reported by the migrants) are unsatisfactory.
- Only unaccompanied minors cannot be detained, those accompanied by their parents may be detained if the attorney general rules in favour of their detention, which does happen. Unaccompanied minors are accommodated in special centres. The conditions in some of these centres for minors, notably in the Canary Islands, have been severely criticised in the latest Human Rights Watch report, which denounced cases of sexual abuse and physical violence. Furthermore, some unaccompanied minors “suspected of being adults” may be detained in detention centres, given the unreliability of the bone age test used by the authorities in cases where the minor's age is in doubt.
- In general there is a lack of personnel capable of identifying vulnerable persons; the only staff present is security personnel: no social workers, psychologists or doctors trained in recognising vulnerability are present.

5 – Recommendations

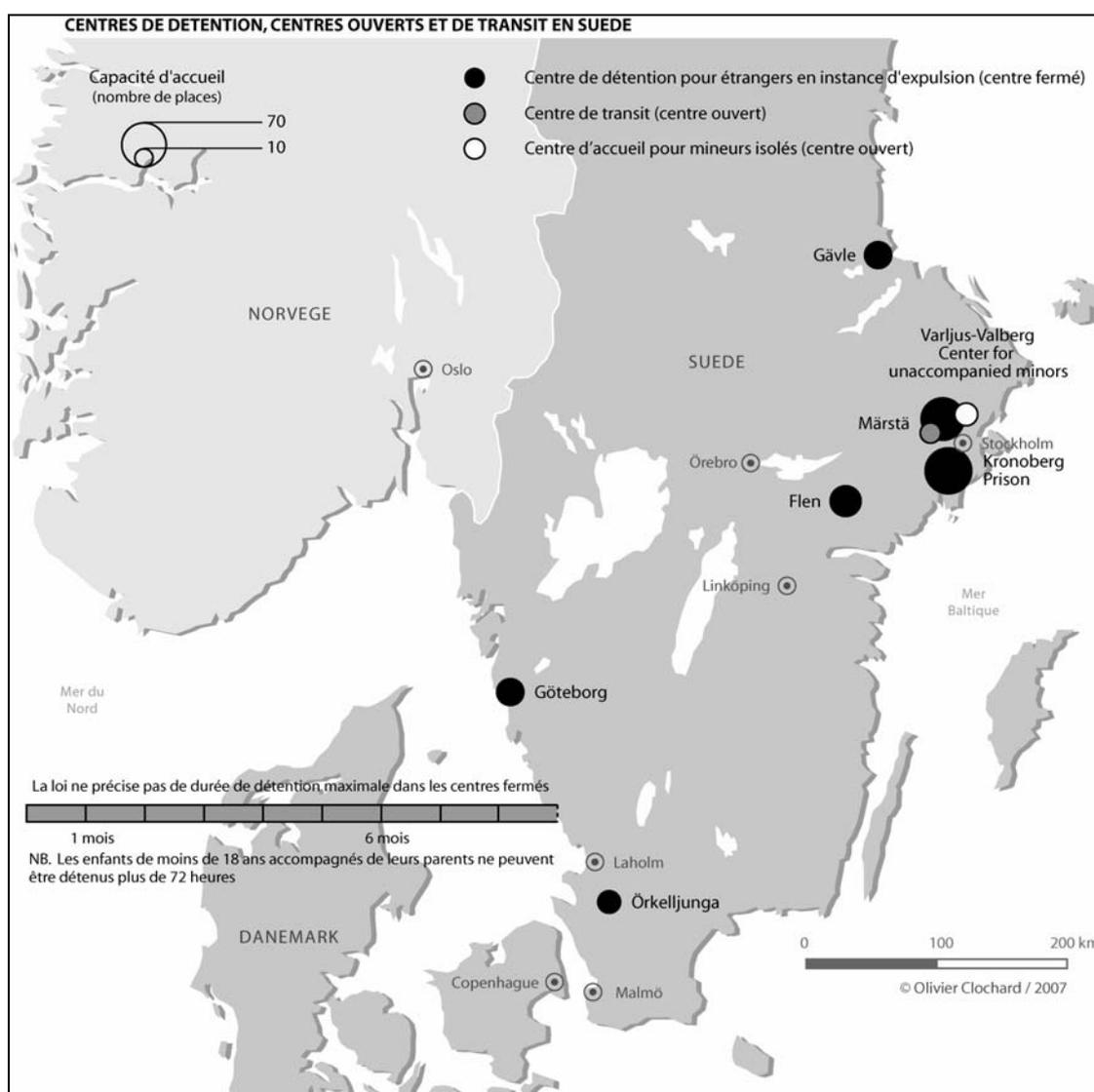
- Relax the severe, prison-like detention conditions currently in force, which are entirely disproportionate and are not adapted to the needs of detainees held simply due to their administrative status.
- Set up alternatives to detention, at least for certain categories of vulnerable persons, and in particular for families with children.
- Improve living, physical, and hygiene conditions in the centres, at the very least renovation work should be carried out and detainees provided with essential items such as toiletries, shoes and clothing.
- Open centres up to the outside by allowing NGOs permanent access to regularly monitor the centres, thus ensuring migrants' rights are upheld and abuses prevented.

Concerning vulnerable persons:

- Implement measures to assist detainees particularly weakened by the conditions of their journey to Europe (due to difficult sea crossings or land journeys across the African continent).
- Improve the identification and handling of certain categories of vulnerable persons and/or those suffering from psychological disorders, and ensure the presence of social workers, psychologists, interpreters, medical staff and mediators.
- Improve the system for accessing healthcare, notably by introducing medical staff who are independent from the national police service.
- Concerning minors: introduce a new age testing method to replace the bone age test given its lack of reliability.
- Ban the detention of pregnant women.

2.25 SWEDEN

Field study summary



1 – Brief description of how the study was carried out:

Our local partner, the Asylum Seekers and Migrant Group of the Swedish Christian Council, has always been involved with issues related to asylum seekers and migrants. They were responsible for documentary research in the country and the practical organisation of field visits.

The centres visited and meetings organised were selected according to the specific criteria of the attention paid to vulnerable persons (visit to the Världus Värberg centre for unaccompanied minors, and the Red Cross centre for victims of torture and war in Stockholm), their representativeness and accessibility (visit to the largest detention centre in Sweden in Mörstå, close to the main transit and registering area for asylum seekers, and to the Flen and Gävle detention centres, as well as the

Stockholm central preventative prison, the Kronoberg prison where some foreign nationals are held for security reasons).

2 – Background

Despite its geographical situation, which makes the country particularly inaccessible, Sweden is a final destination for a number of migrants seeking protection.

The Swedish law concerning foreign nationals (modified in March 2006) is based on a wide and comprehensive interpretation of the "duty of protection" which means the country receives a growing number of asylum seekers (24,322 in 2006 including nearly 9,000 Iraqis in 2006). In 2006 over 25,000 residents permits were issued to people granted asylum or temporary protection which makes Sweden an exception to the rule amongst European nations who are currently implementing increasingly restrictive asylum policies. The system for the reception of asylum seekers and the physical conditions are other factors which attract migrants.

3 – Description of detention and reception systems:

The Migration Office (*Migrationsverket*) is responsible for the application measures related to the Law on Foreign Nationals, the practical organisation of accommodation, the allocation of benefits and the management of closed detention centres.

3-1 – The reception system

One of the features of the Swedish policy is the fact that there are no collective reception centres. Whilst their application is being processed, asylum seekers are placed in apartments rented by the Office of Migration in different boroughs across the country (apartments shared by groups of around six people who are responsible for preparing their meals and the upkeep of the apartment), or in private accommodation, staying with friends or relations.

Only unaccompanied minors are placed in small, specialised structures known as group housing, with specially trained staff. Each of them is allocated a guardian who looks after their interests.

3-2 - Closed detention centres:

There are five closed detention centres with a total capacity of around 150 places. Foreign nationals can be placed in detention centres either by the police (entry refused due to doubts about the authenticity of travel documents, cases for readmission under the Dublin II regulation, expulsion for security reasons) or by the Office of Migration ("uncooperative" rejected asylum seekers who it is thought may try to avoid removal proceedings).

4 – Findings/conclusions:

4-1 – Concerning reception centres for asylum seekers:

- In many ways the reception system for asylum seekers seems to be exemplary: accommodation in apartments in rural and urban areas, measures to ensure access to public services (schools or health centres), the possibility of working after four months in the country

until their application has been processed. All these measures encourage early integration and avoid the problems related to social exclusion and communal living in large reception centres, as found in other countries.

- This positive assessment of the reception system set up should however be mitigated by NGOs' concerns about the increasing indifference within Swedish society to these issues and a trend towards more restrictive immigration policies. As one official from a reception centre for torture victims told us: *"people who seek asylum in Sweden have very high expectations due to the country's reputation. But, today, they are increasingly confronted with indifference, a lack of empathy, and a lack of respect which increase their frustrations and can aggravate existing traumas. Now the problems are about human issues not physical ones"*.

Concerning vulnerable persons:

- The system for dealing with people arriving in the country for the first time also, in theory, allows vulnerable persons to benefit from the healthcare and guidance structures on offer in Swedish society.

4-2 – Concerning detention centres

- The physical conditions and organisation of the detention centres are among the best (small centres, well-equipped, do not look like prisons and are not run in the same way).
- There are however problems concerning the administrative procedures: no limit to the duration of detention (except for children aged under 18 years, accompanied by the parents, who cannot be held for over 72 hours), disparities in treatment according to whether cases are handled by the immigration services or the police.
- The length of time it takes to process applications, the opacity of the decision-making process, and the lack of legal assistance contribute to the destabilisation of detainees and the aggravation of psychological traumas (which many detainees suffered from prior to arriving in Sweden).

5 – Recommendations

Recommendations directly concerning vulnerable categories

Concerning reception

- Authorise access to the services of specialised centres for the treatment of torture victims for asylum seekers whose applications are being processed. Ensure medical opinion on these people's state of health is taken into account when considering their application for asylum or protection.

Concerning detention

- The duration of detention should be limited.
- Alternatives to detention should be preferred systematically for people with physical or mental health problems.

- Improve the procedures for processing applications by improving access to legal assistance and providing detainees with information on their rights.

CHAPTER 3 - OBSERVATIONS

3.1 – DATA COLLECTED DURING THE STUDY

Using the methods described and depending on the situations in the 25 countries, the collected data comprised:

- 90 replies to written questionnaires.
- 127 replies obtained during interviews with centre managers.
- 253 replies obtained during interviews with vulnerable persons.
- 71 replies during interviews with managers of medical/social services or representatives of NGOs³⁰.

Analysis of these questionnaires made it possible to provide figures for, and draw certain conclusions on, the general situation in the 25 countries. However, more detailed findings and comments, based on field reports and observations reported by investigators, will be presented in the following chapters.

³⁰ Medical/social service managers or NGO representatives were not available in 56% of the centres, or this type of support did not exist in the centre.

Centres visited and persons met by country

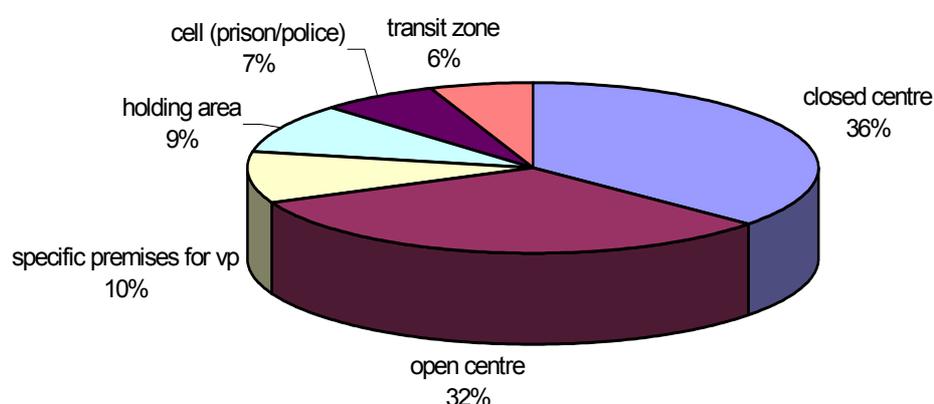
COUNTRIES	Centres visited	Administrative information in writing	Interviews with centre managers	Interviews with vulnerable persons	Interviews With medical/social services/NGO
Germany	5	5	5	14	5
Austria	6	4	4	11	2
Belgium	7	7	8	7	4
Cyprus	3	0	3	2	0
Denmark	5	4	5	15	5
Spain	5	5	5	17	3
Estonia	3	0	3	4	0
Finland	5	5	6	16	5
France	8	7	7	6	9
Great Britain	6	3	4	10	0
Greece	6	4	6	18	2
Hungary	5	0	5	6	4
Ireland	9	6	7	23	2
Italy	11	8	11	27	7
Lithuania	2	1	2	2	0
Luxembourg	5	5	5	9	4
Malta	7	1	5	13	2
The Netherlands	5	4	6	8	2
Poland	6	7	7	8	2
Portugal	6	5	6	9	3
Czech republic	6	2	6	6	4
Slovakia	5	3	5	7	4
Slovenia	2	2	2	6	1
Sweden	4	2	4	9	1
	132	90	127	253	71

Since the organisation and names of reception and detention facilities differed in the 25 countries, several types of site were visited:

- "Transit zones" that group together different facilities in airports and on borders.
- "Holding areas" that group together different induction and departure facilities.
- "Open centres" that group together centres receiving asylum seekers and open departure centres.
- "Closed centres" that group together different types of closed centres.

- "Cells" that group together all facilities located on police premises.
- "Special premises for vulnerable persons" that group together all informal premises used by these persons.

Types of centre represented in the study (out of total number)



3.1.1 - THE CHARACTERISTICS OF SITUATIONS OF VULNERABILITY

Few statistics were available concerning vulnerability: 71% of the centres provided no figures for persons received in 2006. 92% provided no figures for persons sent to a third country, and 76% were not able to give figures concerning vulnerability. This made overall statistical analysis difficult.

There are several possible reasons for this inability to provide exact figures:

- First, the questionnaire was sent by post so centre managers reacted in different ways. Some did not understand it, some were very wary of it and others considered it an extra chore for already over-worked staff.
- Many countries do not have effective information systems.
- Some information systems are available in centres, whilst others are in the Home Office.
- Furthermore, 79% of the centres could not provide any statistics on the health of detainees, 35% justified this by invoking medical professional confidentiality.

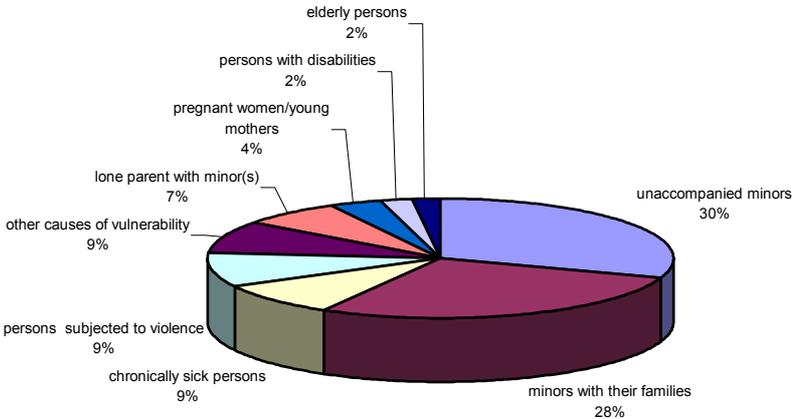
Information systems showed certain weaknesses, particularly with regard to accounting for the physical and psychological vulnerability of migrants. Vulnerability was considered a negligible factor. It is rare to find structures that routinely identify and reference vulnerable persons from the outset.

The few figures available for repatriated persons show that certain groups (minors or lone women, age, etc.) are not given any special protection. In fact it would appear to be quite the contrary. The percentage of repatriated unaccompanied minors is higher than that of unaccompanied minors remaining in the country of immigration. This observation made within the framework of the study cannot be seen to be representative of all European countries.

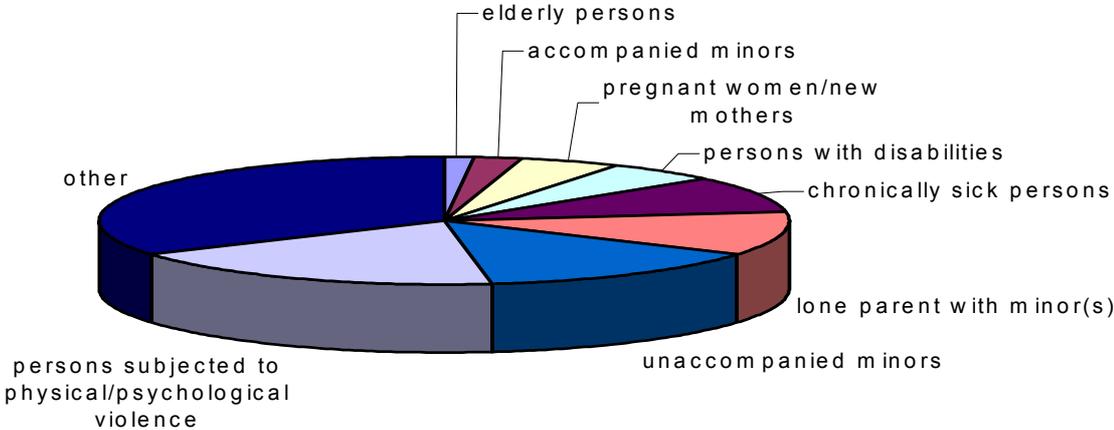
Vulnerable persons, as judged by centre managers, included such people as unaccompanied minors, lone women, single mothers with children, hence persons with special needs.

There was a certain disparity among the vulnerable persons who agreed to be interviewed and the causes of their vulnerability were multiple and not specified. These vulnerable persons included those with psychological disorders of unknown origin (trauma during escape and other serious events), lone women, persons separated from their family during detention, persons who have been living in conditions of detention and precariousness for a long time (some on hunger strike at the time of the interview), and young adults (just over 18 years of age and no longer protected after their 18th birthday).

Vulnerable persons in 2006 (according to centre managers)



Vulnerability of persons interviewed



Careful analysis of questionnaires revealed certain factors that may cause or aggravate vulnerability. These factors are given below.

3.1.2 - THE LEGAL SITUATION OF PERSONS IN DETENTION³¹

During visits to centres, access to those in deportation/expulsion situations and to clandestine populations was very limited. These groups are therefore under-represented in the study.

There were more asylum seekers in the centres visited and therefore they were the group most frequently interviewed. According to the statistics given by centre managers, 26.5% of the total population were applying for asylum, 25% of whom are rejected.

Amongst the vulnerable persons, 50.7% were making an application for asylum at the time of the interview, 14% had no authorisation to enter the country and 12% were waiting for residence permits.

We found that an asylum application (or an ongoing asylum application procedure) gave access to open centres and to special premises for vulnerable persons. The question posed is whether access to open centres is difficult or impossible for vulnerable persons who are not applying for asylum.

There were European Community nationals in detention centres, notably migrants with permanent residence permits in a Member State and who had been arrested in another European country (during transit, when returning from a visit to their country of origin).

We also found that in closed centres, asylum seekers are grouped together with persons returned to the border or who have committed common law misdemeanours or crimes. "We're not criminals!" is a frequent expression amongst asylum seekers.

Other situations, difficult from the legal standpoint, are persons who are detained because they have lost their residence permit or persons who cannot be deported.

3.1.3 - LENGTH OF STAY IN COUNTRIES AND CENTRES

From the statistics given, the maximum length of detention reported for one open centre was ten years. Generally, for all the types of centres visited, the mean length of stay was longer in open centres than in other centres, which is logical.

The length of stay is limited in closed centres, although many persons stay for more than three months and are consequently in great difficulty (holding areas were excluded from the analysis and classified as "open detention" to avoid any overestimation). Variability in the lengths of stay is recorded in findings with details of particular situations in certain countries.

According to medical/social services and NGOs, the first decision concerning asylum application is taken within three months for 50% of asylum seekers, 25% wait for nine months and 25% wait for up to 18 months.

For 75% of the persons interviewed, it took over a year to obtain a definitive reply concerning residency or rejection. It is not rare for this waiting period to last three or more years.

These long waiting periods have a serious impact on the psychological condition of asylum seekers.

31 Multiple replies

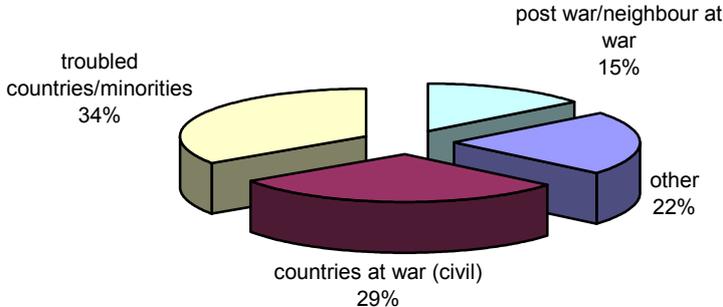
If the immigration dates of interviewees are considered, it becomes clear that many have been in the country for over five years, and are still, or once again, being detained.

3.1.4 - COUNTRIES OF ORIGIN OF VULNERABLE PERSONS INTERVIEWED

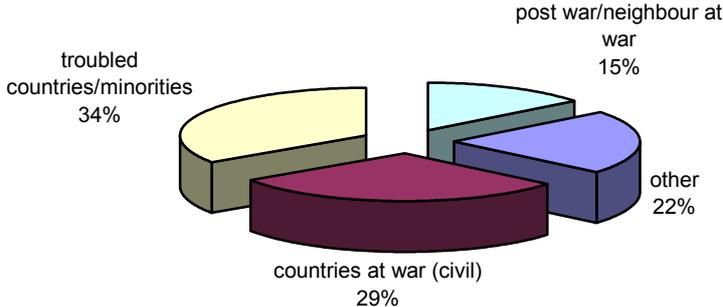
By comparing the most frequent countries of origin, according to centre managers, with the origins of the vulnerable persons, differences appear that may be explained by the criteria used to select persons for interviews and by the precarious legal situations of nationals from some countries (West Africa, Central Africa and South Africa).

Migrants from countries at war were more vulnerable because of physical, psychological, social and family trauma. It should be remembered that most trauma cases observed by administrative and social staff, were not officially diagnosed but deduced from the migrants' behaviour and the political contexts of their countries of origin.

Countries of origin represented in centres according to centre managers



Countries of origin of vulnerable persons interviewed



3.1.5 - RECEPTION CONDITIONS FOR MIGRANTS

For investigators and centre managers alike, it was difficult to produce quantitative information concerning the material reception conditions (often unavailable), especially in countries bordering Europe, where conditions for asylum seekers at entry revealed a lack of equipment and staff.

Despite these limits, the analysis of material conditions (sanitation, number of telephones, etc.) in relation to the number of persons received gave some idea of the conditions of hygiene, compliance with rights to information and contact with the outside world. In some countries, where centres are in a permanent state of emergency (high number of asylum seekers, poor organisation, etc.), it was impossible to gather information properly. In this situation, the observations made by investigators and the content of interviews are of particular importance and will be given in detail in the section dealing with the report's findings, which are testimonies rather than a standardised analysis.

Premises:

Only 8% of the premises visited were purpose-built to accommodate or detain asylum seekers and 71% were temporary constructions. Previously centres had been:

- 44% military premises,
- 23% accommodation premises (boarding schools, retirement homes, other),
- 13% clinics or training centres,
- 8% storage areas or offices.

Accommodation and equipment

The accommodation capacity of centres varied, from a minimum of nine persons up to 1,107. 40% could accommodate up to 100 persons. A similar percentage (35%) accommodated up to 300 persons and 25% more than 300 persons.

Open and closed centres met the basic needs in terms of food and sanitation (although for 80% of cases access to sanitation remains limited). There are usually leisure areas and means of communication with the outside world: access to telephones, entertainment rooms, grounds for taking walks. However, the possibility for social activities remains limited in terms of communication with the outside world, receiving visitors, family members and lawyers/social workers, etc. There are also few areas suitable for working or for children to study or play.

There are few facilities within centres for persons with reduced mobility.

According to the persons interviewed, the main criticisms concerned:

- closed centres: means of communication, sanitation and grounds,
- open centres: means of communication, leisure areas or play areas for children.

These criticisms were directed more at the fact that access was limited (set times, authorisation from staff required) rather than the amount of equipment. Many complained of sanitation conditions and inadequate sanitary equipment (Malta, Greece, Spain and Poland).

Less than 50% of the countries provided special premises for vulnerable persons. Only one country (Denmark), which could serve as an example, has a specialised structure for caring for persons with psychological disorders.

Geographical location of centres

64% of the centres visited were located outside the town, nearly 70% being over 5 km from the town centre. Although most could be reached by public transport, the locations hindered social integration since they were difficult for visitors to access, and travel costs were expensive, especially for women, children and persons with reduced mobility. The distance of these centres from town considerably reduced freedom of movement.

Even special premises for vulnerable persons were not accessible.

Centre managers and social/medical services report that drug and human trafficking (of which women and unaccompanied minors are frequently the victims) is encouraged when centres are located outside of towns.

Centre staff

As would seem logical, there are more staff in closed than in open centres. The information collected concerning the staff organisation according to task or department (administrative tasks, security, medical/social care) was not sufficiently precise for us to summarise the distribution of staff. Most staff had administrative tasks or were involved in security.

By comparing the ratio of persons detained to employees according to type of centre, we saw that closed detention required more staff than special premises for vulnerable persons, and many more human resources than open centres. It should be noted that there are a limited number of medical/social staff, directly under contract with the centre management, and they are often employed only part-time.

Access to services

The accessibility of centres has an impact on obtaining relevant information, medical care and contact with the authorities (if they are not represented in the centres), and such measures of integration as schooling and language training. The replies given by centre managers concerning the accessibility of services both inside and outside the centre, indicated the impact of geographical location, particularly with regard to legal advice, interpreting services and medical and psychological care.

There was no significant relationship between the geographical location of the centre and access of vulnerable persons to services such as food and clothing, information (general, legal and social), medical and psychological care, etc. Comparison between types of centre (open or closed) evidenced no major differences with regard to accessibility of services inside and outside the centre, even though there was some divergence, particularly for social support.

Analysis of the conditions of access to an independent advisor is based on qualitative information. Vulnerable persons are in greater need of independent advice. A common situation is that of a young African woman seeking asylum because she is a victim of forced marriage or human trafficking. Her application was rejected, and the results of her medical and psychological examination proving she had been raped repeatedly, refused. Her requests were systematically ignored by staff in the detention centre and by the physician and judge. Since the notion of vulnerability makes more work for already over-worked staff, the possibility that a person may be vulnerable is simply overlooked.

Visitors: Out of the 86% interviewees who could in theory receive visitors, 17% reported imposed limits such as restrictions in the lengths and numbers of visits and the need for authorisation from staff.

Telephone calls: 90% of interviewees said that they could make outside calls, but only 59% could receive incoming calls. This was not confirmed by centre managers who considered that persons in centres could both make (81%) and receive (95%) telephone calls.

Financial limits (especially in camps in Southern Europe): the confiscation of mobile phones often prevents any communication with family and friends, but also with information and external services. Call restrictions are related to detention control, but did not correlate with the type of centre with regard to incoming calls. This was a major stress factor, often described as "a loss of autonomy" and "worrying about family members elsewhere".

Managing and funding centres

Material organisation (services and equipment) and centre management depend on the funding bodies. The way a centre is managed is an indicator of awareness to vulnerable populations.

45% of the centres were financed and managed by the same body, usually the Ministry of Justice or Social Affairs, the national or military police, the Migration Office or a NGO. Usually, the funding bodies are Migration Offices, the national police or the Ministry of Justice. Study of existing control mechanisms revealed that controls are usually carried out by responsible bodies (ministerial and/or parliamentary), then by NGOs. International bodies are rarely involved. Similarly, it is rare for controls to concern sanitation. Findings in the field show that there were more controls in detention camps in Southern Europe (Malta, Greece, Spain, etc.).

Centre managers defined their role firstly as management (66% of the replies), and then as supervising staff (45%) and contact with migrants (47%). This definition was the same for all types of centre.

Internal regulations: 96% of the centres had internal regulations validated by the centre managers and security forces. These were usually available in several languages. Despite this, about 20% of the vulnerable persons said they had not received the regulations in their language, which is an indicator of the translation capacities within centres and the migrants' chances of being understood.

External reference bodies and partners

The centres managed by Migration Offices, national police and NGOs reported links with external reference bodies (physicians or clinics, Ministries, legal authorities and other NGOs). The external reference bodies contacted for vulnerable persons were health authorities (57%), NGO (45%), security forces (42%) and migration management bodies (32%).

Medical/social services intervening in the centres showed the same numbers of links with reference bodies, whatever the type of centre: health authorities (66%), NGOs (47%), migration management bodies (41%) and lawyers and legal authorities (24%).

Language difficulties were often mentioned as an every day problem.

In this framework, it should be mentioned that access to medical/social care, legal advice and other services and to certain equipment (entertainment rooms, special premises for visitors, etc.) is controlled by centre staff or managers. The persons interviewed in detention camps, particularly in Malta, Portugal, Cyprus and Spain, reported that requests to see physicians are not heeded by the over-worked staff.

Social tension

The frequency of serious events during the three months prior to the interview correlated with social tension and state of health in open and closed centres.

Administrative, social and medical managers, and vulnerable persons all agreed that there were very frequent requests for medical care. Psychological care was often requested but to a lesser degree. Such a request is the expression not only of poor health, but a need for support. Self-mutilation was often reported, particularly in closed centres, as were hunger strikes (in Austria and Poland), even though they were not classified as serious events.

Amongst the 65% of replies concerning requests for medical care per day over the three months preceding the interview, **the majority were made in closed centres**. It should be noted that fewer requests were made in special premises for vulnerable persons (29% daily against 75-77% in closed centres). There were more transfers to hospitals from closed centres but not significantly so.

Conflict (arguments, racist provocation), theft and sexual harassment were more controlled and less common in closed centres. Sexual harassment is a taboo subject and often thought not to exist, since it is "only heard about" or "no attempts of rape required intervention by the police". This type of event is even more taboo among the migrants. There is always a risk of sexual discrimination by the centre administration that allocates menial tasks such as cleaning (including the toilets in one of the centres in Spain) to women.

The frequency of attempted suicide was significantly higher in closed centres than in other types of centre:

- 35% of the replies given by managers of closed centres reported several suicide attempts every year,
- 14% reported "one a month".

Suicides were also frequent in open centres and even more so outside centres, especially amongst migrants who have obtained residence permits and who are trying to settle in the country of immigration and facing problems of social and economic integration (observed in Scandinavia and Germany).

Police intervention was not perceived as a serious or frequent event, at least not when compared with the other events presented above.

Security forces

Security forces guarded 85% of the centres. This was the national or military police in 30% of the centres and a private security force in 60%. The type of security force was related to the managing body: privatised centres worked with private security forces or employed their own security force, whilst 92% of the centres managed by public authorities were guarded by national or military police.

This is important since the medical and social services and the vulnerable persons interviewed said that the security force was not just responsible for surveying premises and controlling entries and departures, but was also in charge of circulating requests from detainees. In Malta and Spain, and also in the event of imprisonment, it is the security force that transmits requests for a physician or a psychologist and to whom requests are made for food, help and protection.

Health services and psychological care

One of the determining factors of migrant health is hygiene. There was a cleaning service in 77% of centres and in 68% of the migrants had to clean their own rooms. Since sanitation equipment could not be accurately quantified in most centres, it was the field observations which indicated sanitation conditions.

It appears that centres on European borders are the most lacking in material comfort and hygienic sanitation. Often there is little privacy and toilets and showers are open. This is particularly embarrassing for women and children, and all the more so for those who have been subjected to violence. Poor sanitation provokes or reinforces past trauma.

As stated above, medical care is available in most closed centres. Persons in open centres also have access to physicians and can attend outside clinics. There are no visible differences between types of centres with regard to access to psychological care. The need for qualified staff to provide this support is one of the major wishes of centre managers. One interesting point is the high number of centre managers in closed centres who considered legal and/or social advice as "not relevant".

3.1.6 - REPLIES TO OPEN QUESTIONS

The replies to the open questions concerning the measures currently in place for the care of vulnerable persons demonstrate:

- How vulnerability criteria are perceived.
- The frequency with which vulnerable groups receive care services.

Situations of vulnerability ranked in descending order as perceived by management staff:

1. people with medical/psychological needs	68.5%
2. pregnant women	55.1%
3. minors with families	48.8%
4. people in disabling situations	46.5%
5. lone minors	40.9%
6. lone parents	33.9%
7. elderly people	15.8%

Two other vulnerable groups were added to the list: victims of human trafficking and drug users.

For unaccompanied minors and people with disabilities, there is a legislative framework in place enabling them to be referred to existing structures (which, however, are insufficient in number).

Family accommodation is often available within centres for minors with their families and for lone parents, or if not, efforts are at least made to respect family unity. Specially adapted facilities are also mentioned as essential measures for people with disabilities. Also mentioned are educational facilities for minors (in families or alone), along with educational support for lone parents.

Medical healthcare is naturally the main priority for people who have suffered trauma, are ill or disabled, and for women who are pregnant or have recently given birth. With regard to this last group, some countries make provision for pregnant women to be released, or those in charge may at least try to speed up the judicial process.

Health referral structures:

Collaboration with healthcare structures is often driven by the medical needs of those living in the centres visited.

➤ Services within the remit of the medical or social services:

According to medical or social services managers and NGO representatives, their only responsibilities are to provide information and advice on medical and social matters. The provision of medical or psychological care services and technical support, where this is required, is not within their remit. Nutrition, which is a key factor as regards the health of people in centres, is largely outside the remit of the services and NGOs. From these statements, we can conclude that the medical and social services and NGOs play an important role in providing advice and articulating requirements, but have no involvement in the provision of medical or psychological care, or its quality.

Those interviewed in countries on the borders of southern Europe (Spain, Cyprus and Malta), complained in particular that insufficient attention is paid to their health problems and/or that they have to endure poor hygiene conditions.

Due to the lack of a systematic approach in answering the questions as well as difficulties in obtaining comprehensive statistics on those people receiving care services, it is difficult to say whether the services offered in the centres are adequate and whether these adequately complement the services available externally.

➤ Paediatric care services:

From the replies obtained, ante or postnatal care appears to be provided at a level of 35% and is the same as the care generally available in the country concerned. There does however appear to be a connection with the parents' status: for a young mother, an asylum application guarantees her care in 28% of cases, whereas for illegal immigrants, care is received in only 17% of cases.

In 70% of cases, social/medical services do not provide statistics on the health of those in reception or detention centres. The reasons stated are non-availability (35%), data protection (14%) and professional confidentiality (9%). Some statistics are available for the treatment of psychological and obstetric disorders, communicable and organic diseases and finally dental and orthopaedic problems.

➤ Information with respect to rights:

From the point of view of the vulnerable persons interviewed, the most important sources of information on the provision of care are the NGOs. For those whose state of health is precarious³², social services are viewed as just as important as the police or friends for providing information.

For all vulnerable persons (including minors and those who are vulnerable for family reasons), social services are the main source of information with regard to vulnerability.

Provision of educational facilities

The analysis of services available and arrangements in place shows that the provision of education for children and promotion of qualifications for adults are marginal services. Only a third of the vulnerable persons interviewed had received language tuition. The analysis of statements from

32. People with disabilities, women who are pregnant or have recently given birth, elderly people, those who have suffered physical and/or mental violence and those with chronic illnesses

social/medical services and NGOs, reveals that preschool education is provided in only 7% of the centres visited, which is well below the figure 40% given by the managers. Only 12% of social/medical services state that the same provision of education is accessible to children from non-EU countries as for children who are nationals of that country.

From the data collected and observations made in the field, we may conclude that the provision of education for children and adults is still largely insufficient. The lack of opportunities for professional insertion for men and women, whose residence permit depends on this, is a vulnerability factor recognised by both centre managers and the vulnerable persons interviewed.

3.1.7 - SUBJECTIVE DATA

The survey sought to obtain people’s perception of their needs in the centres visited and the challenges to be met in a way similar to that used to collect information regarding the arrangements made for the care of migrants. These replies only reflect individual cases and personal opinions but, generally, they provide an overall view of the factors that characterise conditions in detention.

Staff capacities

Most managers (70%) are convinced that centre personnel are sufficiently capable of recognising signs of vulnerability and reacting appropriately. Some have pointed to the availability of staff proficient in languages and meetings organised to manage difficult cases, but these measures are the exception rather than the rule. 15% of those interviewed admitted that their staff lack the necessary skills. This judgement does not vary much from country to country or type of centre.

➤ **The range of shortfalls identified and measures taken**³³

The shortfalls identified by management, medical/social services managers and NGOs, reveal not only a number of gaps in the care of vulnerable persons, but also in the perception of vulnerability itself:

On the subject of minors, accompanied (by families) or unaccompanied, confinement and the lack of appropriate skills to meet their needs predominate in the replies of managers. Managers seem more receptive to the needs of unaccompanied minors than those of minors with families.

Deficiencies identified regarding minors (with families or alone) in order of importance

Managers		Medical and social services managers, NGOs	
Minors with families		Minors with families	
	Order of priority		Order of priority
Confinement	1	Provision of education	1
Limited care skills	2	Not specified	2
Not specified	3	Restricted freedom of movement	3
Provision of education/teaching and learning	4	Humanitarian protection	4

³³ The replies to these open questions indicate only the trends and the notion of vulnerability of the groups referred to. There were a large number of unanswered questions for those requiring a personal opinion.

Unaccompanied minors		Unaccompanied minors	
	Order of priority		Order of priority
Limited level of skills for adequate provision of care	1	Not specified	1
Provision of education /teaching and learning	2	Adequate structure: opportunities for adolescents beyond 18 years of age	2
Humanitarian protection /status	3	Lack of prospects	3
Not specified	4	Protection by legal procedures	4

In the case of lone parents, shortfalls with regard to their children’s situation as mentioned above. At an administrative level, a higher degree of vulnerability is noted in single mothers.

Centre managers referred to **shortfalls when dealing with disabled people appropriately (accessibility of premises, psychological, medical and social services)**, and as has been previously stated, accessibility to buildings or facilities adapted for the requirements of those with limited mobility remains the exception rather than the rule. The problems identified for all those with health problems are also relevant to people with disabilities. Because of their condition, these people can not be the subject of expulsion proceedings, but, at the same time, their status does not allow them access to integration programmes either.

Shortfalls with regard to elderly people are perceived in exactly the same way. What is lacking are smaller structures, offering increased protection which are better adapted to the special needs and physical and mental limitations of these people.

In the opinion of medical and social services managers **the needs of pregnant and young mothers** are not adequately taken into account, particularly in relation to medical care, but it seems that measures required to ensure that vulnerability is “visible” are better managed.

From a social viewpoint, the shortfalls are more to do with reinsertion and ways of dealing with people whose state of health is precarious.

According to the response rate to these open questions, in the replies from administrative, social services or medical staff **the situation of people who have suffered physical and/or mental violence is perceived as being the most neglected**. The lack of facilities adapted to these specific requirements is a major failing, followed by a lack of ability at administrative level to identify and manage these situations.

The lack of humanitarian protection in legal procedures is mentioned as an important element, from the point of view of social services managers.

➤ **Range of needs identified**

Independently of the type of centre, according to managers these needs relate primarily to the ability to provide information and/or opportunities to take part in activities (20% of replies) and in general to improve living conditions in the centres (20% of replies). The need to strengthen the capacities of personnel (mainly in terms of quantity) and increase facilities are ranked 3rd and 4th in terms of needs (18% and 17% of replies respectively). Financial resources are deemed insufficient by 13% of respondents; this is followed by the need to strengthen the capacities of medical and social services and/or interpretation services (10%).

The high response rate (72%) indicates that managers are aware of the shortfalls at their particular level.

The measures taken by managers during the past 12 months also reflect these needs, without significant variation between countries or types of centre. However the needs identified vary significantly according to the geographic location of the centres. Countries surrounded by other EU Member States are much more likely to call for more skilled personnel and increased financial resources, in contrast to the needs expressed in countries with borders beyond Europe where an improvement in detention conditions seems to be of less importance, particularly in closed centres. The assumption seems to be that conditions should not be attractive.

These findings show that centres in countries “at the heart” of Europe are focused on “residence” criteria (even if only temporary), whereas those in countries on the outskirts of Europe are characterised by an ethos more focused on the custody of migrants.

Needs expressed by managers according to geographical location

	Skills of personnel	Financial resources	Informing and occupying detainees	More facilities	Improving conditions of detention	medical/social services interpretation
Central Europe	20.0%	25.0%	15.0%	5.0%	0.0%	0.0%
Borders of Europe	5.1%	3.8%	9.0%	11.5%	19.2%	7.7%
TOTAL	8.2%	8.2%	10.2%	10.2%	15.3%	6.1%

In contrast to the needs expressed at administrative level, medical/social services and NGO managers identify in first place the limited skills of personnel (16% of replies). This is followed by the need to offer care services adapted to the requirements of vulnerable persons and to increase financial resources (10% of replies).

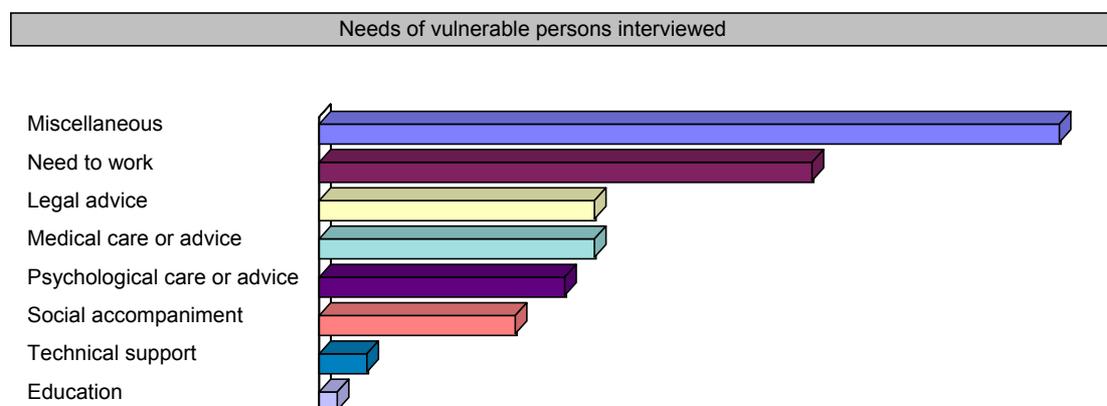
From among a wider variety of needs, the important issues mentioned are:

- To offer more specific facilities (for children, visitors, people with illnesses, etc.).
- Improve interpreting services.
- Improve psychological care.

There is no variation either by type of centre or geographical location of the country in the needs at the level of social/medical services and those expressed by NGOs.

The needs of the vulnerable persons interviewed show that conditions in detention, despite their shortfalls, are secondary to those displayed in the following graph:

Needs expressed by vulnerable persons



Medical, psychological and social services are amongst the important needs. One of the predominant wishes in the “**miscellaneous**” replies concerns the package of measures aimed at social and economic integration, with the prime consideration being access to language tuition and opportunities to improve the qualifications of detainees, or put them to use. But even more relevant is the need for access to legal assistance and a residence permit

3.1.8 - SCALE OF VULNERABILITY CHARACTERISTICS

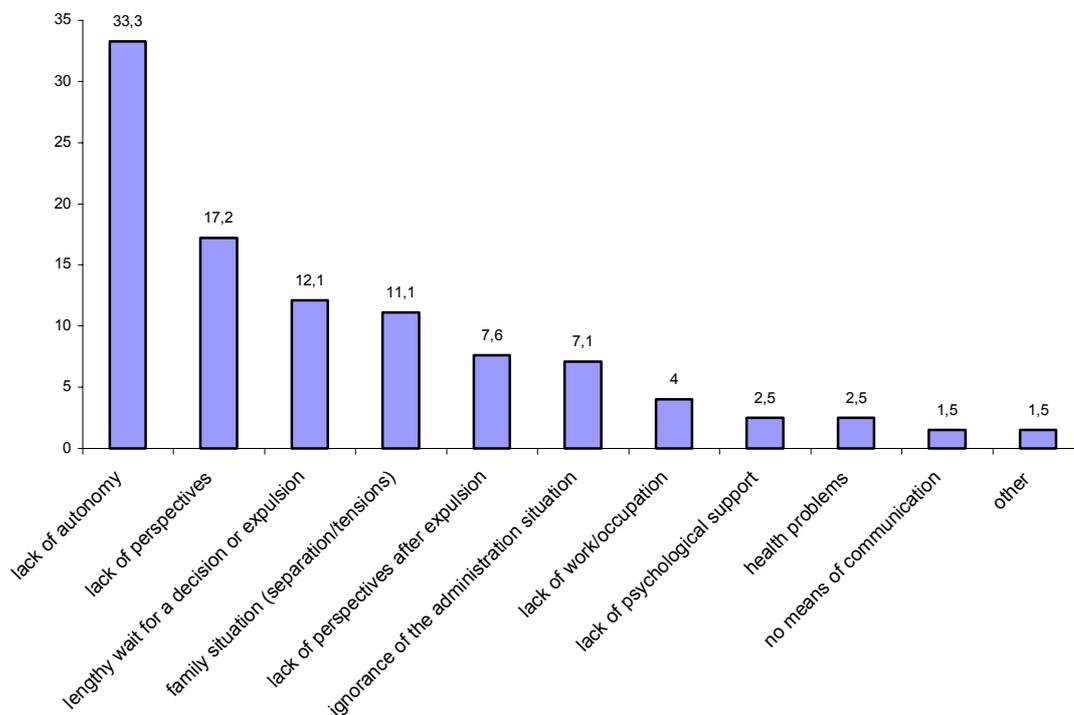
The perception of managers is that lone women suffer the most serious problems with regard to vulnerability (20% of replies given). Those who have been subjected to violence are in second place on the vulnerability scale (14% of replies given), followed by children (13%) and unaccompanied minors (11%). Managers report other vulnerability factors. Those whose state of health is precarious, including drug users, are seen as more vulnerable than disabled or elderly people.

In the view of medical and social services and NGOs, the predominant criterion of vulnerability is isolation. They feel that unaccompanied minors and lone women are the most vulnerable groups.

Overall, those who have been subjected to violence were identified as the most vulnerable group (17% of replies), followed by those whose state of health is precarious, children and adults with disabilities (with these three groups occupying virtually the same position (13% and 11%)).

Medical and social services and NGOs also gave their personal opinions on the factors that carry the most weight for vulnerable persons within the centre visited.

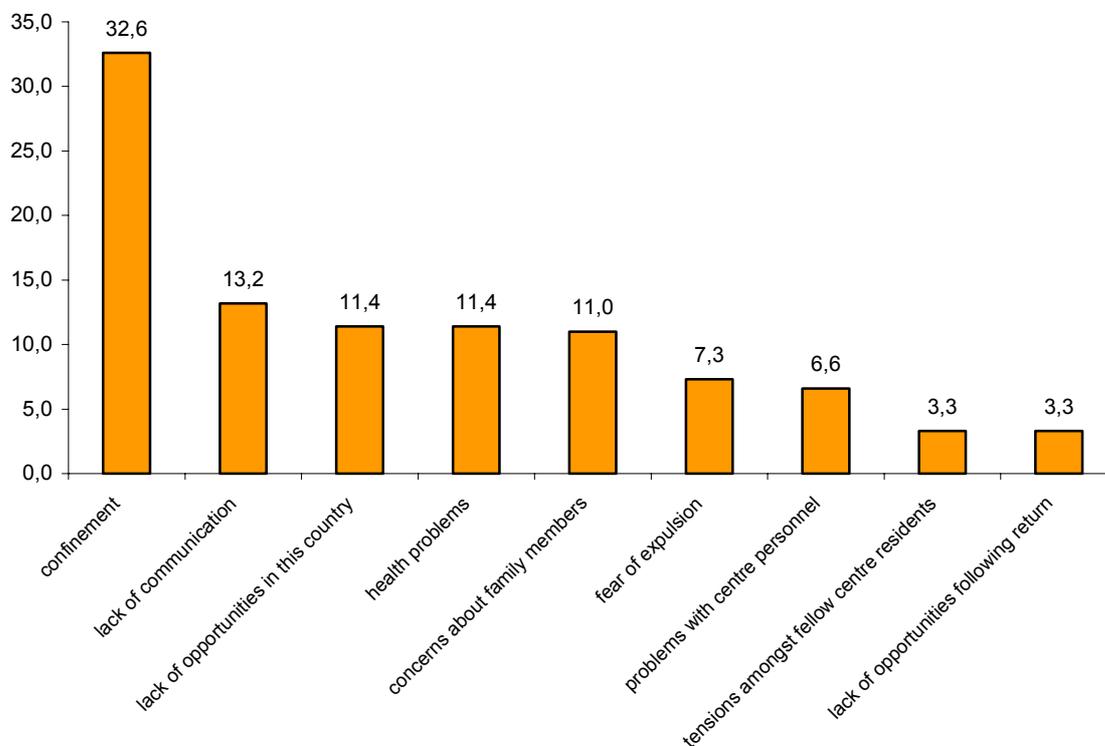
Factors influencing the lives of vulnerable persons



Tension, insecurity, confinement, and isolation of the family are generally the most significant factors to which detainees are exposed, but which they have no power to solve by themselves, which could be classed as **inhibited action**. Ahead of all others, these are factors that create vulnerability and clearly reinforce any vulnerability already in existence.

Professor Laborit, who is a behavioural psychiatrist, has demonstrated that situations of **inhibited action** may lead to risk behaviours, violence towards others or oneself and even to suicide.

The most influential factors according to those interviewed



How interviewees perceive their own situation: The replies of those interviewed confirm the views of the medical and social services: isolation and loss of autonomy are the most significant factors determining vulnerability.

Questions comparing living conditions before migration and afterwards in the country of arrival were not asked in 64% of cases. Irrespective of the type of centre, the lives of these people are so far removed from a normal life that a set of questions comparing their lives with how they were before would have been cynical, even cruel.

Those who replied state that security, access to health services, freedom of movement, religious freedom and access to advice are better in their current situation.

However, the outlook for employment, social contacts, financial situation and access to accommodation are all factors judged currently to be worse.

3.2 - SUMMARY OF THE MAIN FINDINGS FROM THE DATA

In summary, the main points identified are as follows:

- Access to a medical and psychological examination is not systematically and sufficiently guaranteed, either at the time of reception or arrest, or when requested, or at the time of expulsion.

- Shortfalls in the information system on migrants in general and vulnerable groups in particular are a major obstacle to their access to care services.
- Standard procedures have proved inadequate, reinforcing the vulnerability of these people and increasing the costs of facilities. The early identification of vulnerability would facilitate the measures put in place and ensure appropriate protection.
- Medical services are available in limited capacities in relation to the number of people involved. The need for an independent diagnosis is ignored on medical, social and educational levels.
- The longer the stay in a centre, whether open or closed, the longer the legal procedures and the greater the risk that pre-existing vulnerabilities will be reinforced or new ones created.
- Looking at the home countries of the migrants interviewed who have been identified as vulnerable indicates that there is a direct link between the situation (whether of conflict or war) in the country of origin and the migrants' vulnerability. To this must be added the trauma of their flight and their journey, particularly in the case of migrants from countries in the South.
- The geographic marginalisation of the centres exacerbates the risk of vulnerability: The additional cost of travel, limited access to integration programmes (language tuition, schooling, training, work) and to social/legal and medical assistance. This isolation leaves people exposed to the risks of human and drug trafficking.
- In some countries, the aim of geographic marginalization is to de-motivate third country nationals, push them into returning voluntarily or into living outside the law, as the only means of escaping a life with no prospect of social or economic integration.
- The state of health and medical needs are indicators of the isolation and confinement of people who claim their rights through violence, suicide attempts, self harm or hunger strikes.
- Provision of education and paediatric services is often inadequate and linked to the residence status of parents.
- (Post-) traumatic stress and psychological disorders are the vulnerability criteria least taken into account in the detention systems and structures.

3.3 - SUMMARY OF THE FINDINGS BASED ON THE ANALYSIS OF THE STUDY REPORTS

The situations vary widely between the different countries and the different centres visited due to the changing migratory flow and the policies implemented in different countries. This part of the report will examine the general trends and present the findings resulting from the field studies carried out in the 25 EU countries. These findings, which are based on visits to centres and meetings with local stakeholders, were highlighted by the investigators due to their observed or potential impact on vulnerable persons.

The different findings for each country are found in the country review files. The examples herewithin are not exhaustive.

➤ **Different contexts:**

Many factors affect countries' approaches to immigration and asylum:

- geographical location (EU entry point or landlocked EU country, transit or destination country),
- tradition of receiving migratory populations (often long-standing in Western Europe and more recent in Southern, Central and Eastern European countries),
- the volume and origin of migratory flows, the routes taken prior to entering the country (dangerous journeys, violent situations in country of origin),
- the size of country in relation to the estimated, or actual number of immigrants and its economic situation (which influences the budget States allocate to immigration and asylum),
- public opinion about the arrival and presence of new migrants, the impact of the media, the role of civil society organisations working on immigration issues, etc.

➤ **Different reception and detention systems:**

The importance of the issue has an impact on political choices made by governments when implementing or modifying laws and reception/detention systems for migrants and asylum-seekers. These decisions are influenced by a desire to control migratory movements, or even to dissuade new entries by means of restrictive policies, a desire to adjust the number of entries to match reception capacity and the needs of the labour market, and in certain very rare cases, a desire to promote successful reception and integration, etc.

National legal frameworks, and Member States' obligation to comply with European and International law, also have an impact on the reception and detention systems set up in each country for migrants and asylum-seekers.

➤ **A period of major change:**

Over the last ten years and following the accession of ten new Member States to the European Union in 2004, numerous countries have made major changes to their reception and detention systems for migrants and asylum-seekers.

These changes are related to the international economic and geopolitical circumstances behind population movements towards Europe, as well as to the various factors listed above.

The variations in the number of migrants and asylum-seekers arriving into the different EU countries are also related to the implementation of European policies and regulations (Dublin Convention and Schengen Agreement), the reinforced border controls that have modified migratory routes, and the role played by countries located on EU borders.

Modifications to national laws in most of the countries originated according to different concerns including, the need for new Member States to transpose European law into their legislation in compliance with European directives on asylum, the mediation of a large influx of migrants into some countries (Italy, Spain), a desire to tighten entry and residence conditions or on the contrary, to regularise illegal immigrants who are also long-term residents (Netherlands), etc. At the time of the

study, many countries had just implemented, or were about to implement new laws on foreign nationals and asylum-seekers (Great Britain, France, Hungary, Luxembourg, Netherlands, Finland).

The wide variety of reception, accommodation and detention systems in force means the centre typology and the choice of criteria for presenting the findings on open and closed centres need to be explained. The findings of this report concern closed centres and open centres. In each part of the report the centres that receive certain categories of vulnerable persons will be evoked.

3.3.1 - TYPOLOGY OF CENTRES AND THE CHOICE OF CRITERIA

It was difficult to define a typology for the centres for foreign nationals that is applicable to the 25 Member States studied here. The following criteria could have been used:

- -The function of the centre: identification and processing of entry applications, reception and accommodation, organisation of administrative removal or expulsion, etc. However, in reality, the centres visited were often multifunctional or their function was not clearly defined, in some cases the same centre can have several, more or less official, functions.
- The administrative and legal status of the foreign nationals to be received, accommodated or detained: asylum-seekers whose application is being processed, or those awaiting repatriation, foreign nationals intercepted at the border, illegal immigrants apprehended within the country, etc. The study also found that the same centre often received or detained persons with diverse administrative and legal statuses.

Moreover, some countries, (such as Germany and Italy) group several functions (reception of asylum-seekers, detention of migrants awaiting removal) and widely varying administrative and legal statuses of foreign nationals in a single centre.

The difficulties in defining a typology based on the above criteria can be shown by the wide variety of situations encountered in the different stages of the migratory process:

- Arrival and control of foreign nationals: On arriving in a country, migrants can be placed in open or closed centres following their identification and the examination of their right to admission into the country. Some countries have set up transit zones, transit centres or induction centres near border checkpoints. These centres are located in airports (e.g. Cyprus, France, Austria, Belgium, Greece, Portugal, Netherlands), in ports (e.g. Malta, Cyprus, Estonia, Italy, Spain) or in facilities near land border checkpoints. Some countries do not have specific centres for foreign nationals in such transit zones (Ireland, Finland and Sweden do not have airport transit zones). Other countries maintain foreign nationals in border police stations whilst their right to entry into the country is checked (e.g. Estonia).

Some foreign national control centres are also used to detain migrants prior to expulsion.

-Reception and accommodation systems: The reception systems set up by Member States are almost exclusively for asylum-seekers. This study does not consider reception and housing systems for legally staying third country nationals. Nevertheless these systems exist in a number of Member States.

The organisation of these systems varies greatly: In some countries there are "reception centres" or "induction centres" to identify admissible asylum-seekers who can benefit from the reception facilities provided. The asylum-seekers have to stay in these centres (open or closed/located or not in a transit zone) for a certain, usually short, period before being transferred to an accommodation centre until their asylum application can be processed.

These centres are multifunctional (control and verification of asylum-seekers' identity, processing their request for admission, etc.). Sometimes they have to undergo a medical examinations which is similar to a quarantine period before admission (in Slovakia and the Czech Republic, asylum-seekers have to stay in reception centres for several weeks or months while their medical examinations are studied).

Finally, other countries (Malta, Greece) systematically detain all arriving migrants (including asylum-seekers) not in possession of the required documents.

Reception centres for asylum-seekers: Once the persons concerned have been authorised to apply for asylum, they are generally transferred to other centres where they are accommodated and receive material and social assistance while their application is processed.

- Some countries (Poland, Hungary, Czech Republic, Denmark, Netherlands, Finland) have set up large-scale collective reception centres.
- Other countries have varied types of accommodation centres, managed by different operators (France, Belgium, Great Britain).
- Some countries (e.g. Great Britain and Ireland) have "dispersal policies" under which asylum-seekers are transferred to a variety of structures (large centres, hostels, hotels and individual housing) located across the entire country.
- Sweden is the only country that does not have any collective reception centres: during the application procedure, asylum-seekers are placed in different towns, in apartments rented by the Bureau of Migrants or in private accommodation.
- In some countries, the lack of available space in reception centres means some asylum-seekers have to resort to using emergency accommodation for the homeless (France, Italy, Greece).

At the end of the asylum application procedure, some applicants are granted a residence permit (refugee status or a less secure status, e.g. temporary protection, subsidiary protection) and can (or must) leave the centres. Others are refused asylum and, in theory, must leave the reception centres and the country.

- In some countries, the State accepts that rejected asylum-seekers cannot return to their country because of insecurity (e.g. Afghanistan, Iraq, Somalia) and they are therefore allowed to remain in the reception centres where assistance is reduced to a minimum (Denmark).
- In other countries, rejected asylum-seekers are placed in "removal centres" for a limited time in order to prepare their return (Netherlands, Germany).
- There are also many countries where rejected asylum-seekers are simply expelled from the reception centre and ordered to leave the country (e.g. France) or directly placed in detention centres.
- Systems for the detention and removal of third country nationals: there are systems for detaining illegal immigrants in all EU countries.
- We observed a large variety of systems. The different types of centres have differing designations, attributed functions, and the foreign nationals detained there have differing administrative and legal statuses.

The legal grounds for detaining third country nationals also vary widely according to the country, and their definition in national law: verification of identity, execution of a removal order, breach of the law or infringement of entry and residence regulations, but also threat to law and order and prevent third country national to run aways.

In reality the detention of foreign nationals does not always correspond to the legal grounds. For example, in some countries where detention is based on a removal order, foreign nationals can be detained for months, despite the fact that expulsion is not possible for different reasons: absence of consular representation in the country, no identifiable country for repatriation, asylum-seekers from countries affected by armed conflict, etc. Thus arises the question of the legality of depriving persons who cannot be removed of their freedom, sometimes for long periods.

The political justifications for detaining foreign nationals are also varied and do not always correspond to the legal grounds. In Malta, although detention is legally based on a removal order, the political justification for detaining foreign nationals is "the defence of national interests in terms of employment and housing".

Finally, the administrative and legal status of the foreign nationals detained in different types of closed centres varies according to country Different statuses include foreign nationals whose admission to the country has been refused, foreign nationals subject to a removal order for not possessing a valid residence permit or expelled after trial, rejected asylum-seekers, arrested illegal immigrants, etc.

The use of prisons and other detention facilities also used for common law detainees with a criminal conviction, adds to the confusion concerning the real aim of the detention of foreign nationals: is this type of detentions an administrative measure with the aim of removing illegally staying immigrants, a punitive measure or a dissuasive measure?

In light of all these disparities, to present the findings of the study, we chose a single objective criterion, whether centres (1) ³⁴are open or closed:

- **- Closed centres:** closed transit or reception centres (based on a reception and/or detention system), administrative detention centres, prisons, and police stations. These centres deprive foreign nationals of their freedom.
- **- Open centres,** (based on a reception and/or control system). Foreigners can enter or leave these centres freely, sometimes subject to conditions that vary according to country and nature of the centre (require permission to leave the centre, limited number of authorised days absence, etc.).

As outlined below, the investigators also noted that the problems related to population vulnerability were different in open and closed centres.

We will detail the situation of vulnerable persons in each category of centre (open and closed) and the existence of centres for reception of specific categories of persons.

³⁴ Although this distinction can be generally made, there are exceptions, such as Italy's induction centres (CPA), which have a hybrid status. These centres, created in 1945 to deal with increased migratory flow towards Italy, have never had a clear regulatory status. In theory they are semi-open, but migrants are sometimes detained there under the same conditions as in closed centres.

3.3.2 - CLOSED CENTRES

In light of the extremely wide variety of centres, it is impossible to draw up an exhaustive table of these centres in the 25 EU countries. The following section of the report contains the findings highlighted by the investigators due to their potential impact on vulnerable persons. Once again, the examples are illustrative and not exhaustive.

➤ Population in these centres:

Generally speaking, foreign nationals are placed in these centres due to their illegal status relative to the entry and residence laws in the country. They can be detained at different points in the migratory process upon arrival in the country, during their stay if arrested and without a legal residence permit, at the end of their migration to enable expulsion (removal or expulsion). Unauthorised and rejected asylum-seekers can be detained in these centres. Persons detained in these centres are deprived of freedom solely due to their illegal status with regard to entry and residence laws in the country.

Foreigners having committed criminal offences may also be detained in these centres, notably when transferred there after completing their sentence, so as to be expelled.

In some countries, illegal immigrants are "or can be" detained in traditional prisons (e.g. Ireland, Great Britain, Greece), or in police stations (Cyprus). They are normally but not always placed in a separate section of the prison.

➤ Closed centres have diverse designations:

- Near border checkpoints, foreign nationals detained on arrival and/or awaiting removal can be detained in centres called "transit zones", "transit centres", "repatriation centres" or in border police stations. In some countries, there are closed centres called "reception centres" or "identification centres" that are specifically intended for asylum-seekers, in order to examine the possibility of their admission to the application process or to a reception facility.
- Centres spread across countries known as "detention", "administrative detention", "foreign national internment" centres, and "guarded centres for foreign nationals", "repatriation centres", and "temporary reception and assistance centres" detain foreign nationals with illegal status relative to entry and residence laws in the country.
- We noted above the use of prisons that are not specifically reserved for foreign nationals.

➤ The protection of vulnerable persons in closed centres:

There are no European standards for the protection of migrants who do not seek asylum, or vulnerable migrants. They should be protected by national or international provisions relative to laws on migrants or detainee protection.

➤ **Authorities in charge of centres:**

Closed foreign national detention centres are usually under the responsibility of bodies under the Ministry of the Interior (police, border police). They more rarely fall under the Ministry of Justice (e.g. Hungary, Denmark, Netherlands), or a ministry specifically created to deal with immigration (e.g. France, Finland), or even under an administrative authority in charge of foreign nationals (e.g. Czech Republic, SUZ, Office of Migrations in Sweden).

In some countries, centres are managed by decentralised administrative authorities (e.g. Bundesländer in Germany, Department of Social Affairs of the Municipalities of Helsinki in Finland, territorial authorities in Italy where municipalities manage closed centres). Finally, in other countries, governments wholly, or partially, subcontract centre management to private companies (e.g. Great Britain, Czech Republic, Portugal, Netherlands).

Living conditions in centres

Geographical location and size of the centres. Maps show that closed centres are often located near strategic points, land, port, or airport border checkpoints and large cities, or are located throughout the country.

However, it should be noted that not all operating centres are officially listed. In some countries there is no official centralised list of centres (e.g. Germany). In other countries, the lists given to investigators do not mention certain centres (e.g. Greece and in France where there is no exhaustive official compiling and updating of the list of administrative detention centres). At the time of our field studies, some centres were due to be opened or closed just weeks after the study.

Most of these centres have been installed in existing premises that have been "recycled" to detain migrants: former barracks, other military buildings (e.g. Malta, Hungary, Poland, Czech Republic, Denmark) and hangars and abandoned warehouses (e.g. Greece), former North Sea oil platforms anchored in the port of Rotterdam (Netherlands). In some countries, closed centres have been installed in tents or in temporary, prefabricated buildings (e.g. Malta, Greece).

Wire fences, barbed wire and other security measures have been added to these structures designed for other types of use in the past. The investigators' most frequent initial observation was the grim, even dehumanising aspect of the premises (e.g. in certain centres in Italy, use of cages and containers was seen as particularly dehumanising). Investigators often noted the insalubrious or generally poor state of premises due to deterioration of some buildings or the precariousness of the structures used (e.g. Cyprus, Italy, Malta, Greece).

Other countries simply used former prisons (e.g. Belgium, Spain), or directly installed separate sections in prisons used to hold common law detainees (e.g. Great Britain, Ireland, Cyprus, Greece, Luxembourg, Austria), or as noted above, hold illegal immigrants in prisons or police stations alongside common law detainees (e.g. Germany, Great Britain).

More rarely, centres have been installed in more recent, purpose-built buildings or buildings renovated to hold foreign nationals. Nonetheless, the priority for the majority of the centres visited is the strengthening of security measures and equipment (e.g. the new centre in Hungary built on the model of a high security prison, the new detention centre in Finland equipped with modern security measures), the closed centres (CIT) in Faro and Porto, Portugal that are in recent buildings but with cells that have no window facing onto the outside.

➤ **Material and hygiene conditions:**

The material and hygiene conditions observed during the study varied very widely. Although generally acceptable, they were considered unacceptable in certain centres visited. In Cyprus, Malta, Spain, Italy and Greece, investigators found inhumane and degrading material and hygiene conditions. These premises are characterised by an almost total lack of privacy, overcrowding, and a lack of basic hygiene products.

Poor hygiene and unhealthy conditions were also observed in a number of centres that require urgent improvements (notably centres in Luxembourg, Lithuania and Belgium).

Finally, the study noted that in relatively well-maintained closed centres, there were problems related to the layout of the premises including cells that are too small, unattractive and very limited open air areas and lack of communal facilities (Poland, Ireland, Great Britain, Netherlands, France).

➤ **Detention systems:**

In the vast majority of cases, a prison-like detention system is applied to foreign nationals held for administrative reasons (e.g. Austria, Germany, Belgium, Great Britain, Italy, Ireland, Netherlands, Slovakia, Slovenia, Poland, Hungary, Czech Republic, Luxembourg, Estonia, Italy). The investigators consider the application of these strict detention regimes as disproportionate, as the populations detained in these centres have committed no criminal offences and have only been placed there to check their identity verification or whilst awaiting removal.

Here are some extremely common examples of practices that are considered particularly unjustified for this type de population:

- The confinement of foreign nationals to excessively small cells for most of the day.
- Restriction of number of hours in the open air.
- Confiscation of mobile telephones.
- Limited visiting rights.
- Application of very strict disciplinary rules as part of extremely varied operating procedures. The application of these regulations is sometimes left to the discretion of centre directors, which can lead to their arbitrary use.
- Handcuffing detainees during transfers (e.g. France, Belgium).
- Other, rarer practices were noted such as the obligation for male detainees in Slovenia to wear a uniform and systematic searching of children on their return from school.
- Frequent use of solitary confinement in certain centres (e.g. Belgium, Hungary, Czech Republic, Malta, Austria, Spain, France, Netherlands) for a variety of reasons that can also lead to arbitrary practices: persons whose behaviour is considered to be dangerous, those suffering from psychological disorders and ill persons (the question of treatment of persons suffering from psychological or psychiatric disorders in detention will be examined below).

The absence of inspections by external bodies in most of these centres can only intensify the risk of arbitrary practices.

Needs expressed / Difficulties observed:

As a general rule, the application of prison-like detention systems tends to criminalise persons who have committed no offence. The inappropriate and disproportional application of this type of system was often raised during the studies.

It was interesting to note that in many centres applying this type of system, the managers themselves considered that such treatment was disproportionate (e.g. in Poland, the managers of all the detention centres visited considered that the system was not correctly adapted to foreign nationals' situations).

Foreign nationals detained under these conditions admitted to investigators that they considered that prison-type system of deprivation of freedom as a form of punishment and a humiliation.

➤ **Activities / work:**

Once again diverse situations were encountered. In some countries, centres were equipped to offer a few activities to foreign detainees (Internet, sports rooms, library, games room). In others only TV rooms, ping pong tables or reading rooms were available to detainees, who remained unoccupied most of the time (e.g. Poland, Spain, Malta, Cyprus, Hungary, Greece).

With a few exceptions (e.g. women's centre in the Netherlands), foreign detainees cannot engage in paid work, contrary to common law detainees (which led some individuals in the centres to say that the foreign detainees' situation was more difficult than common law detainees, who have the right to work).

Needs expressed / Difficulties observed: The studies found that the lack of activity, which can last for over several months, adds to the lack of privacy and lack of comfort, and gravely worsens the psychological state of the foreign detainees. This is true for the population in general, and more particularly for vulnerable persons.

➤ **Contact with the personnel of the centre**

In a great number of cases, staff present consists almost exclusively of security personnel: guards, police officers, border guards and private security personnel whose concerns are primarily related to security (e.g. Poland, Spain, Malta, Greece, Cyprus, Lithuania, Estonia, Hungary).

Detainee relations with staff are not always good. They may be tense, and can lead to abuse and violence (see below for examples of incidents reported to investigators by detainees or by associations for the defence of migrants). Detainee relations with centre staff may simply be inexistent due to the language barrier. The lack of communication and relations with the personnel in charge of the centres reinforces the isolation of foreign detainees.

➤ **Communication**

Difficulties accessing telephone communications was noted as aggravating detainees' feeling of isolation from the outside world. As stated above, mobile telephones are often confiscated. The detainees' right to access the public telephones installed in the centre is often theoretical (e.g. impossible to buy telephone cards when they are not given out for free, insufficient number of telephones in relation to the number of detainees).

Finally, the strictly limited visiting rights observed in many centres also aggravated this feeling of isolation.

➤ **Access to NGOs:**

In many countries, it was noted that NGOs and external stakeholders were insufficiently present in the centres, either due to lack of means of transport to make regular visits, or because the authorities limit this access (e.g. in Germany, authorities do not allow legal aid associations to intervene in certain closed centres, in France associations are not allowed in all administrative detention facilities).

However in cases where the presence of NGOs in closed centres had been negotiated with the authorities (e.g. in French detention centres and in Portugal) their impact was observed by investigators as being extremely positive. Workers from NGOs can listen, participate in the defence of human rights, act as witnesses from the outside world and help raise awareness, which leads to improved material aid to foreign detainees. They are also able to alert the authorities to the situations of the most vulnerable persons.

➤ **Length of detention**

Extremely variable maximum duration of detention: The maximum period of detention varies greatly under the regulations of the 25 Member States. In some countries, this period is not limited by law, and can lead to people being deprived of their freedom for administrative reasons in periods measured in years.

These examples of the maximum authorised period for detention demonstrate this diversity: 32 days in France; 40 days in Spain and Italy; 60 days in Portugal; 8 weeks in Ireland; 3 months in Greece and Luxembourg; 5 months in Belgium (8 months in certain cases); 6 months in Czech Republic, Slovakia, Slovenia and Hungary; 10 months in Austria; 12 months in Poland; 18 months in Germany and Malta; 20 months in Latvia.

The maximum period of detention is not legally limited in Great Britain, Denmark, Finland, the Netherlands, Sweden, Estonia, Lithuania and Cyprus, in the last three countries the maximum period can be extended beyond 36 months (the study observed detention periods equal to, or greater than, 3 years in Estonia and Cyprus).

Investigators were told that this imprisonment was harder to endure when detainees (as well as centre staff) did not know how long the period of detention would last, and did not understand the reasons for the detention. For example the lack of transparency in decision procedures in Sweden, where the detention period can be extended month after month, was pointed to as a major factor generating worry and concern; or in Poland, where the extension can be decided at an interval ranging from every three months to one year. Detainees have no comprehension of the reasons for the variations in these rulings.

In some countries, foreign nationals freed because the removal order could not be implemented can be rearrested and sent back to detention centres (e.g. Luxembourg, Belgium, France).

Needs expressed / Difficulties observed: In the 25 countries studied, centre managers, external stakeholders and the detainees themselves emphasised that extended periods of imprisonment was difficult to cope with and represented pathogenic situations that could be further aggravated by other factors such as facilities which are unsuitable for long-term detention, being held in solitary confinement and not understanding the procedures.

➤ **Social assistance:**

The presence of social workers to provide social assistance to detainees is by no means the norm in all countries and centres. Social workers are present in certain countries (e.g. Austria, Belgium, Great Britain, Sweden, Finland, Netherlands, Denmark, Czech Republic in the centre for families). These social services are usually organised and financed by the authorities, but sometimes are provided by associations with access to the centres (e.g. in Portugal, a social support service operates thanks to the work of an NGO). From one country to another, it was noted that the impact of these services varied according to their quality and quantity, e.g. training of social workers and availability (number of social workers relative to number of detainees), and the kind of social follow-up (in Belgium for instance, some associations question the social follow-up and consider that it is only there to encourage detainees to opt for voluntary return).

Needs expressed / Difficulties observed: The investigators noted that insufficient or inexistent social support is an additional difficulty for detainees in many centres. (e.g. Malta, Cyprus, Lithuania, Hungary, Poland, Germany, Spain, Estonia).

➤ **Detainees' access to their rights:**

Information about rights: The absence of access to information for detainees to their rights was often reported to the investigators (e.g. Germany, Belgium, Austria, Spain, Great Britain, Greece, Italy, Lithuania, Luxembourg, Poland). The information is often limited to documents (information folders on rights) available to foreign nationals or posted in several languages.

This lack of information is due to several reasons: difficulties in communicating with the outside world (limited access to telephone communications as previously mentioned), the shortage of competent personnel and the centre staff's lack of awareness of the need to provide detainees with information about their rights (in many cases centre staff is almost exclusively made up of security guards and police officers responsible for supervising detainees, as mentioned above), difficulties accessing the centre for NGOs, and communication difficulties due to the language barrier and lack of interpreters in the centre (frequently observed during the study).

Access to legal assistance: Difficulties accessing independent legal advice were frequently reported by the investigators. Detainees often could not engage a lawyer (due to insufficient means or the absence of a legal aid system).

In some centres, legal services are provided by lawyers or NGOs that have negotiated access to closed centres with the authorities (e.g. Portugal, Malta, France, Belgium, Netherlands). The availability of these legal advisors is often insufficient. The associations do not always have the means to carry out regular visits to the centres. For instance in Poland, associations visit certain centres near Warsaw, but for financial reasons cannot ensure regular visits to more distant centres. Sometime there are simply not enough legal advisors in relation to the number of detainees (e.g. Malta).

The studies do however highlight the positive impact the presence of these NGOs has, enabling detainees to access independent legal advice to help them understand their situation.

It is therefore extremely surprising that some countries do not allow associations to provide detainees with this type of legal information (e.g. in Germany the Branderburg Ministry of Interior, which signed an agreement with the Frankfurt Bar Association, prohibits any other independent organisations from offering supplementary legal assistance to detainees).

Needs expressed / Difficulties observed: It should be stressed that the detainees' lack of information on their rights increases the stress they feel due to the uncertainty of their situation. Many do not understand why they are detained under these conditions, know nothing about the procedures affecting them, and have no idea of the duration of their detention, which a previously noted can be extended for several months in most countries.

➤ **Access to healthcare:**

Access to healthcare in detention: It should be noted that this study did not assess the quality of healthcare in detention. Our aim is to report on the difficulties observed during the field studies, as expressed by detainees and centre stakeholders (NGOs, centre staff, medical personnel in the centre). The situation varies widely according to the country and the type of centre:

Medical services in the centres: Centres may provide in-house medical services (provided by doctors and/or nurses). In centres where these services are available they are offered on a more or less regular basis. Regular medical consultations are proposed in some centres, whilst in others they are only accessible on certain days or at certain times. Finally, in other centres, no medical services are provided (for example in France, although there are medical personnel in the detention centres, doctors are not present in all administrative detention facilities).

The authorities or NGOs (e.g. Portugal) are responsible for managing these services. When medical services are managed by the authorities, there are difficulties related to the independence of the doctors working in the centres. The lack of independence was mentioned as affecting relations with patients (lack of confidence) or even medical decisions (e.g. decisions to transfer detainees to hospital could be made by the centre director and/or by the doctor).

Very often, communication problems related to the language barrier and the absence of interpreters were reported by the detainees and medical personnel. The doctors' lack of awareness of the difficulties foreign nationals face may contribute to the problems experienced in creating trusting relationships with detained patients. Doctors admitted that they were not trained in cross-cultural relations and that this could lead to problems in terms of patient relations (e.g. Poland).

Shortcomings in terms of access to healthcare and treatment were observed (e.g. Cyprus, Greece, Malta, Spain, Austria). As far as access to treatment is concerned patients suffering from chronic diseases reported difficulties in ensuring continuity in their treatment (e.g. Belgium, France).

In general, hospital transfers are organised when required. Detained patients are transferred to hospital under police escort (which can create problems due to the reluctance of some hospitals to allow the presence of security and police personnel).

Administrative organisation regarding detained patients Detainees entering centres do not always undergo a medical examination. In some countries this examination is compulsory (Great Britain, Czech Republic). In other countries a doctor must sign a health certificate declaring them apt for detention (e.g. in Germany, implementation planned in Luxembourg). The independence doctors can exercise when issuing this health certificate was questioned. In Germany for example, NGOs denounced the fact that the detainee's state of health was evaluated solely in relation to their possible expulsion and not in terms of a further detention period.

The presence of people suffering from illnesses, and notably of AIDS victims in detention centres, has been denounced by associations (e.g. France, Italy).

The issue of repatriating sick foreign nationals to countries where treatment is not accessible was raised during certain visits. (e.g. France, Germany).

In Belgium, the presence of a large number of sick foreign nationals that could not be repatriated due to their state of health was pointed out; they are still in detention. Belgium plans to set up special centres for sick persons who cannot be repatriated due to their state of health.

Expressed needs / Difficulties observed: During the field studies, the presence of sick persons in the centres was observed or noted by local stakeholders in many cases. This is problematic in that the detainees' state of health is neither systematically nor satisfactorily assessed. The compatibility between a detainee's state of health and their initial and extended detention is not systematically assessed. **Access to a doctor and healthcare is not ensured in all detention centres** despite the importance of such care for prisoners suffering from their incarceration. Furthermore, there are many difficulties related concerning access to the appropriate treatment for people with chronic diseases. It should be noted that the treatment of people with alcohol and drug addictions was mentioned during several studies (e.g. Belgium, Portugal, Italy, Spain). The treatment provided varies, notably concerning access to substitutes that are not always available to detainees in the centres.

➤ **Access to psychological care**

The investigators were struck by the large number of detainees in closed centres suffering from psychological disorders. This was mentioned by nearly all those working in the centres (NGOs, medical staff, centre management).

These stakeholders said that the presence of persons with psychological disorders created difficulties related to:

- state of health incompatible with detention,
- insufficient medical services in the centres,
- the fact that detention aggravates the mental state of persons suffering from psychological or psychiatric disorders,
- the fact that detention itself can generate psychological disorders, especially when the detention lasts for months.

➤ **Identification of compatibility of mental health with detention:**

The question of the compatibility of the detainee's state of health with detention is rarely taken into account. Generally speaking, psychological disorders are not identified or are inaccurately identified (see below "*Situation of vulnerable persons in closed centres*"). A psychological and/or psychiatric examination of the foreign national to be detained is rarely carried out prior to their detention.

As mentioned above, a certificate confirming the compatibility of detention with the mental health of the person is compulsory in some countries, like in Germany where a certificate is supposed to be issued by a psychiatrist. However this practice is far from systematic. In addition, there is the issue of the independence of the practitioner issuing the certificate, e.g. certificates issued by one psychiatrist (who was finally banned by the General Medical Council) were severely criticised by associations in Germany. Portugal seems to have created the best conditions for independence. A joint committee of the different parties involved (institutional stakeholders and independent associations) gives an opinion on the compatibility of the foreign national's mental health with his initial or continued detention.

Although the presence of psychologically distressed persons was mentioned as a major problem in the majority of the detention centres visited, and despite the fact that many stakeholders consider that the detention system is not adapted to such situations, the presence of psychologists and or psychiatrists is by no means ensured systematically in all the countries.

Some countries guarantee the presence of psychologists or psychiatrists in the centres (e.g. Great Britain, Ireland, Belgium, the Scandinavian countries), but elsewhere no psychological assistance is provided (e.g. Malta, Greece, Spain, Cyprus, Lithuania, Poland).

Some centre managers acknowledge that their staff have not been trained to deal with persons suffering from psychological disorders (e.g. Finland, Belgium). Moreover, certain stakeholders regret that in some centres only pharmaceutical treatment is available for detainees suffering from psychiatric or psychological disorders (e.g. Belgium, Luxembourg).

The use of solitary confinement by some centres to punish detainees who fail to respect the centre's disciplinary regulations but also for persons suffering from psychological disorders (Netherlands, Belgium) should also be noted. Associations have emphasised this shift from a system adapted to the mentally ill to a purely disciplinary system.

Finally, the absence of healthcare for persons suffering from severe psychiatric disorders was also pointed out in Belgium. This is due to the lack of appropriate institutional structures able and willing to provide care for foreign detainees.

Expressed needs / Difficulties observed:

- The investigators were constantly informed of the presence of persons in the closed centres suffering from psychological disorders.
- Virtually all stakeholders working in detention centres consider that persons suffering from psychological or psychiatric disorders should not be detained.
- Stakeholders working in the centres consider that the healthcare provided for detainees suffering from psychological and psychiatric disorders is either inexistent, insufficient or poorly adapted (e.g. France, Cyprus, Malta, Spain, Greece, Italy, Poland, Hungary, Belgium, Luxembourg, Austria, Germany).
- Moreover, everybody agrees that **imprisonment is pathogenic**, especially when detention lasts for a long period of time. Depriving people of their freedom and the living conditions in the detention centres generate or aggravate psychological and psychiatric disorders, as was very frequently emphasised during the studies (e.g. France, Malta, Greece, Cyprus, Estonia, Latvia, Lithuania, Spain, Italy, Poland, Hungary, Czech Republic, Slovenia, Slovakia, Austria, Ireland, Great Britain, Germany, Belgium, Finland, Luxembourg, Netherlands...).

Incidence reported in detention centres

A number of incidents and violent acts were reported in the centres during the field studies.

➤ **Acts of revolt against detention conditions:**

- **Riots and arson:** Riots and arson were used by detainees as a means of protesting against detention conditions. For example, in Luxembourg, a fire was deliberately started in January 2006 by detainees protesting against their detention conditions. This fire caused one death and many injuries and obliged the authorities to carry extensive renovation work and to revise detention conditions. In Great Britain, fires were set in November 2006 in the Harmondworth repatriation centre and spread to the entire centre. This fire was the subject of a report by Her Majesty's Inspector of Prisons. These examples are not exhaustive.

- **Hunger strikes:** Detainees went on hunger strikes to protest in many centres (e.g. Poland, Germany, France, Austria, Ireland, Malta, Cyprus, Spain, Italy, Netherlands). In some countries this problem has become severe. For instance in Austria, 2,336 hunger strikes were recorded in detention centres in 2006. Since 2005, the authorities are now authorised to force-feed detainees. This has been criticised by the associations.
- **Acts of despair**
 - **Suicide and attempted suicide:** These incidents were frequently reported (e.g. Germany, France, Poland, Belgium, Netherlands, Spain, Italy, Hungary, Cyprus, Malta). They are often desperate appeals for help rooted in foreign detainees' despair, feeling of powerlessness and isolation.
 - **Violence against detainees:** During field studies, acts of violence and abuse committed against detainees (physical violence, sexual abuse, beatings, verbal abuse) were repeatedly reported by foreign detainees and associations active in the centres (e.g. Malta, Cyprus, Spain, Italy, Poland, Austria).

3.3.3 - FINDINGS FOR VULNERABLE POPULATIONS IN CLOSED CENTRES

Dealing with specific categories of vulnerable persons

Before beginning, it should be noted that there are no legal European provisions for the protection of vulnerable migrants. The references used therefore are the international standards and national standards in force each country (see 1.3: Legal framework).

We will present the findings for the categories of vulnerable persons dealt with by the Reception Conditions Directive, which only concerns asylum-seekers. Nevertheless since asylum-seekers are detained in closed centres, these standards apply at least to them. Moreover, the proposed Return Directive identifies the same categories of vulnerable persons.

➤ **Minors:**

Whilst carrying out the study, the investigators were particularly shocked by the presence of minor detainees in closed centres in the most of the countries studied.

Although only a few countries authorise (or practice) the detention of unaccompanied minors, most hold accompanied minors in their closed centres for foreign nationals. These minors can remain in detention for as long as their parents.

➤ **- Accompanied minors:**

The vast majority of countries detain accompanied minors: France, Germany, Belgium, Great Britain, Czech Republic, Slovakia, Portugal, Luxembourg, Spain, Latvia, Estonia, Ireland, Greece, Malta, Cyprus. Note that this practice was ended in the Netherlands in 2006 after a campaign to galvanise public opinion.

The presence of very young child detainees was reported in several countries (e.g. France, Great Britain, Poland, Belgium).

On the one hand, the detention regime is generally less strict for families with children (greater access to open air areas), who are placed in separate sections reserved for them and may have access to limited installations for children (game rooms, toys). On the other, the fact remains that the living

conditions, food, daily routine and the human and material environment are not adapted to children, especially when deprivation of freedom is extended over several months. **In interviews with investigators, parents often expressed concern about their detained children.**

Centre managers and the medical and social staff working in the centres all felt that children should not be imprisoned in detention centres for the short or long term, because of the negative impact this traumatic experience may have on the children's psychological balance, on their relations with their parents and on the image the children have of their parents whilst in detention.

In some rare cases, children are allowed to attend school. This becomes a human rights issue when detention is prolonged. In some countries children simply do not attend school for a period that can last several months (e.g. Czech Republic, Poland, Belgium). In other countries classes are sometimes held in the centres (e.g. Great Britain). On rare occasion children are allowed to attend school outside of the centre. For instance, in Slovenia guards, take the children to school, but the children are systematically searched on their return from school, an experience that is particularly traumatic for them, according to the interviewees in Slovenia.

In some countries where minors are not detained, the authorities only detain one of their parents (e.g. Italy, Austria, Finland). The other parent is placed in an open reception centre, which means that the family is broken up.

Many of these countries could easily find alternative solutions to avoid depriving families with children of their freedom, imprisoning children and breaking up families. The investigators were amazed to find that such solutions were almost never implemented by the authorities.

Expressed needs / Difficulties observed:

The various stakeholders working in detention centres stated that depriving children of their freedom could have particularly harmful effects. Over the short or long term, the imprisonment of children can cause psychological disorders, especially during prolonged periods of detention: the lack of privacy, stressful living conditions, a daily routine that is not adapted to children's needs, the absence of any family intimacy and the devalued image of imprisoned parents are all likely to provoke trauma that is harmful to child development.

These concerns are shared by the parents and by stakeholders working in the centres.

All those interviewed during the study thought that this situation should be avoided by finding alternatives to detaining families with minors.

➤ - **Unaccompanied minors**

The detention of unaccompanied foreign minors was observed in several countries:

In principle, the detention of unaccompanied minors is forbidden by national legislation. Nevertheless, the legislation of some countries authorises the detention of unaccompanied minors over 15 years of age (e.g. Czech Republic) or 16 years of age (e.g. Portugal, Austria). They are supposed to be separated from the adult detainees.

In some countries, the detention conditions for unaccompanied minors are considered particularly worrying. In Cyprus it was reported that unaccompanied minors could be detained and were not separated from the adults. In Greece unaccompanied minors are not protected by Greek law against detention and expulsion, and they can be detained and removed without taking into account their situation, age or the situation in their country of origin. In France, associations have denounced the situation of unaccompanied minors in detention areas, from which they can be repatriated.

The detention of unaccompanied minors has also been reported in other countries, despite national legal provisions forbidding the detention of these children (e.g. in Spain, minors should not be detained, but some unaccompanied minors "suspected of being adults" are detained on the basis of the unreliability of the bone age testing practised by authorities in cases where there are doubts about the age of the minors).

Most countries have made special provisions to receive unaccompanied minors. They are accommodated and taken care of in special structures (e.g. Austria, Belgium, Denmark, Spain, Finland, Italy, Poland, Hungary, Czech Republic, Sweden, Netherlands), or in separate sections in centres for asylum-seekers (e.g. Lithuania).

The conditions in centres for unaccompanied foreign minors will be examined in the following part of this report (these are not closed centres, although freedom of movement is more or less limited according to the centre).

➤ - Persons with disabilities and elderly persons

There appear to be relatively few persons with disabilities held in detention centres. Nevertheless, a few cases were observed or reported to investigators during field visits, (e.g. Belgium, Poland, Greece, Malta).

Most countries there are no specific legal measures to protect persons with disabilities or elderly persons from detention.

Physically impaired persons are sometimes not detained simply because the centre is not accessible to them. Indeed, the majority of the centres visited do not have specific installations for persons with disabilities.

Expressed needs / Difficulties observed: It is obvious that closed centres are not adapted to the needs of elderly persons and persons with disabilities, and that solutions that would provide an alternative to detention should be considered a priority.

➤ Pregnant women

Legislation and practices vary widely between States. The presence of pregnant women placed in detention was reported to investigators during field visits in several countries (e.g. Great Britain, Netherlands, Spain, Belgium).

Some States forbid the detention of pregnant women, but only from a certain stage of pregnancy (e.g. in Germany the detention of pregnant women is only forbidden as of eight weeks from the due date; in Belgium after six months).

In some countries, the detention of pregnant women is theoretically impossible but does occur in practice (e.g. Great Britain). In other countries their presence is forbidden in some centres but authorised in others. For example, in Italy, the presence of pregnant women is prohibited in the CPTA but authorised in the CPA.

In general, the only solution to pregnant women's needs for "special attention" is – at least in theory – to provide access to the appropriate medical follow-up for their condition (ante or post-natal).

➤ **Lone parents with children:**

When States do not prohibit the detention of accompanied minors (see above, "Accompanied minors"), Lone parents with children are detained under conditions similar to those for accompanied minors in an area reserved for families.

The same observations made for the detention of accompanied minors apply to these cases, as Lone parents with children are placed in separate areas. This category of vulnerable person rarely receives special attention.

Expressed needs / Difficulties observed: The stakeholders we met in centres believe that Lone parents with children should not be detained. An effort should be made to find alternatives to detention.

Centre managers themselves pointed out to investigators that Lone parents with children should not be detained (e.g. Finland).

Stakeholders also denounce situations in certain countries where children of Lone parents are not detained but the parent is (e.g. in Italy, the interviews with detained parents separated from their children revealed their grave concerns as they had no news about their child since the beginning of the detention due to the difficulties in communicating with the outside world).

➤ **Persons having been tortured or victims of other serious forms of physical, psychological or sexual violence.**

With regards to this category of persons, serious failings were observed in many countries, primarily due to difficulties related to:

- Shortcomings in the identification of this category of persons due to the absence of procedures to identify them or the failure to implement existing identification procedures (see below "Shortcomings in the identification of vulnerability" and specific difficulties in identifying certain disorders, notably psychological disorders affecting victims of torture and violence).
- Lack of care for this specific category of person. This failure has been explained above (absence or shortage of social, psychological and psychiatric personnel and of adapted care).

Once again, it is obvious that persons having undergone torture or been victims of other forms of violence should never be held in closed detention centres, as these centres are not only unable to provide the special attention they need, but may even worsen their physical or mental condition.

Expressed needs / Difficulties observed: In general, it is clear that closed centres are not adapted to the special needs of this category of person, and that alternatives to their detention should be found.

Dealing with categories of vulnerable persons other than those indicated in the EU Reception Conditions Directive or in the legislation or practices of individual States

➤ **Families:**

Families are usually detained in a special area. In certain centres, authorities try to keep families together, but this is not always possible. For example, in Luxembourg there is no family area and children are detained with their mother.

Lack of and/or failure to implement an adapted process for identifying vulnerability:

Shortcomings in the identification of vulnerability are due to a number of factors:

- lack of a vulnerability identification system and/or failure to implement a coherent, properly adapted process for identifying vulnerability,
- specific difficulties in identifying certain disorders,
- overly limited definitions of "categories of vulnerable persons"
- failure to deal with "situations of vulnerability".

Absent or inadequate "procedures" for identifying "vulnerable categories": The procedure to identify vulnerable persons is a constant difficulty reported in many countries. In some countries there is no system for identifying vulnerable persons placed in detention (e.g. Lithuania, Greece, Poland, Estonia, Cyprus). Elsewhere a medical certificate of compatibility of the person with detention is supposed to be issued prior to the implementation of the detention order (e.g. Germany, Luxembourg, Austria). Stakeholders consider this system insufficient

Finally, in some countries where identification is required by law, stakeholders working in centres consider the system a failure (e.g. in Malta, unaccompanied minors, families, pregnant women and persons with disabilities qualify for special attention but they may remain in detention for several weeks or even several months while their vulnerability is being established and medical tests carried out; in Italy it was reported that the medical and social services identifying vulnerable persons are inadequate).

Note that Portugal has set up a joint accompaniment committee made up of representatives of the authorities in charge of centres, members of an NGO and members of the IOM, which renders an opinion on the admission of vulnerable persons to the centre. Stakeholders working in the centres consider that this system regulates the organisation and day-to-day running of the centre.

Absence or shortage of personnel capable of identifying vulnerable persons: The inability to identify vulnerable persons is also due to the absence or shortage of personnel sufficiently trained in recognising signs of vulnerability

Note that in many closed centres (e.g. Spain, Italy, Lithuania, Estonia, Malta, Cyprus, Greece, Poland, Hungary), the only personnel present at all times are police officers and security guards, whose main concern is to supervise detainees. These members of staff receive no specific training in recognising vulnerable persons.

According to stakeholders working in centres, the absence or shortage of social, psychological and/or psychiatric personnel is one of the main reasons for the failure to identify vulnerable populations.

➤ **Specific difficulties in identifying certain disorders**

- The vulnerability of victims of torture or severe violence, and persons suffering from psychological disorders related to other causes, is harder to identify than other categories whose vulnerability is more visible (e.g. persons with physical disabilities, or elderly persons).
- Investigators were alerted to difficulties in identifying victims of human trafficking who are often reluctant to tell the centre management about their situation, due to fear of reprisals or a lack of information on their rights (these difficulties were notably reported in Luxembourg, Hungary and Poland). Furthermore, legislation providing protection for victims of human trafficking accords this protection on the condition that the victim collaborates with the police, which usually dissuades these victims from benefiting from protection.

➤ **Overly limited definitions of "categories of vulnerable persons"**

Certain categories of vulnerable persons were identified by investigators as not fitting into any of the defined categories.

- Transsexuals were identified as a vulnerable category. For example in Italy, transsexuals are usually detained in the women's buildings but may also be accommodated separately in a special building. According to those interviewed, transsexuals are often victims of discrimination, harassment and humiliation, particularly by centre staff and other detainees.
- Persons with alcohol and drug addictions were identified as a group requiring special attention. In Portugal, alcoholics and drug addicts receive special medical follow-up. In Italy and in Spain, multiple drug addicts were identified as requiring special attention. Note that substitute treatments for drug addicts are not always available in centres.

➤ **Failure to deal with "situations of vulnerability".**

Other than problems of individual vulnerability, the study showed that external factors which put migrants and asylum-seekers in "situations of vulnerability" are generally not dealt with by means of protective measures.

Impact of journeys and routes taken prior to detention: The routes taken prior to arrival in European countries are often very physically and psychologically trying. During migrants' journeys to Europe, which may last several months or several years (crossing several countries, prolonged residence in transit countries), they are exposed to diverse forms of abuse and violence: human trafficking, psychological pressure, physical violence and rape (many cases of female victims of rape in Libya were reported during field studies in Italy and Spain).

Persons undertaking these dangerous journeys are both physically and psychologically weakened on arrival (sea crossings with risk of shipwreck, land travel in dangerous areas). It is highly regrettable that their reception and control by the authorities does not take this vulnerability into account in any way, despite the fact that this vulnerability has been identified and reported many times (e.g. Malta, Greece, Cyprus, Spain, Italy, Poland).

The investigators were particularly shocked that the priority on arrival was to carry out administrative checks, rather than dispensing medical and psychological assistance (particularly in Italy, Spain, Greece, Malta and Cyprus, which practice the near systematic detention of all foreign nationals in centres where inhumane and degrading conditions were observed).

Detention itself is pathogenic: Depriving foreign nationals of their freedom, in particular when extended over several months or occurring repeatedly, under a prison regime in detention centres, was identified by most of the stakeholders met with as having a harmful psychological impact on the detainees in general, and notably on vulnerable persons or migrants in vulnerable situations after a trying migratory journey. As noted above, the environment and general conditions in the centres only worsen this situation.

Expressed needs / Difficulties observed: The fact that the confinement of foreign nationals is pathogenic was observed throughout the field studies in nearly all countries studied. It was observed by nearly all the stakeholders working in the centres – centre management, social workers, and psychologists – and/or by the investigators themselves. Persons in situations of specific vulnerability due to the various causes previously mentioned, are even more immediately and more durably affected.

3.3.4 - OPEN CENTRES

This part will set out the findings about the situation in different types of open centres for persons applying for international protection during the various stages in the asylum application procedure from their arrival until the final decision to accept or reject their application.

The study only focused on collective centres where the placement of asylum-seekers is compulsory. Note that some countries also authorise the use of private accommodation (France, Belgium, Great Britain). In Sweden, only the latter is practised

The situation in centres receiving unaccompanied minors and other categories of vulnerable persons will be described in the part of the report concerning the situation of vulnerable persons.

Due to the great variety and number of reception centres observed during the study, we cannot draw up an exhaustive table of open centres in the 25 EU countries. As for closed centres, we will outline certain general findings that attracted the investigators' attention due to their potential impact on vulnerable persons.

For this reason, the examples are not given to assess the systems in each country but simply to illustrate and/or focus on systems or practices likely to have an impact on vulnerable persons or lead to the creation of situations of vulnerability.

➤ **Impact of general trends regarding asylum-seekers:**

Open centres for receiving third country nationals usually form part of the measures for “managing” asylum-seekers, or more generally for third country nationals requesting international protection. Recent trends have influenced the reception systems for asylum-seekers set up by EU member countries. The following has been noted:

- Significantly fewer persons seeking asylum in many countries with restrictive and dissuasive immigration policies.
- A large increase in fast-track procedure systems for asylum-seekers on arrival in the countries.
- A drastic reduction in the percentage of applicants granted refugee status under the Geneva Convention
- A higher proportion of foreign nationals rejected, and more precarious and less protective statuses granted (subsidiary protection, temporary authorisation, "tolerated status", residence authorisation for humanitarian reasons, etc.)
- An increase in the number of foreign nationals refused asylum and a higher number who are "neither received nor removed" due to violent and unstable conditions in their country of origin.
- Difficulties related to implementation of the Dublin Convention, i.e. the obligation for foreign nationals to apply for asylum in the first EU country they enter, which implies that each country verifies on arrival the applicant's itinerary and organises their return if refused permission to enter the country. This procedure can take a long time and requires the placement of the person concerned in an asylum-seeker detention centre in the country that refuses admission, and

sometimes in the repatriation country, where reinitiating the asylum application procedure can be difficult.

➤ **Different types of open centres:**

The study revealed the existence, in certain countries, of different types of open centres for asylum seekers, for specific functions:

- reception: identification, initial examination of admission to the asylum application procedure
- reception and accommodation of asylum-seekers during the asylum procedure
- preparation for return" for those whose application for asylum has been rejected.
- for example, in Denmark, asylum-seekers are first sent to reception centres, then to accommodation centres and finally to "return centres" if their application is rejected. In Germany, there are reception centres, "community" centres for the procedure period and "open expulsion" centres to encourage foreign nationals to accept "voluntary return". In the Netherlands there are application centres, "orientation and integration" centres for candidates awaiting an initial response to their asylum application and "return" centres for candidates who have received an initial refusal and are appealing (residence over 2 years). In other countries asylum-seekers are placed in the same centres throughout all the stages of the procedure (e.g. France, Poland, Finland, Greece, Czech Republic).

In view of the recent trends noted above, **an increasing number of persons seeking protection are in a precarious and fragile situation:**

- persons who are granted precarious and less protective statuses (subsidiary protection, temporary authorisation, "tolerated" status, residence authorisation for humanitarian reasons, etc.), and who can be excluded from accommodation facilities and have severe difficulties finding accommodation.
- asylum-seekers under the Dublin Convention awaiting readmission,
- rejected asylum-seekers who after exhausting the appeal procedures must leave the centres after a given period, but who cannot return to their country of origin and may find themselves on the streets, or "tolerated" in certain centres.

The responses States have to these types of situations vary and often depend on public awareness of what is happening to the persons in question.

In some countries, centres have been set up for rejected asylum-seekers who cannot be sent back to war or crisis-stricken countries: either by the authorities who place them in "waiting centres" with minimal services (e.g. Denmark), or by civil society organisations (e.g. Great Britain, Netherlands).

Note that the reception capacity of centres for asylum-seekers is insufficient in some countries and many persons have to find their own accommodation or must resort to using emergency facilities for homeless persons (e.g. France, Italy, Greece).

Finally, persons who are granted refugee status and are therefore obliged to leave the centres may also have serious problems in countries where integration is particularly difficult. They sometimes have serious difficulties finding accommodation, and extending their residence in centres normally reserved for reception of asylum-seekers is not always tolerated.

Vulnerable migrants who do not apply for asylum are generally excluded from State reception facilities: The centres do exist that have been set up by associations (civil society); others are not specifically for vulnerable migrants but rather are emergency accommodation facilities for destitute populations. The reception structures that set up specifically for them are few and far between, and are usually run by associations or other civil society organisations (e.g. in Portugal, the Pedro Arrupe centre for vulnerable illegal immigrants: victims of slavery, alcoholics, etc.)

The only category of vulnerable migrants – whether or not they are asylum-seekers – that can theoretically benefit from specific reception systems set up by States are unaccompanied minors..

➤ **Authorities in charge of centres:**

Depending on the country, open centres may be managed by bodies under the responsibility of different ministries, the Ministry of the Interior, the Ministry of Social Affairs or a Ministry especially created to deal with immigration.

The administrative bodies running asylum-seeker centres may be authorities in charge of all foreign nationals that also manages closed centres (e.g. Czech Republic, SUZ, Bureau of Migration in Sweden), or may only be in charge of managing reception centres for asylum-seekers (e.g. "Federal Reception Agency for asylum-seekers" in Germany, the URIC "Repatriation and National Office" in Poland, the COA in Netherlands). Sometimes, decentralised authorities manage these centres (e.g. Bundesländer in Germany and Austria, municipalities in Italy and Finland).

The responsibility for managing certain centres may be accorded to an NGO (e.g. in Denmark, France, Belgium, Luxembourg, Finland). In many cases, all or part of centre management may be subcontracted to private companies (e.g. in Austria, Germany, Hungary, Poland).

Living condition in centres

A number of factors explain the wide disparities between the centres visited:

- First of all, the financial resources that States can – and are willing – to allocate to receiving asylum-seekers are very different from one country to another. For example, countries that have recently joined the EU face material difficulties in setting up reception facilities that did not previously exist. Some have had to deal a large influx of asylum-seekers.
- The choice of a decentralisation policy, as for example in Austria and Germany where centres are managed by the Länder, does not ensure consistent reception conditions, even in the same country.
- Disparities in living conditions between centres can be the direct result of government decisions. For example, in Great Britain and in Ireland where a "dispersion" policy encourages asylum-seekers to reside outside of major urban centres. The conditions in centres outside of major conurbations are superior, and often better adapted to the reception of vulnerable persons.
- Not all centres are intended for reception, some are designed to persuade rejected asylum-seekers to voluntarily leave the country. To accomplish this, the authorities group them in "Return" centres, where conditions are deliberately minimal, applying a policy of wearing down residents and encouraging them to leave (e.g. Denmark, Netherlands, Germany).

➤ **Material situation and conditions**

Site, geographical location and size of centres: Centres are located in diverse areas, but it was noted during the study that many centres were located in relatively remote areas: some in industrial zones on the outskirts of cities, others also outside conurbations, in places which are difficult to access.

In many countries, geographical isolation (in sparsely populated regions, even deep in forests) and the difficulties accessing some of the centres (very poor public transport) is a real problem for asylum-seekers. Some applicants admitted to investigators that they felt excluded e.g. Lithuania, Finland, Denmark, Poland, Hungary, Estonia, Latvia, Cyprus).

Nevertheless, it should be noted that remote locations, though not always adapted to asylum-seekers' needs, sometimes correspond to the need to take quick action to respond to large increases in the number of asylum-seekers (e.g. Poland).

Location / layout / size: As is the case for closed centres, many open centres were installed in existing facilities that were "*recycled*" to receive asylum-seekers. For example, in former Soviet Union states, many military barracks were converted to receive asylum-seekers (e.g. Poland, Hungary, Lithuania, Estonia, Latvia, Czech Republic, Slovakia), and in other countries hospitals were converted (Finland).

Problems arise in adapting the use of premises designed for other uses, sometimes very different from social accommodation. Efforts to transform existing structures to make them suitable for the reception and accommodation of asylum-seekers (often comprising families with children) have met with highly varying levels of success.

The study noted that the size of the centres is another subject of concern. Investigators noted that centres that are too large can lead to depersonalised relations and internal conflicts, whereas smaller centres favour more cordial, friendly relations and better preparation for integration. Moreover, security issues become the main concern for authorities in charge of large centres.

Needs expressed / difficulties observed:

- Other than the fact that they slow down the integration of asylum-seekers into the society of the host country, geographically remote centres create a feeling of being outcast and abandoned, which is not conducive to a dynamic individual and collective approach. The centres are open... but open to nothing.
- The concentration of a large number of asylum-seekers in large centres for long periods of time appears to generate problems, i.e. dehumanised, conflict-ridden relationships, both in the centres and towards the outside world, which can react in a hostile fashion to this concentration of foreign nationals, primarily in countries that are less accustomed to persons of diverse origins and cultures.
- Numerous cases of psychological depression were observed as a result, more often in remote and/or large centres.

Material and hygiene conditions:

Closely related to the issue of location, the material and hygiene conditions vary widely depending on the country and the centre. Some centres provide good conditions, while others provide barely acceptable or mediocre conditions. Finally, the conditions in some centres are extremely poor, due to unsuitable structures (absence of separated sections for families and children), run-down buildings, insalubrious facilities in a poor state, and problems with the maintenance, and upkeep or cleaning of facilities.

Needs expressed / difficulties observed: As residents may be kept in reception centres for several months, or even years, the material conditions have a significant influence on the residents' quality of life. When these conditions are not adapted to their needs or are deteriorating, they can harm personal or family relationships and create or aggravate situations of vulnerability due to problems such as a lack of privacy, lack of intimacy, violence, etc.

➤ **Restrictions on the freedom of movement**

The study noted that more or less significant restrictions are sometimes applied to the free movement of asylum-seekers in open centres:

- The conditions under which residents can enter and leave the centres are usually imposed by internal operating procedures. In many centres, foreign nationals can only enter and leave the centre at certain times and must inform the centre in advance for absences of over 24 or 48 hours.
- In some countries, their freedom of movement is more restricted (e.g. in Germany residents are not allowed to leave the town, and must obtain permission to leave which requires a deposit to be paid; in Lithuania absences of over 24 hours are forbidden, and the building is closed between 10 p.m.- 6 a.m.).
- In practical terms, restricted freedom of movement can be the result of the remote location of a village or a city, and the scarcity and cost of transport.

Needs expressed / Difficulties observed: Excessive restrictions to freedom of movement reinforce the withdrawal and isolation of residents, who can feel they are unjustly "locked down". This is a further obstacle to integration of residents into the reception society.

➤ **Activities / work:**

Right to work: The possibility of working is a constant concern for asylum-seekers in the centres, but access to work varies according to national law and the status of persons in the centres.

Some countries authorise asylum-seekers to work after a defined period of time following reception of their asylum application. These periods vary considerably according to country. For example, asylum-seekers are authorised to work after 20 days in Portugal; 3 months in Finland, 6 months in Italy and the Netherlands; 9 months in Luxembourg and 12 months in Germany.

Finding work depends on the local labour market. In general, when centres are close to major conurbations there are more work opportunities.

Persons with temporary status obtain work permits more easily. Rejected asylum-seekers in "return" centres are not allowed to work (e.g. Denmark, Germany).

Activities in centres: social activities, language classes, activities to prepare asylum-seekers for integration : The organisation of social and integration activities is patchy and varies according to the country and the centre. The absence or shortage of social activities organised by the centres may be related to the lack of financial means, and compensated by the presence of external associations which run activities in the centres (e.g. Slovakia, Slovenia, Poland, Hungary, Czech Republic, Greece).

However activities may be reduced to a minimum in "return" centres.

Needs expressed / difficulties observed: Stakeholders and interviewees emphasised the negative effects of lack of activities in the centres:

- The impact of a lack of activity is sometimes increased by the fact that in some centres asylum-seekers neither prepare food nor work. For example, the lack of activity has a negative impact on the psychological health of asylum-seekers. Their inactivity in a situation of expectancy and stress as they await the decision about their status is a psychologically destabilising.
- Parents' lack of work and activity negatively impacts on families; parents lose their role.
- It can slow down integration into the host society.
- It has been reported as a potential cause of alcoholism and drug addiction.

Education for children: In general, asylum-seekers' children can attend school, either inside the larger centres (Denmark, Netherlands) or in state schools near the centres.

Even when this access is guaranteed by law (which is generally the case), difficulties may emerge in practical terms, related to remoteness and problems concerning access to centres, or local schools' reluctance to receive foreign children (e.g. Hungary).

Needs expressed / Difficulties observed: Special classes, (language teaching in particular) to prepare children to enter state school are not systematically provided in centres, although they are necessary to enable children to adapt to a new cultural and linguistic context.

➤ **Opening centres up to the outside world**

- Security: Most centres, especially the large ones, have security guards that may be provided by private security companies. Inspection procedures for the entry of persons not working in the centre ensure security. However, these procedures sometimes make opening the centre up to the outside world more difficult and tend to dissuade persons likely to visit asylum-seekers or organise diverse activities. An example of this problem was noted in Luxembourg where a private security company set up complicated entry authorisation procedures that in effect cut the centre off from the outside world by stopping visits from people in the surrounding areas who wished to meet or help asylum-seekers.
- NGOs are generally allowed access to the centres – but this may also be subject to an authorisation that is not always easy to obtain: For example, the international investigator accompanied by his local partner was unfortunately not authorised to visit the large Traiskirchen reception centre in Austria.

Needs expressed / difficulties observed: A large number of centres are situated in remote areas, and complicated authorisation procedures for outside visits only make things worse.

Although they can be considered necessary for security reasons, the excessive restrictions on visitors to the centres contribute to further marginalisation of asylum-seekers and slow down their integration into the host society.

➤ **Duration of residence in centres**

Although the duration of residence in induction centres and the time taken to process asylum applications is relatively short (a few weeks in general), residence in asylum-seeker centres can extend over several months or even several years according to the speed at which the applicants' case is processed and appeal procedure. The length of the waiting period and the uncertainty as to the response were frequently reported during the field studies as a major source of stress and anxiety for asylum-seekers.

This waiting period is more difficult in countries where refugee status is harder to acquire as the lack of prospects increases foreign nationals' concerns about the outcome (e.g. Greece, Lithuania, Slovakia). For those whose application was initially rejected and have appealed, the anxiety is all the greater because this procedure can last several years in some countries and may cause psychological disorders in certain asylum-seekers.

The situation of foreign nationals in certain "return" or removal centres particularly shocked investigators. For example in Denmark, the most serious problem regarding asylum-seeker reception was the "deterioration" of the situation of the rejected asylum-seekers "*neither accepted nor rejected*" (which received press attention) who have been assigned to residence in "return" centres for an indefinite period (some have been in these centres for over 10 years).

Centre staff confirmed these problems which worsen over time, for men and women who feel they are barely "tolerated" with little hope of one day being granted the right to reside in the country. These factors demoralise the adults who feel they have no control over their lives and even less over their future (e.g. Denmark, Finland, Germany) and have a very harmful impact on children, as will be explained below.

Needs expressed / Difficulties observed: Excessively long waiting periods in centres that are neither designed nor adapted to long-term residence (particularly for families with children) upset the psychological balance of the majority of asylum-seekers, and have harmful effects on social and family structure. Children and adolescents are the worst affected.

➤ **Social assistance:**

The investigators emphasised the importance of social support in the centres of all the countries visited.

The lack of social workers capable of really assisting and providing adapted support was highlighted on numerous occasions – as were the wide variations between services provided in the different centre visited. For example, in Ireland and Great Britain, it was observed that social follow-up varied considerably from one centre to another (in part due to the dispersion policy: centres far from major conurbations generally provide better social support of the persons in the centres).

The lack of social follow-up was more widely reported in countries with a shortage of social workers in relation to the number of persons in the centre. In some cases social workers were present but were assigned administrative tasks and had no time to provide real assistance to the persons in the centre.

In some countries, significant efforts by associations gave additional support to social assistance in centres. Stakeholders working in the centres emphasised the importance of this additional support (e.g. Hungary, Czech Republic, Slovakia, Slovenia, Poland).

Needs expressed / difficulties observed : The need for more social workers in certain centres was identified as a priority. Foreign nationals need this support in key areas such as legal advice, medical cover and preparation for integration. It was also stressed that social support enables the identification of the most vulnerable persons, especially those with psychological disorders, as explained below.

➤ **Access to rights: information on rights/legal assistance/ translators and interpreters**

In general, asylum-seekers in centres can access the legal assistance they need to help them apply for asylum or during appeal procedures. The organisation of this assistance, which varies widely

according to the country – and the centre – is funded by the State in some cases, and is often fully or partially provided via programs implemented by associations that work in the centres, especially in the countries that joined the EU in 2004. In these countries the NGOs received funding, mainly from the UNHCR, to implement these programmes.

Needs expressed / difficulties observed The importance of this assistance was observed everywhere. One of the major concerns of most persons in these centres regards their status. Most are waiting on a decision which will often determine their future. The investigators observed that asylum-seekers in the centres were often more concerned about the decision on their status than the material conditions in the centre.

➤ **Access to healthcare**

The organisation of healthcare varies enormously according to the centre and according to the country. In some countries, medical visits are organised in all centres (e.g. Denmark, Poland, Finland, Hungary, Netherlands). In other countries, healthcare varies according to centre (e.g. Ireland), or asylum-seekers benefit from medical cover or free medical assistance that gives them access to the public health system (e.g. Luxembourg, France, Czech Republic).

In these cases, practical difficulties were reported concerning medical appointments (e.g. in Luxembourg, asylum-seekers must advance the fees and cannot always obtain appointments; in the Czech Republic since September 2006 doctors no longer visit the centres, and asylum-seekers who theoretically have medical cover in practice have difficulty obtaining medical consultations).

Needs expressed / difficulties observed : In addition to the problems of access to healthcare and the complaints about quality of care that were reported during the studies, problems related to difficult communication with doctors due to the language barrier and the lack of interpreters were frequently reported.

The doctors' lack of awareness of problems faced by the populations in the centres was often remarked on, as well as centre staff's lack of training in and knowledge of cultural differences.

This issue is particularly important in the light of the patients' lack of trust in their doctors and the consequences concerning healthcare for women, and notably the detection of domestic or sexual violence.

➤ **Access to psychological care**

The large number of psychological disorders in the centres was revealed by the field studies. A disturbing indicator of the deteriorating psychological state of asylum-seekers are the numerous suicides and attempted suicides reported in these centres (e.g. Belgium, Finland, Denmark, Germany, Netherlands, Ireland, Great Britain).

These psychological disorders are caused by trauma in the country of origin, or during the journey to Europe, but also by conditions in the centres.

This deterioration in psychological well-being is often associated with the long waiting periods in the centres, the overly long and uncertain duration of procedures, the unknown outcome and fears of being repatriated, isolation, the lack of activity, and lack of contact with the host society, etc.

The needs of persons suffering from psychological disorders requiring adapted follow-up and care are not always met adequately, sufficiently or satisfactorily.

Although consultations with psychologists and/or psychiatrists are usually possible in theory, the care provided is often judged by stakeholders working in the centres to be unsatisfactory (e.g. Germany, Poland, Hungary, Belgium, Finland, Czech Republic).

It is interesting to note that associations which originally worked only with persons suffering from trauma in their country of origin have broadened their programs to include asylum-seekers whose residence in the centres has had traumatic mental impact on them (e.g. Ireland, Hungary, Belgium).

In light of the worsening mental state of asylum-seekers in these centres, some countries have set up systems to improve the identification persons with psychological disorders (e.g. in Belgium a project was recently set up to inform and train centre personnel to better detect persons at risk and persons suffering from psychological problems). In some centres, psychologists and/or psychiatrists have been added to the medical teams in the centres (e.g. Finland, Poland).

Investigators observed that there are specific centres for persons suffering from psychological disorders. For example:

- In Austria, the "Integration Haus" receive asylum-seekers, refugees and persons with temporary residence permits for humanitarian reasons who have been subject to trauma and require adapted psycho-social follow-up.
- In Belgium, a new mental health centre for psychologically disturbed asylum-seekers will be open soon.
- In Denmark, the Red Cross set up a special centre (Kongelunden Centre) for particularly vulnerable asylum-seekers who do not receive adequate care in normal reception centres.

Environment / incidents

Large number of suicides and attempted suicides: The most frequently mentioned incidents are the numerous – and increasingly frequent – suicides and attempted suicides (e.g. Belgium, Netherlands, Ireland, Great Britain Finland, Germany). In Denmark for example, according to the most recent report by the Danish Refugee Council, the percentage of suicide attempts has tripled since 2001, from 0.6% of the population residing in centres in 2001 to 1.7% in 2006. This observation is related to the duration of residence in the centres and the resulting deterioration in these persons' psychological state.

Acts of violence and/or abuse, domestic violence: The abuse – or suspected abuse – of centre residents was sometimes reported during the studies, notably against lone women and women in precarious situations (e.g. in Hungary, in certain centres, abuse of women in the Debrecen centre was reported by the centre director and social workers; as a result of these incidents, security measures in the reception building for lone women were reinforced).

Some centre managers and social workers alerted investigators to the numerous incidents of domestic violence against women and children (e.g. Poland, Hungary).

Diverse violence, police interventions and development of illicit activities: In certain centres there are often violent disputes and fights between residents, notably due to problems with alcohol consumption. Elsewhere, especially in large centres, problems related to the development of illicit activities and numerous police interventions were reported.

3.3.5 - FINDINGS ON VULNERABLE POPULATIONS IN OPEN CENTRES:

Dealing with specific categories of vulnerability

Specific categories referred to in the Reception Conditions Directive:

➤ Minors:

As previously mentioned, the children of asylum-seekers are usually kept with their parents and attend school, either in the centres themselves (in the large centres, e.g. Denmark, Netherlands) or in local state schools.

Language classes are sometimes offered in the centres to enable the children to learn the language of the country.

Needs expressed / difficulties observed : The difficulties mentioned regarding the presence of children in open centres are often related to the lack of activities organised for them within and outside of the centres. Whilst some centres are very well-equipped, the lack of activities for children in other centres was mentioned during field studies.

Stakeholders stressed the importance of activities organised outside of the centres.

- Certain stakeholders working in the centres consider the environment there to hinder children's development, especially the environment in very large centres which are not conducive to establishing interpersonal relationships.
- Life in some centres has been described as "traumatic" for children: loss of bearings, hostile environment, parental depression (e.g. in the Helsinki centre in Finland, a pilot project has been launched to interview children on their feelings).
- In many centres (e.g. in Belgium, Ireland, Germany, Finland), social workers and psychologists pointed out the risk of "deparentalisation" due to the loss of authority of parents over their children.

Some procedures may be very long, with families remaining in a situation of total dependency and with little visibility on their future. This is especially stressful for parents, who lose their bearings and no longer provide their children with the supervision required whilst residing in the centre. This increases children's vulnerability.

➤ Unaccompanied minors

The subject of unaccompanied minors in the European Union is so vast that it requires a separate study. Within the scope of the present study concerning the situation of foreign nationals in the centres, it should be emphasised that a key difficulty for unaccompanied minors is that they do not always benefit from the reception services and facilities that have been set up for them. In principle, unaccompanied foreign minors should not be repatriated and should be accommodated and cared for in centres specifically designed to receive them. As mentioned previously, some unaccompanied minors are nevertheless detained in closed centres and are repatriated.

Many foreign national minors in EU countries are left to fend for themselves and are not cared for in any way. This problem was notably brought up during field studies in Greece and Spain, for example during the visit to the unofficial Patras slum where hundred of people live whilst waiting to reach Italy. Among those waiting in this area are numerous minors, most of whom do not seek asylum for a variety of reasons (e.g. advice from trafficking networks, fear of being arrested).

Other minors may be excluded from these services and facilities due to bone age tests, frequently used by authorities who have doubts about a minor's age. Since there is a large margin for error, these tests prevent certain minors from using reception services and facilities.

Concerning the more specific situation of minors in the centres, the situations vary widely:

In some countries, there are centres reserved exclusively for unaccompanied foreign minors (e.g. Denmark, Spain, Finland, Italy, Ireland). In other countries, these minors are accommodated in orphanages or reception centres for foreign minors and reception centres for minors in general (e.g. Poland). Unaccompanied foreign minors are also sometimes accommodated in separate areas within asylum-seeker reception centres (e.g. Slovakia, Lithuania).

Some countries have implemented measures to assess the situation of minors before possibly referring them to other reception structures (e.g. Belgium, Czech Republic).

Reception conditions (material conditions, social assistance, etc.) vary greatly according to the centres visited: excellent conditions in some centres, barely adequate or insufficient conditions in others. More rarely, centre conditions for minors were severely criticised by stakeholders working in the centres (e.g. in Spain it was reported to the investigator that some centres in the Canary Islands – which could not be visited due to time constraints – were criticised by NGOs, notably Human Rights Watch that denounced cases of sexual abuse and physical violence against minors). Again, as it is impossible to fully detail the conditions in the reception centres for unaccompanied minors, we will point out the main difficulties reported in these centres:

Needs expressed / difficulties observed : A major concern was assistance for minors suddenly deprived of all support upon reaching the age of 18. Apart from a few rare exceptions (e.g. in Ireland where there is a special centre for young adults), in most cases they no longer benefit from State structures at this age.

There is an even greater concern, expressed by many social workers in contact with unaccompanied minors, for those who have not obtained a legal status to reside in the country and therefore risk being repatriated.

Some stakeholders working in the centres expressed another **concern regarding their fear that the cutting off of all support may send the minor back into a human trafficking network**. This issue was raised by stakeholders in Belgium, who emphasised the difficulties encountered in protecting minors who had been victims of trafficking against the networks that they remain in touch with.

Another difficulty observed in some centres is the large number of minors who "disappear". Centre managers do not always know the reasons for these disappearances (e.g. impression of imprisonment and isolation in certain centres, encouragement from Mafia-type networks, adaptation difficulties).

Persons with disabilities/ elderly persons / pregnant women:

Regarding the situation and possible attention given to these categories, we once again noted widely varying situations according to the centre:

- regarding installations and care for persons with disabilities, and attention paid to their specific needs,
- regarding special attention for elderly persons, there are usually no special measures implemented in centres other than the specific assistance that may be provided by doctors or social workers,
- regarding attention for pregnant women – who generally can access ante and post-natal care (the quality of this care could not be assessed during the study).

➤ **Victims of torture and other severe forms of violence: psychological, physical, sexual**

As previously explained (see *Access to psychological care*), the need to provide special attention, psychological care and assistance to the victims of violence was frequently raised during the field visits. As for all persons suffering from psychological distress, these victims have a great need for psychological care due to the risk that the seriousness of their symptoms may increase whilst residing in the centres.

➤ **Lone parents with children**

Lone parents with children are usually accommodated in areas reserved for families. Many centres devote special attention to lone women, and have specific measures in place to help them. At the very least, they are accommodated in areas separated from adult men when this is possible in the centre structure.

In some countries there are specific centres especially reserved for lone mothers (e.g. Ireland, Denmark).

➤ **Concerning isolated women**

During the studies it was emphasised that women require special attention because of their greater vulnerability to different types of violence within the centres.

The issue of domestic violence was mentioned above (*Incidents*). This type of violence – particularly difficult to identify – is facilitated by the lack of privacy and overcrowding families are sometimes subject to in the centres.

Difficulties identifying acts of violence and sexual abuse committed against women were mentioned during field studies. Lone women, who are in extremely precarious situations, are particularly exposed to various forms of abuse, notably sexual. These risks were mentioned during certain field studies (e.g. Hungary, Poland, Slovakia).

The risk of violence in general and violence against women in particular, is increased by the large number of single, inactive, isolated men in these centres.

Shortcomings in the identification vulnerability in open centres

- lack of and/or failure to implement an adapted identification process,
- specific difficulties in identifying certain disorders,
- overly limited definitions of "*categories of vulnerable persons*",
- failure to deal with "*situations of vulnerability*".

As was mentioned previously, the situations observed during the study were extremely varied, both with regard to the existence of a clearly defined procedure for recognising vulnerable persons, and with regards to the means implemented to respond to their specific needs (social and psychological personnel, equipment, etc.).

Identifying persons whose vulnerability is less "visible" (persons suffering from psychological disorders, victims of human trafficking) can be a delicate issue. Certain field studies observed that efforts made to improve the process of identifying vulnerability varied enormously according to the country.

Similarly, the study revealed that, in the closed centres, the external factors putting migrant foreign nationals and asylum-seekers in "*Situations of vulnerability*" are often not taken into account.

Situations of vulnerability in open centres (most often for asylum-seekers) may be caused by trauma that occurred in the country of origin, as well as by difficulties encountered by foreign nationals during their journey and experiences prior to arriving in the country where they want to reside.

However, the major causes of stress and anxiety in open centres are different: The pathogenic nature of long-term residence – with an uncertain outcome – in asylum-seeker centres was mentioned by many stakeholders working in the centres (see: "Access to psychological care"). Long waiting periods, the lack of prospects, uncertainty about their status, fear of forced return and a lack of activity were often indicated during field studies as major causes of stress and anxiety affecting asylum-seekers, which could lead to psychological stress or could aggravate existing psychological disorders.

CHAPTER 4 ANALYSIS AND RECOMMENDATIONS

4.1 - ANALYSIS OF THE VULNERABILITY CREATION PROCESS

In the preceding section we endeavoured to set out the findings related to the conditions of third country nationals, "*paying particular attention to the resources and services available for persons with special needs*". We shall now present a brief analysis of these findings with regard to the concept of vulnerability, focussing on the need for a new approach to vulnerability since the definitions generally used by States are not suitable.

4.1.1 - THE NEED FOR A NEW APPROACH TO THE CONCEPT OF VULNERABILITY

The generally accepted approach to vulnerability given in the introduction was confirmed by field studies and involves several factors:

- In the context of migration, **risk factors** are traumatising events experienced by persons either in their country of origin and/or during their journey to Europe. **Persons in this type of situation are at greater risk of vulnerability.** Some events are particularly pathogenic, especially if they are not identified and treated correctly.

- **Personal factors** are related to each person's individual history and condition (physical and psychological constitution). The concept of vulnerability is often based **only on personal factors**, and persons are simply classified as "*vulnerable persons*". The EU Reception Conditions Directive defines vulnerability from this point of view, only recognising certain categories of vulnerable persons: minors, unaccompanied minors, elderly persons, persons in a disabling situation, persons having been subject to torture and other forms of serious physical, psychological or sexual violence. In these cases, it seems better to say « *persons with specific needs* ».

- **Environmental factors** are the material conditions for residents in the centres and which can either improve or aggravate personal factors. These include the material conditions in centres (confinement, detention in closed centres, waiting time in open centres, etc.) which particularly affect vulnerable persons.

Vulnerability results from the interaction between **risk factors**, **personal factors** and **environmental factors**. The management of groups of vulnerable persons should not focus solely on the groups with special needs referred to above, but should be approached differently.

In our opinion, "vulnerable person" refers to a person corresponding to this new definition of vulnerability.

The assertion proposed is the close relation between specific needs of some groups, conditions of illegal migration, reception and detention; these factors are summarized to built on situations of vulnerability, for persons already fragile but as well for persons having to face these difficult conditions.

This assertion is largely confirmed par fields finding.

We shall study how persons become increasingly vulnerable once they are in centres, and look at the solutions provided for them there. The following findings were observed:

- The needs of vulnerable persons are not sufficiently met in centres (2).
- Detention in centres (open and closed) contributes to greater vulnerability (3).

4.1.2 - RISK FACTORS NOT TAKEN INTO ACCOUNT

The approach to vulnerability should take into account the different **risk factors** related to the situation in the country of origin and the journey undertaken. The analysis of the seriousness of the risk factors that affect people who leave their countries and villages, sometimes urgently fleeing from traumatic situations, makes it possible to better understand the pathologies these people suffer from on arrival on European soil.

These pathologies may be physical or psychological. We met people who had been tortured and women who had been subjected to sexual violence, but also people suffering from mental illnesses. The risk factors therefore create a large number of special needs which then constitute personal factors.

4.1.3 - SPECIAL NEEDS NOT TAKEN INTO ACCOUNT

In this area again, the analysis of findings from the field shows that attention should be paid to the special needs of the categories traditionally used, but also to people whose special needs may go unnoticed.

The analysis shows that in many countries **the capacities for identifying these special needs and personal factors** are often insufficient. Only the special needs of certain pre-defined categories of vulnerable persons (minors, unaccompanied minors, elderly persons, persons with disabilities, pregnant women, lone parents with children, people who have been victims of torture or other serious forms of physical, psychological and sexual violence) are taken into account. Once vulnerability has been identified the appropriate measures are not systematically put into action.

The Reception Conditions Directives requires States to “pay special attention” to these people, a vague notion which makes no specific care provisions.

Over the course of the study, **people with special needs who did not fall into one of the pre-defined categories** were identified. In particular there are people with alcohol or drug addictions who have special needs but who are not included in the list and therefore not taken into account.

4.1.4 - ENVIRONMENTAL FACTORS NOT TAKEN INTO ACCOUNT

Long periods of confinement, prison regimes, uncertainty regarding the duration of confinement, stress, all create or aggravate the situations people find themselves in. These factors were observed in all the countries studied. These psychological problems were revealed during the interviews with medical and social workers and centre managers. **Other incidents (suicides, attempted suicides, self-harm) are worrying indicators of the pathogenic nature of these living conditions.**

Certain countries have practices that can be described as inappropriate, or even inhumane: detainees held in large cages or containers, obligation to wear uniforms, limitations on exercise time, windowless facilities. **All of these factors are highly pathogenic and exacerbate existing psychological weaknesses or even create them.**

For some people the impact is even more significant and can have long-lasting consequences.

The major causes of stress and anxiety as experienced in the open centres were identified as: long waiting periods lasting for months, the lack of opportunities, the uncertainty related to their status, fear of forced return and the lack of activities. The pathogenic nature of these factors was raised by a large number of stakeholders. These causes can lead to psychological suffering or aggravate existing disorders.

Without wishing to reiterate the findings outlined in the previous chapter, the lack of resources available to meet the special needs of vulnerable persons as widely reported by the personnel working in the centres, the limits in terms of the systems in place and qualified personnel to care for these people and the near total lack of identification systems, are all **environmental factors which constitute an** obstacle and can seriously aggravate the vulnerability of persons, both those who have identified special needs and those who are in a fragile situation and can develop pathologies which manifest themselves as somatic problems or mental, even psychiatric disorders.

It should also be noted that the difficult conditions are factors for violence, both police brutality and violent incidents between residents, and even violence against oneself in the form of self-harm or suicide.

Inspired by Professor Laborit, (neuropsychiatrist author of reference studies on the behavioural approach to situations of stress), the **inhibition of action process** has been used to describe this violence.

This phenomenon, today described and understood, shows that when people are placed in situations beyond their control, that they do not understand and over which they have no influence, these people can develop pathologies or perpetrate acts of violence against their entourage or themselves. This violent behaviour which seems inappropriate is the expression of serious mental instability.

In this way the analysis of the findings shows the extent to which **environmental factors** play a key role in the creation and/or aggravation of vulnerability.

4.1.5 - CONCLUSION

If, as this report recommends, the vulnerability of persons is understood to be a mechanism governed by the interaction between **risk factors, personal factors and environmental factors**, then according to the analysis of the findings of the field studies, provisions for vulnerable groups should not focus solely on the **groups with special needs** listed above but should consider the issues from a different point of view.

It would seem that there are very few ways of influencing the **risk factors** involved except to implement measures concerning sea search and rescue, agreements with transit countries and a long-term policy of cooperation and poverty reduction in the countries of the South.

However as far as the **personal factors** are concerned, meeting these special needs and recognising these needs is a **priority**. The findings contain numerous examples of the lack of social, medical or psychological responses to people's special needs in cases where these needs are identified.

The analysis of the findings also shows the extent to which the **environmental factors** play a key role in aggravating existing situations of vulnerability, or even in the creation of situations of vulnerability.

The analysis of the findings, and in particular the shortcomings in a large number of countries, make it possible to speak of **pathogenic conditions, and even of a vulnerability creation process.**

These elements will be largely reiterated in the recommendations and primarily the idea that a dynamic and interactive approach to the management of vulnerability should be introduced, thus taking the approach a step further than conforming to the minimum requisite of just covering the special needs observed.

4.2 - RECOMMENDATIONS

Recommendations issued from the report are addressed to the parliament members of LIBE Committee on Civil Liberties, Justice and Home Affairs who commissioned this work. It is also addressed to all the European Parliament members in the context of setting up norms and policies on asylum and migration of third country nationals. The chapter of specific recommendations to Member States can be completed by more detailed recommendations per country included in the country report syntheses (see chapter 2). Some recommendations are also addressed to civil society actors.

4.2.1 - RECOMMENDATIONS TO THE EUROPEAN INSTITUTIONS

In general and in light of the realities of the situation in the field observed during this study, the European Union should take measures to guarantee that the **reception of migrants remains a priority** when considering their management.

A/ A qualitative and quantitative information system should be put into place, for a better understanding of the populations concerned.

This study has revealed in all Member States the weakness of the statistical tools designed to obtain precise information on the profile, origins and needs of migrant populations in administrative precariousness on their soil, in particular of vulnerable groups.. Making State by State comparisons is particularly problematic as the same terms do not always relate to the same concepts.

- In order to fully understand the issues related to asylum seekers and other third country nationals, **the European Parliament needs to have a clear picture of the overall situation.**

- **It appears that a harmonised and reliable common information tool should be put into place as quickly as possible.** A sort of “official observatory of the situation” may be set up, able to produce annual report with statistics and qualitative analysis and being accessible for general public.

B/ A clear distinction should be done between reception policies and detention policies

These policies are not based on the same rationale and their objectives cannot merge.

- **Definition of reception conditions within European Union should be based on reinforcement of asylum seekers protection, with the objective to prepare them for social inclusion.** Reception systems should not be used as means of control for aliens requiring protection.

- **Detention should be the exception** to the rule and used as a last resort when alternative, more relaxed measures have failed, in accordance with the provisions set out in international law on refugees and human rights. **Detention should not be used as a policy to manage immigration flux.** The main issue is to decide whether migrants who have infringed national entry and residence rules are considered to have the same status as common law criminals. Infringement of entry or residence rules does not justify the perpetrators to be subjected to confinement under a prison regime, which is disproportionate to the seriousness of the "crime" committed.

It would seem that the precise status of these populations should be defined and that in doing so Europe should offer the same level of protection of human rights as for its own citizens.

C/ The situation faced by third country nationals in European Union, whatever their status is, should be taken into account in term of potential vulnerability.

The study findings show the material and psychological precariousness of third country nationals, whatever their status is (asylum seeker or not).

Third country nationals, what ever their status is, should be considered as potentially vulnerable persons. The urgent nature of the situations in which they find themselves mean that any presuppositions must be called into question and the causes of disorders taken into account to the same extent as their outward symptoms.

D/ A comprehensive approach to vulnerability should be more systematically adopted when drawing up European standards on the reception or detention of third country nationals.

As suggested in this report, this approach must be based on interactive consideration of **risk factors**, personal factors and environmental factors.

The vulnerability concept should be enlarged and not limited to groups with special needs, but should consider the **vulnerability creation process**, as it is describe in the present report. Nevertheless groups with special needs are requiring special attention.

- In this spirit European Union norms should clearly state that:

- **Minors should never be subject to enforced return procedure.**
- **Persons with severe illness should not be subject to removal order procedures if there is no guarantee that they will receive the necessary and appropriate healthcare in their country of origin.**
- **Victims of human trafficking should be protected as set out in international agreements.**
- **Special attention should be paid to the situation of isolated women and mothers with children.**

E/ There is a need to reinforce procedures and capacities for identification of vulnerability prior to placement in centres.

In most of Europeans States the study shows severe gaps in the field of early identification of vulnerable third country nationals placed in open and/or closed centres.

At the European level, some common tools should be established to set up a global approach of vulnerability through:

- **Specific training for personnel in charge of vulnerability identification** and for all the persons working in centres. Funded by the European Union, these trainings might be based on UNHCR 20 years of experience and tools produced on management of vulnerable refugees.
- **Mobilisations of national existing structures and competencies in the field of services to vulnerable groups.**
- **Creation of specific budget lines for implementation of these common tools.**

F/ The main factors reinforcing or creating vulnerability should be clearly identified and assessed, in order to set up adequate prevention measures

The report identifies factors that may reinforce or create vulnerability in open centres and closed centres, in all the member states. European Union can play a role to contribute in vulnerability reduction and prevention, acting with European States for the respect of appropriate measures, in particular: .

F.1. by taking into account the dangers faced on migratory routes

Testimony and individual stories collected during the study show the level of dangerousness and violence encountered by migrants during their travel to Europe. These are definitely violation of human right but also largely contribute to aggravate or even create situations of vulnerability.

F.2 by taking into account consequences of detention.

First the report is raising up the rationality of systematically using placement in detention centre for illegal third country nationals. These measures seem disproportionate, not adapted, and costly. Effectiveness of this solution is yet to be proven. More than that, confinement can be pathogenic, especially when it last long.

Therefore, it is recommend that:

- **Alternative accommodation solutions should be implemented in priority, to avoid systematic confinement.**
- **Detention of identified vulnerable persons in closed centres should be banned.**
 - **More specifically, all the form of detention for minors and families, and obviously for unaccompanied minors, should be banned. Alternative solutions such as obligation to report regularly to the police authorities have been tested in some countries and have to be considered.**
 - **Age testing should only be used in exceptional situations and should be carried out by experienced professionals by means of a full examination and should not be limited to bone age testing**

Concerning existing detention centres:

- Structures which do not conform to the minimum legal standards in terms of hygiene and equipment and does not respect human dignity, should be inspected by relevant entities and should be closed or face an injunction to ensure conformity.

- **The application of Prison regime rules and conditions in administrative detention centres should be avoided**, in particular concerning :

- **Possibility of freedom of movement within the centres,**
- **Possibility to have contacts with external persons (telephone, visits)**
- **Ban of placement of detainees in isolation cells for disciplinary reasons**
- **Moderate internal regulations and ban of handcuffs use**

Duration of detention must be strictly limited to the time required to organise the removal procedure. Long duration of detention and inactivity are factors that may contribute to create vulnerability. Although some countries have taken steps to improve living conditions in the centres the medical and social stakeholders working in these structures all find that the often unjustified length of time detainees have to wait for a decision on their status has extremely negative psychological effects ,sometimes irreversible. This duration should be set in terms of days and not weeks or months

- **Access to rights and health should be secured in all administrative detention places for third country nationals.**

- **Access to rights should be secured by:**
- **A clear legal procedure in the national law and systematic control of the detention by judicial ruling ,**
- **Presence of translators at all steps of the procedure,**
- **Access to independent legal support through access to independent and neutral organizations**
- **Access of Non Gouvernemental Organisations to close centres.**

- **Access to health should be secured by:**

- **Permanent presence of independent medical and psychological teams,**
- **Free access to these teams,**
- **Possibility to be released for medical reasons upon independent medical advice and certificate.**

- **Removal back to the country of origin should be done only if complete security conditions are met .** In-depth study has to be done to guaranty the returnee's security.

- In the same way **common law criminals and illegal foreign nationals should not be detained together** under the same security rules.

F.3 By considering the reception conditions in open centres.

- European Union should contribute to reinforce the setting up of a reception policy considering vulnerability reduction and prevention for asylum seekers and migrants with:

- **Reinforcement of budget lines earmarked to reception** of asylum seekers and to prevent pathogenic conditions such as, isolation, promiscuity, lack of medical and social support, depraving family life when housed in very large centres.
- **Taking into account persons –especially those in situation of vulnerability-** who are not **asylum seekers**, through enlargement of reception laws for the migrant.
- **Reduction of procedure waiting time required for status decision for asylum seekers.** The time needed have to be limited in weeks, and not in month or years. Too long waiting time may create severe personnel and collective disturbance in centres.
- **Development of reception centres for unaccompanied minors** properly staffed with an adequate follow up after their majority.

The specific issue of people who cannot **be removed nor regularised** (due to the crisis situation in their country, or because they are stateless foreign nationals, or for any other personal reasons) should be specifically taken into account. All European Union member states are faced with the problem these persons with no status, who have no access to the rights provided by social protection or to the right to legal employment and who are particularly vulnerable. The report shows that practices used in different countries to deal with this problem are extremely diverse. These practices are seldom affected by considerations related to the human suffering they may cause. In consequences:

- **People who for whatever reason cannot be removed within a reasonable timeframe should be granted a specific status. This timeframe should be fixed by the European Parliament and should be the same for all European Union Member States.**
- **If the expulsion does not take place within this timeframe, the person in question should have the right to a residence permit allowing them access to social services and allowing them to work.**
- **Under no circumstances should these people be detained.**

G/ Increase vigilance with regard to the implementation of international conventions and European regulations.

All European Union Member States have ratified international conventions of human right protection. The studied also revealed certain difficulties in some States concerning the application of these enacted rights. There are numerous examples highlighted in the country reports.

Some notable examples include:

- The ban on collective expulsions as set out in the International Covenant on Civil and Political Rights (article 13); protocol four of the European Convention on Human Rights (article 4); the European Union Charter on Fundamental Rights (article 19). Despite these provisions, some European States have organised the return of groups of illegal foreign nationals.
- If States operate in line with the measures contained in the International Convention on the Rights of the Child, minors should never be forcibly removed or detained (*...detention shall be used only as a measure of last resort and for the shortest appropriate period of time.*”).

The EU cannot accept that Member States infringe the international conventions they have freely ratified, nor, in this particularly sensitive area, the rules they themselves have enacted which Member States have failed to transpose or apply.

It would therefore appear necessary:

- **To ask all States to report regularly to the European Parliament on the progress made in ensuring that their practices in this area conform to international law and community regulations.**
- **The European institutions should encourage Member States to ratify, as quickly as possible, the United Nations Convention on the Protection of the Rights of all Migrant Workers and members of their Family.**

H/ The need for more exchanges between States and with civil society actors.

H.1. The need for exchanges between States

As the study shows, the procedures for dealing with the populations concerned vary widely between different countries. The country reports highlight useful initiatives in several States that have helped improve the situation of vulnerable persons. Member States are largely unaware of these initiatives.

- **The European institutions should set up an information network concerning good practices in the relevant countries and in particular those related to the treatment of vulnerable persons.**

H.2. NGOs role

Throughout the European Union countries, NGOs play a major role in providing support for illegal foreign nationals and asylum seekers. These organisations are close to the people they work with and can provide insight and analysis into their situation which can help in developing policy.

- **In order to better understand the issues related to these populations, the European institutions should set up an institutionalised and regular consultation process with all the relevant civil society stakeholders. This might help the expression of different actors point of view, and as much as possible, their sharing with policy decision makers.**

4.2.2 - RECOMMENDATIONS TO MEMBER STATES

Specific recommendations are detailed in each **country summary report** (see chapter 2).

A/ Access to information and rights should be secured in open and closed centres.

The study revealed that there were a large number of obstacles preventing these people from accessing the information required in order to understand the legislation and procedures in force.

The provision of comprehensible and comprehensive information on their rights and situation should be guaranteed by improving the quality of:

- **interpreting and translation services,**
- **access to written information (the centre's operating procedures for example) and verbal information,**
- **access to NGO staff,**

- **possibilities of communication with the outside world (easy access to a telephone, authorisation of private visits),**
- **access to comprehensive, neutral and high quality legal counsel and assistance.**
- **on going training of lawyers working in this sector.**

B/ Conditions should be created for a better understanding and management of vulnerability in open and closed centres.

- Special training for personnel should be organised to a better understanding of vulnerability process and management of special car and prevention.

Third country nationals, whatever their status is, have to be considered as exposed to a risk of vulnerability. The emergency of the situation they are facing require to better understanding of interaction between causes and consequence of vulnerability.

- Access to healthcare is absolutely essential. Access to quality healthcare should be guarantee by ensuring access to qualified medical personnel, and by implementing protocols governing transfers to hospitals and other specialised structures, this should be done independently of the police and centre management.

- In a number of countries psychological and psychiatric care for detainees should be made a priority. People suffering with serious psychological or psychiatric problems should not be held in closed centres but referred to specialised structures. Staff in the centres should be helped to take the psychological disorders related to confinement into account when dealing with detainees.

- In a significant number of countries social services dedicated to the identification of vulnerable persons should be put into place.

- The centres should seek to form partnerships with NGOs and external specialised structures to ensure the appropriate services are provided or to ensure the independent monitoring of the provision of services (medical, social and specialised) and the respect of people's rights.

Concerning detention of minors:

The confinement or detention of minors is allowed in a significant number of countries despite their ratification of the International Convention on the Rights of the Child which clearly prohibits the confinement of minors. Article 37b states that: *“No child shall be deprived of his or her liberty unlawfully or arbitrarily. The arrest, detention or imprisonment of a child shall be in conformity with the law and shall be used only as a measure of last resort and for the shortest appropriate period of time.”* Furthermore several States have already been condemned or called to order by the international bodies concerned. Indeed the spirit of the convention is to ensure the child's best interests are the primary consideration when making any decision concerning that child. Depriving a child of their freedom can in no way be in their best interests.

- States of European Union should therefore take urgent action to ban all forms of detention for foreign minors and their families as well as for unaccompanied minors.

- Ban the return of unaccompanied minors, in particular to country of origin which does not guarantee appropriate protection.

C/ Condition in closed centres should be improved.

- **These centres should therefore be managed by administrative services rather than the police.**
- **These centres should conform to the international and national standards on structures open to the general public including those for:**
 - **material conditions, living spaces,**
 - **equipment, hygiene,**
 - **healthiness and/or security.**

The centres should be regularly inspected by the relevant bodies (local government civil security services, general government).

Structures which do not conform to the minimum standards required, should be closed, or be subject to an injunction to ensure conformity.

- **In the same way overcrowding in closed centres should be prohibited as well as the practice of mixing certain populations and having them live in close proximity.**
- **Detainees should be provided with essential hygiene products, and a healthy diet that corresponds to their religious practices or their specific medical needs.**
- **The operating procedures in force within the centres should be written down and posted to ensure they are available to all detainees. They should be translated into the languages commonly used by the residents.**
- **Social services should be set up in each centre with the appropriate number of qualified staff in relation to their reception capacity.** The mission of social workers in the centres should be clarified and should conform to the professional ethics of social work. They should be specially accompanied and trained in the identification and accompaniment of persons in situations of vulnerability.
- Centre personnel, including the guards and police officers, should be accompanied and trained to help the social workers deal with psychologically and emotionally difficult situations and to handle intercultural issues.

D/ independent systems for monitoring and inspecting the centres should be strengthened.

In many countries, closed centres are subject to regular visits and inspections by the general government, legal bodies, political groups or international organisations. As mentioned above however, as the statistical information systems used in the centres are defective inspection references are often unavailable.

- **The monitoring and inspection of closed centres should be systematic and subject to harmonised standards. Inspections and monitoring visits should be carried out on a regular basis by neutral, independent bodies or joint committees.**
- **A list of centres should be kept up-to-date** with comprehensive data on the activity of each centre as well as information on the centre residents and what happens to them.
- **Information, consultation and coordination meetings between the different people and bodies working in the centres should be encouraged.**

The study clearly shows that in the countries where the State chooses to authorise the presence of civil society organisations in the accommodation or holding facilities used, there is less tension and people have better access to information on their rights.

- Member States should authorise and support the presence of civil society organisations in all accommodation facilities for illegal third country nationals and asylum seekers. They should also ensure they are represented in the bodies mandated to make decisions concerning these populations.

No regulation of any sort can take into account the diversity of the situations people awaiting regularisation find themselves in. The administrative institutions in place find it extremely difficult to handle these cases. In order to provide adapted solutions to these problems, several European Union Members have set up mediating bodies. **The study shows that these initiatives appear successful.**

-It would seem appropriate to advise Member States to set up mediating bodies (like in Portugal) to resolve the most complex humanitarian situations.

4.2.3 - RECOMMENDATIONS TO NON GOVERNMENTAL OPERATORS

A/ The need to improve coordination between operators.

Civil society organisations which assist third country nationals, in their own country or at a European level, have already tools for coordination. Most of the organisations are investing in networking. Nevertheless, this can be improved especially in reinforcing contacts with organisations specialised in special care for one or another group of persons.

- The different organisations within a country which assist people seeking asylum or residence should reinforce and enlarge their coordination in order to improve capacities of action and for their voice to be heard by national authorities.

B/ The need to gain a better understanding of vulnerability process for population in migration.

The global approach of vulnerability is not so easy to capture. But it seems that improvement of the understanding of the vulnerability process can help civil society actor. They are in first line to deal with the needs of migrants, in close contact with authorities and centre's manager and also in position to alert in case of need.

- Information and training should be organised for civil society actors on the field of vulnerability and as well for a better understanding of psychopathological process in action in these situations. This training may be organised based on the experience of United Nations High Commissionaire for Refugees and using the very practical existing tools already produced. These training may be financially supported by European Union.

C/ The difficulty to be confronted to difficult human situation must be addressed

During the field missions, and especially in difficult situation, it appears that daily confrontation with crisis situations and psychological tensions is breaking resistance of personnel involved. These persons may present progressively symptoms of psychological breakdown.

- Managers of civil society organisations involved in centres should organised opportunities of support for personnel involved, such as debriefing or supervision, sometime psychological support.

ANNEXES

ANNEX 1: PRESENTATION OF INTERNATIONAL CONSULTANTS

Sophie Baylac

Sophie Baylac, after a professional background as lawyer in France, realised several humanitarian missions with « Médecins Sans Frontières » within programmes addressing the needs of populations living in situation of vulnerability (refugees, migrants, women victims of violence).

Philippe Chabasse

Physician, former member of « Médecins Sans Frontières », has been for twenty years co director of the French NGO Handicap International, more specifically in charge of coordination of the International Campaign to Ban landmines, which has been awarded by Nobel Peace Price in 1997. Dr Chabasse was also in charge of the coordination for production of annual world reports on landmines victims' assistance. Since long, Dr Chabasse has been in close contacts with French and European institutions, to develop functional relationships between NGOs and states institutions.

Marie Chuberre

Physiotherapist she is specialised in social and health program management. She has been working during many years with the French NGO Handicap International, in France and abroad. She gained a strong experience in the field of aid and services delivery to population surviving in very difficult circumstances (refugee camps', war contexts, country exposed to natural disasters...). In the scope of her training for social services management, she carried out a study on situation of disabled third country nationals in France. Fonder of STEPS, she realises regular consultancies in the medical and social fields.

Olivier Clochard,

Geographer, he worked as educator for young adults in Parisian suburb from 1992 to 2000. Then he started a research work within Migrinter (CNRS), laboratory specialised in study of international migrations and inter-ethnic relations. His doctorate of geography awarded in June 2007 is focusing on the role of European frontiers in refugee's status access.

Caroline Intrand

She holds a Master's Degree in International Law at the University of Paris and a Master's Degree in Law at the University of London. She is specialist of of migrations and human rights issues. Since 2002, she is in charge of European questions within CIMADE department of the Removal and Detention.

Geneviève Jacques

With an initial training background in the field of Mathematics and Economy, Mme Jacques has worked during many years on refugee reception and defence of human rights in

France, with CIMADE and at an international level, with the World Church Council (WCC) in Geneva. She has been General Secretary of CIMADE from 1988 to 1996 and program Director of W.C.C from 2000 to 2006. She participated to numerous international missions, more specifically on questions related to migration (United States, Mexico in 2007) and refugees (Latin America, Central America and Caribbean Island).

Irmtraud Lechner,

Sociologist with a Master in Public Health, she has been working since 16 years in the field of forced migration and health in Germany. Since four years she is specialised in development, migration and HIV/AIDS (West Africa region and Germany).

Sara Prestianni

She is coordinator of the association Migreurop, network of information and analysis of international policies related to immigration. Graduate in political Sciences at the University of Bologna she holds a Master in inter Mediterranean mediation, with comparative analysis of migration related laws in Italia, France and Spain. During the last two years, as photographer, she exposed and published reportages on conditions of migrants along Euro Mediterranean borders (Melilla and arrival of boats people in Canaries Island and Lampedusa).

Laurence Tavernier

Member of Parliament assistant, she worked during four years with CIMADE in detention centres for third country nationals in Paris. She holds a Master in comparative public law in European Members States. She is also judge assessor, appointed by United Nations High Commission for Refugees, at the national Court of asylum right.

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UNHCR, *Being a refugee, How refugees and asylum seekers experience life in Central Europe*, AGDM Report 2006/07,

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Autres sources d'information / Other sources

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ANNEX 3 : INTERNATIONAL LEGAL INSTRUMENTS

Textes internationaux (Nations Unies et Organisation Internationale du travail)/International texts (United Nations and International Labour Organization)

Déclaration Universelle des droits de l'Homme 1948 – DUDH. The Universal Declaration of Human Rights (UDHR)

- Article 5 : protection contre la torture et les traitements inhumains et dégradants. *No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.*
- Article 9 : Nul ne peut être arbitrairement arrêté, détenu ou exilé. *No one shall be subjected to arbitrary arrest, detention or exile.*
- Article 13 : Toute personne a le droit de circuler librement et de choisir sa résidence à l'intérieur d'un Etat. *Everyone has the right to freedom of movement and residence within the borders of each State*
Toute personne a le droit de quitter tout pays, y compris le sien, et de revenir dans son pays. Everyone has the right to leave any country, including his own, and to return to his country.
- Article 14 : 1. Devant la persécution, toute personne a le droit de chercher asile et de bénéficier de l'asile en d'autres pays. *Everyone has the right to seek and to enjoy in other countries asylum from persecution.*

Pacte International relatif aux Droits civils et Politiques (ICCPR) 1966 ; International Covenant on Civil and Political Rights (ICCPR) 1966

- Art 7: Interdiction de la torture et des peines ou traitements cruels, inhumains ou dégradants *No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment*
- Art 9: Droit à la liberté et à la sécurité, interdiction de la détention arbitraire. *Right to liberty and security of person, No one shall be subjected to arbitrary arrest or detention*

Pacte des Droits Economiques, sociaux et Culturels (ICESCR) 1966. International Covenant on Economic, Social and Cultural Rights(ICESCR) 1966

Convention contre la torture et autres peines et traitements inhumains et dégradants (CAT) 1984. Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment(CAT) 1984

Protocole facultatif à la Convention contre la torture et autres peines ou traitements cruels, inhumains ou dégradants. Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment December 2002

Convention internationale sur l'élimination de toute forme de discrimination raciale (CERD) 1965. International Convention on the Elimination of All Forms of Racial Discrimination(CERD) 1965

Convention relative aux droits des personnes handicapées, 2006. Convention on the Rights of Persons with Disabilities, 2006

Convention relative à l'élimination de toute forme de discrimination à l'égard des femmes (CEDAW) 1979. *Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) 1979*

Convention internationale sur la protection des droits des travailleurs migrants et des membres de leur famille 1990. *International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families Adopted by General Assembly resolution 45/158 of 18 December 1990*

- La détention des migrants est encadrée aux articles 16 et 17. *Detention of migrant workers and their family is regulated through Art 16 and 17*

Convention de Genève relative au statut des Réfugiés 1951 et Protocole 1967. *Convention relating to the Status of Refugees 1951 and Protocole 1967*

Convention des Nations Unies sur les Droits de l'Enfant (CIDE) 1990. *Convention on the Rights of the Child (CIDE) 1990.*

- Les articles 3, 9, 10, 22 et 37 sont applicables aux enfants dans une situation de migration ou de demande d'asile. *Articles 3, 9, 10, 22 and 37 apply to children being in situation of migration or asylum*

Convention de l'OIT n° 97 sur la migration de travail 1949. *ILO Convention (No. 97) concerning Migration for Employment, 1949*

Convention de l'OIT n° 143 sur la promotion de l'égalité de traitement des travailleurs migrants 1975. *ILO Convention (No. 143) concerning Migrations in Abusive Conditions and the Promotion of Equality of Opportunity and Treatment of Migrant Workers, 1975*

Convention Internationale pour la protection des droits des travailleurs migrants et des membres de leurs familles UN 1999-2003. *International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families – UN 1999-2003*

Ensemble de règles minima pour le traitement des détenus. 1957 *Standard Minimum Rules for the Treatment of Prisoners 1957*

Principes fondamentaux relatifs au traitement des détenus 1990. *Basic Principles for the Treatment of Prisoners 1990*

Ensemble de principes pour la protection de toutes les personnes soumises à une forme quelconque de détention ou d'emprisonnement. 1988. *Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment 1988*

Règles des Nations Unies pour la protection des mineurs privés de liberté. 1990, *United Nations Rules for the Protection of Juveniles Deprived of their Liberty 1990*

Déclaration sur la protection de toutes les personnes contre la torture et autres peines ou traitements cruels, inhumains ou dégradants 1975. *Declaration on the Protection of All Persons from Being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, 1975*

Principes d'éthique médicale applicables au rôle du personnel de santé, en particulier des médecins, dans la protection des prisonniers et des détenus contre la torture et autres peines ou traitements cruels, inhumains ou dégradants, 1982. *Principles of Medical*

Ethics relevant to the Role of Health Personnel, particularly Physicians, in the Protection of Prisoners and Detainees against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment 1982

Principes relatifs aux moyens d'enquêter efficacement sur la torture et autres peines ou traitements cruels, inhumains ou dégradants pour établir la réalité des faits 2000. *Principles on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment 2000*

Code de conduite pour les responsables de l'application des lois, 1979. *Code of Conduct for Law Enforcement Officials, 1979*

Règles minima des Nations Unies pour l'élaboration de mesures non privatives de liberté (Règles de Tokyo) 1990. *United Nations Standard Minimum Rules for Non-Custodial Measures (The Tokyo Rules) (1990)*

Conseil de l'Europe / Council of Europe

Convention Européenne des Droits de l'Homme (CEDH). *European Convention on Human Rights*

- Article 3 : protection contre la torture et les traitements inhumains et dégradants. *Protection against torture or inhuman or degrading treatment or punishment.*
- Article 5 : protection contre la détention arbitraire. *Protection against arbitrary detention*
- Article 8 : protection de la Vie privée et familiale. *Protection of private and family life,*

Recommandation du Comité des Ministres du Conseil de l'Europe. *Recommendations of the Committee of Ministers*

Asile et Migrations / *Asylum and Migration*

- Résolution 1521 (2006) Arrivée massive de migrants irréguliers sur les rivages de l'Europe du Sud. *Resolution 1521(2006) on the mass arrival of irregular migrants on Europe's southern shores..*
- Recommandation 1467 (2000) - Immigration clandestine et lutte contre les trafiquants. *Recommendation 1467 (2000) Clandestine immigration and the fight against traffickers.*
- Recommandation 1211 (1993) relative aux migrations clandestines: «passeurs» et employeurs de migrants clandestins. *Recommendation 1211 (1993). 1]. on clandestine migration: traffickers and employers of clandestine migrants*
- Recommandation 1325 (1997) relative à la traite des femmes et à la prostitution forcée dans les Etats membres du Conseil de l'Europe. *Recommendation 1325 (1997) on traffic in women and forced prostitution in Council of Europe member states.*
- Recommandation 1449 (2000) sur la migration clandestine du sud de la Méditerranée vers l'Europe, *Recommendation 1449 (2000) Clandestine migration from the south of the Mediterranean into Europe.*
- Recommandation 1547 (2002). Procédures d'expulsion conformes aux droits de l'homme et exécutées dans le respect de la sécurité et de la dignité. *Recommendation 1547 (2002)Expulsion procedures in conformity with human rights and enforced with respect for safety and dignity*
- Recommandation 1504 (2001). Non expulsion des immigrés de longue durée. *Recommendation 1504 (2001). Non-expulsion of long-term immigrant.*
- Recommandation 1624 (2003). 1. Politique commune en matière de migration et d'asile. *Recommendation 1624 (2003). Common policy on migration and asylum*

- Recommandation (99) 12 Comité des ministres sur le retour des demandeurs d'asile déboutés. *Rec(99)12E on the return of rejected asylum-seekers*

Détention des migrants / Detention of Migrants

- 20 Principes directeurs sur le retour, 4 mai 2005. *Twenty guidelines on forced return, 4 May 2005*

Protection personnes vulnérables / Protection of vulnerable persons

Mineurs / Minors:

- Recommandation 1703 (2005). 1. Protection et assistance pour les enfants séparés demandeurs d'asile. *Recommendation 1703 (2005) Protection and assistance for separated children seeking asylum*
- Recommandation Rec(2003)5 du Comité des Ministres aux Etats membres sur les mesures de détention des demandeurs d'asile. *Rec (2003)5 of the Committee of Ministers to member states on conditions of detention of asylum seekers*

Femmes / Women

- Recommandation Rec (2002) 5 du Comité des Ministres aux Etats membres sur la protection des femmes contre la violence. *Recommendation (2002) 5, on the protection of women against violence,*
- Recommandation 1450 (2000) sur la violence à l'encontre des femmes en Europe. *Recommendation 1450 (2000). 1j. Violence against women in Europe*

Droit communautaire European Union Législation

Charte des droits fondamentaux / Charter of Fundamental rights

- Article 18 : droit d'asile. *Right to asylum*
- Article 19 : protection contre l'éloignement. *Protection against of removal,*
- Articles 24, 25, 26 : protection enfants, personnes âgées, personnes handicapées. *Protection of children, elderly persons with disability*

Directive 2001/55 du Conseil européen du 20 juillet 2001 relative à des normes minimales pour l'octroi d'une protection temporaire en cas d'afflux massif de personnes déplacées et à des mesures tendant à assurer un équilibre entre les efforts consentis par les Etats membres pour accueillir ces personnes et supporter les conséquences de cet accueil.

Council Directive 2001/55/EC of 20 July 2001 on minimum standards for giving temporary protection in the event of a mass influx of displaced persons and on measures promoting a balance of efforts between Member States in receiving such persons and bearing the consequences thereof

Directive 2003/9 du Conseil européen du 27 janvier 2003 relative à des normes minimales pour l'accueil des demandeurs d'asile dans les Etats membres.

Council Directive 2003/9/EC of 27 January 2003 laying down minimum standards for the reception of asylum seekers

- Dispositions sur les personnes vulnérables (mineurs, mineurs isolés, familles, victimes de tortures). *Provisions for vulnerable persons such as minors,*

unaccompanied minors, disabled people, elderly people, pregnant women, single parents with minor children and persons who have been subjected to torture,

- Disposition sur l'accès aux soins de santé. / *Modalities for access to health care*
- Dispositions sur les conditions matérielles. *Modalities for material reception conditions*

Directive 2004/83 du Conseil européen du 29 avril 2004 concernant les normes minimales relatives aux conditions que doivent remplir les ressortissants des pays tiers ou les apatrides pour pouvoir prétendre au statut de réfugié ou les personnes qui, pour d'autres raisons, ont besoin d'une protection internationale, et relatives au contenu de ces statuts.

Council Directive 2004/83/EC of 29 April 2004 on minimum standards for the qualification and status of third country nationals or stateless persons as refugees or as persons who otherwise need international protection and the content of the protection granted

Directive 2005/85 du Conseil européen du 1er décembre 2005 relative à des normes minimales concernant la procédure d'octroi et de retrait du statut de réfugié dans les Etats membres.

Council Directive 2005/85/EC of 1 December 2005 on minimum standards on procedures in Member States for granting and withdrawing refugee status

- Article 17 sur les garanties accordées aux mineurs non accompagnés. *Guarantees for unaccompanied minors*
- Article 18 sur le placement en rétention. *Detention*

Règlement 343/2003 du Conseil européen du 18 février 2003 ou Règlement dit de Dublin II, établissant les critères et mécanismes de détermination de l'Etat membre responsable de l'examen d'une demande d'asile présentée dans l'un des Etats membres par un ressortissant d'un pays tiers.

Council Regulation (EC) No 343/2003 of 18 February 2003 establishing the criteria and mechanisms for determining the Member State responsible for examining an asylum application lodged in one of the Member States by a third-country national

Directive en préparation sur le retour des personnes en situation irrégulière. *Council directive under preparation on procedures for returning illegally staying third-country nationals*

- Protection des mineurs. *Protection of minors*
- Protection des malades. *Protection of persons with health problems*
- Protection des autres catégories de personnes vulnérables. *Protection of other categories of vulnerable persons*