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EU GUIDELINES AND LAW ABOUT MIGRATION AND HUMAN TRAFFICKING

A Summary

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1. EU Guidelines and Laws about Migration and Human Trafficking

1.1. Common European Asylum System

The Common European Asylum System (CEAS) is a „legislative framework“ (European Asylum Support Office 2016:13) for asylum matters. When the European Union started to work on the CEAS in 1999, they aimed to establish minimum standards for asylum in all EU Member States. Cecilia Malmström, EU Commissioner for Home Affairs from 2010 to 2014, said that „Asylum must not be a lottery“ (2014:3). The EU aims that asylum cases are „examined to uniform standards so that, no matter where an applicant applies, the outcome will be similar“ (Ibid.: 3). These uniform standards should be “consistent with the values and humanitarian tradition of the European Union” (Regulation 439/2010: recital 1). Asylum seekers should be welcomed in a “dignified manner […] [and] […] treated fairly” (Malmström 2014:3). To reflect their goal of coordinated asylum standards, the EU established the European Asylum Support Office (EASO) to help Member States to implement the CEAS and to cooperate among each other on the asylum process.

The Geneva Convention on the Protection of Refugees, adopted in 1951, was the first to recognise “the individual nature of refugee status” (European Asylum Support Office 2016: 14) and set out some minimum standards for asylum issues. The Geneva Convention faced geographic and temporal limitations until the 1967 Protocol removed such limits. All Member States acceded to the 1951 Geneva Convention and the 1967 Protocol and therefore developed their own national asylum legislation. (European Asylum Support Office 2016) The 1999 Tampere Conclusion was the first to explicitly mention a *Common European Asylum System* (Tampere European Council; European Asylum Support Office 2016).

Today the CEAS regulates „procedural and substantive matters for international protection from entry into a Member State until final determination of protection status“ (European Asylum Support Office 2016:13). These supranational asylum regulations consist of five main Directives/Regulations: the revised Asylum Procedures Directive, the revised Reception Conditions Directive, the revised Qualification Directive, the revised Eurodac Regulation and the revised Dublin Regulation. These Directives/Regulations are discussed in more detail below. All Member States except the United Kingdom and Ireland take part in the adoption and application of all these Directives/Regulations. However, the United Kingdom and Ireland still take part in the adoption and application of the revised Eurodac Regulation and the revised Dublin Regulation. Only those obligations for Member States considered to be particularly relevant for the purpose of this research are listed below. Obligations towards unaccompanied minors are not taken into account. Although SOT´s from Nigeria may be minors too, in this study we focus only on female adult SOT´s. The CEAS is of particular importance for this research, as almost all Nigerian SOT´s at some point lodge an asylum application in one or more European Member States and go through all or part of the asylum procedure described below.

1.1.1. Standards for procedures (the revised Asylum Procedures Directive, Directive 2013/32/EU)

The revised Asylum Procedures Directive entered into force on the 19th of July 2013 (European Asylum Support Office 2016:15+17). It´s purpose is to “further develop the standards for

procedures in Member States for granting and withdrawing international protection" (Directive 2013/32: recital(12)).

The Directive points out several rights of asylum seekers[1] just like several obligations of Member States.

Registrations of asylum seekers should take place no later than 10 working days after the application for international protection was lodged (Ibid.: Article 6(1+5)). Applications can be made directly to the authority in charge or to "other authorities which are likely to receive applications for international protection such as the police, border guards, immigration authorities and personnel of detention facilities" (Ibid.: Article 6(1)).

The competent authorities have the right to search the asylum seekers and the items they carry. The search "shall be carried out by a person of the same sex" (Ibid.: Article 13(2d)).

During the examination of the application, the asylum seeker has the right to remain in the examining Member State (Ibid.: Article 9(1)). Subsequent applications and applications that can be extradited to a third country are the exceptions here (Ibid.: Article 9(2-3)).

All asylum seekers have the right to be informed about "the procedure to be followed and of their rights and obligations during the procedure" (Ibid.: Article 12(1a)) in a language they understand. They also have the right to communicate with "organisations providing advice or counselling" (Ibid.: recital(25)).

They also have the right to a „personal interview" (Ibid.: 14(1)). In case the asylum seeker is absent, the determining authority is able to take a decision on the application anyways (Ibid.: Article 14(3)). Asylum seekers have the right to an interpreter during the interview (Ibid.: Article 12(1b)). The interview normally takes place without any relatives or friends present (Ibid.: Article 15(1)). If possible and upon the asylum seeker´s requests, the interviewer and the interpreter shall have the same sex as the asylum seeker interviewed (Ibid.: Article 15(3b+c)). "In particular, personal interviews should be organized in a way which makes it possible for both female and male applicants to speak about their past experiences in case involving gender-based persecution" (Ibid.: recital (32)). The asylum seeker can bring "a legal adviser or other counsellor admitted or permitted as such under national law" (Ibid.: Article 23(3)). The Member State as the right to ask the advisor to say something only at the end of the interview (Ibid.: Article 23(3)).

Member States should mainly consider the "safety of the applicant in his or her country of origin" (Ibid.: recital(40)) when they decide about his/her application.

After the interview, asylum seekers have the right to be informed about the decision in writing (Ibid.: Article 11(1)). In case the application gets rejected after the interview, asylum seekers have the right to additionally be informed about „how to challenge a negative decision" (Ibid.: Article 11(2)). This right is not applicable if the asylum seeker was already informed „at an earlier stage" (Ibid.: Article 11(2)).

In case an application was rejected, asylum seekers have „the right to an effective remedy before a court or tribunal" (Ibid.: Article 46(1a(i))), which means that they have the

[1] The EU defines an *applicant* as "a third-country national or stateless person who has made an application for international protection in respect of which a final decision has not yet been taken" (Directive 2013/32: Article 2 (c)). In this research the word *applicant* and the word *asylum seeker* will be used synonymously.

right to legally challenge the asylum decision. On request, every asylum seeker shall receive "free legal assistance and representation" (Ibid.: Article 20(1)) for the remedy. This assistance covers "the preparation of the required procedural documents and participation in the hearing before a court or tribunal of first instance on behalf of the applicant" (Ibid.: Article 20(1)). If a particular case is considered by a competent authority to have no "prospect of success" (Ibid.: Article 20(3)), the Member State is not obligated to provide free legal assistance and representation for that particular asylum seeker. The right to stay (mentioned above) also covers the time asylum seekers wait for the outcome of the remedy (Ibid.: Article 46(5)).

The directive mentions the need of "special procedural guarantees" (Ibid.: recital (29)) for asylum seekers who suffered for example sexual violence. Member States should make an effort to identify these asylum seekers so that they receive "adequate support, including sufficient time, in order to create the conditions necessary for their effective access to procedures and for presenting the elements needed to substantiate their application for international protection" (Ibid.: recital (29)). The Directive doesn´t say anything more about how to identify these asylum seekers and about what else is meant by *adequate support*.

1.1.2. Standards for the reception of applicants for international protection (the revised Reception Conditions Directive, Directive 2013/33/EU)

The revised Reception Conditions Directive entered into force on the 19th of July 2013 (European Asylum Support Office 2016:15+17). Its purpose is to "lay down standards for the reception of applicants for international protection" (Ibid.: Article 1) in Member States.

No later than three days after an asylum seeker lodged his/her application for international protection s/he should receive "a document issued in his or her own name certifying his or her status as an applicant or testifying that he or she is allowed to stay on the territory of the Member State while his or her application is pending or being examined" (Ibid.: Article 6). An asylum seeker has the right to "move freely within the territory of the host Member State or within an area assigned to them by that Member State" (Ibid.: Article 8(1)). Member States have the right to "decide on the residence" (Ibid.: Article 7(2)) of an asylum seeker. Access to *material reception conditions* (defined below) may be linked to the actual residence of an asylum seeker at the assigned place of residence (Ibid.: Article 7(3)). An asylum seeker can ask for permission to temporarily leave the assigned area of the Member State and the assigned residence (Ibid.: Article 7(4). If after 9 months no first instance decision on the application has been taken through no fault of the asylum seeker, an asylum seeker has the right of access to the labour market (Ibid.: Article 15(1)).

The Directive defines *reception conditions* as "the full set of measures that Member States grant to applicants" (Ibid.: Article 2(f)). *Material reception conditions* are defined as "the reception conditions that include housing, food and clothing provided in kind, or as financial allowances or in vouchers, or a combination of the three, and a daily expenses allowance" (Ibid.: Article 2(g)). Member States have to make material reception conditions available to an asylum seeker as soon as s/he lodged his/her application (Ibid.: Article 17(1)). Material reception conditions should "provide an adequate standard of living for applicants, which […] protects their physical and mental health" (Ibid.: Article 17(2)). The Directive calls on Member States to take *vulnerable persons* (explained below) into account when it comes to material reception

conditions (Ibid.: Article 17(2)). Where housing is provided in kind, it should either be in form of premises for asylum seekers who lodged their applications "at the border or in transit zones" (Ibid.: Article 18(1(a))), or "accommodation centres" (Ibid.: Article 18(1(a))) or "private houses, flats, hotels or other premises adapted for housing applicants" (Ibid.: Article 18(1(b))). Within these premises and accommodation centres, "gender and age-specific concerns and the situation of vulnerable persons" (Ibid.: Article 18(3)) have to be taken into account. In order to prevent "assault and gender-based violence, including sexual assault and harassment" (Ibid.: Article 18(4)), certain measures need to be taken in theses premises and accommodation centres. A transfer of an asylum seeker into another accommodation centre should only take place when "necessary" (Ibid.: Article 18(6)). In the event that "housing capacities normally available are temporarily exhausted" (Ibid.: Article 18(9(b))), Member States have the right not to fulfil the above-mentioned accommodation requirements as long as "basic needs" (Ibid.: Article 18(9)) are still covered. If an asylum seeker violates the rules of the accommodation centre or shows aggressive behaviour, Member States may impose sanctions (Ibid.: Article 20(4)). An asylum seeker has the right to health care which includes, at least, "emergency care and essential treatment of illnesses and of serious mental disorders" (Ibid.: Article 19(a)). Asylum seekers with *special reception needs* (defined below) should additionally be provided with "appropriate mental health care" (Ibid.: Article 19(2)). Material reception conditions can be reduced or withdrawn in certain circumstances such as the non-compliance of an asylum seeker with his/her duties such as the provision of information or the appearance to the personal interview (Ibid.: Article 20).

The Directive calls on Member States to take "the specific situation of vulnerable persons" (Ibid.: Article 21) into account when applying this Directive. Among others, victims of human trafficking, pregnant women and victims of sexual violence are mentioned (Ibid.: Article 21). Asylum seekers with "special reception needs" (Ibid.: Article 2(k)) are defined as vulnerable persons who are "in need of special guarantees in order to benefit from the rights and comply with the obligations provided in this Directive" (Ibid: Article 2(k)). Member States shall "assess whether the applicant is an applicant with special reception needs […] within a reasonable period of time" (Ibid.: Article 22(1)). This assessment needs to "take the form of an administrative procedure" (Ibid.: Article 22(2)).

1.1.3. Grounds for granting international protection (the revised Qualification Directive, Directive 2011/95/EU)

The revised Qualification Directive entered into force on the 9th of January 2012 (European Asylum Support Office 2016:15+17). It´s purpose is to harmonize the „grounds for granting international protection" (European Asylum Support Office 2016:3) and the access to integration measures after asylum was granted.

An asylum seeker can be granted *refugee status* or *subsidiary protection status* in the EU. Both statuses fall under the term *international protection.* (Directive 2011/95/EU: Article 2(a))

In order to receive a *refugee status*, an asylum seeker needs to be recognized by a Member State as a *refugee* (Ibid.: Article 2(e)). A *refugee* is a third-country national who is persecuted because of his "race, religion, nationality, political opinion or membership of a

particular social group" (Ibid.: Article 2(d)). Acts of "physical or mental violence, including acts of sexual violence" (Ibid.: Article 9(2(a)) is, among other things, recognized as a form of persecution. Beneficiaries of refugee status receive a *residence permit,* which under normal circumstances, is valid for at least three years and renewable thereafter (Ibid.: Article 24(1)).

In order to receive a *subsidiary protection status***,** an asylum seeker needs to be recognized by a Member State as a *person eligible for subsidiary protection* (Ibid.: Article 2(g)). A *person eligible for subsidiary protection* is a third-country national who does not count as a refugee but would, in case of a return to his/her country of origin, face a risk of suffering one of the following harms: "death penalty or execution" (Ibid.: Article 15(a)), "torture or inhuman or degrading treatment or punishment" (Ibid.: Article 15(b)), or "serious and individual threat to a civilian's life or person by reasons of indiscriminate violence in situations of international or internal armed conflict" (Ibid.: Article 15(c)). Beneficiaries of subsidiary protection receive a *residence permit*, which under normal circumstances, is valid for at least one year and renewable thereafter (Ibid.: Article 24(2)).

Both statuses can be withdrawn by a competent authority. Withdrawal either means revocation of the status or refusal to renew the status. (Ibid.: Article 2(o)) There are several possible reasons for such a withdrawal, the main one being the change in circumstances which originally led to the recognition of an asylum seeker as a refugee (Ibid.: Article 11(1(e))).

After receiving refugee status or subsidiary protection status, asylum seekers should have the possibility to enter the labour market. As either employed or self-employed. (Ibid.: Article 26(1)) They also should have "access to accommodation under equivalent conditions as other third-country nationals legally resident" (Ibid.: Article 32). Besides that, Member States "shall ensure access to integration programmes" (Ibid.: Article 34) and they "shall ensure that activities such as employment-related education opportunities for adults, vocational training, including training courses for upgrading skills, practical workplace experience and counselling services afforded by employment offices, are offered to beneficiaries of international protection, under equivalent conditions as nationals" (Ibid.: Article 26(2)). Beneficiaries of refugee status or subsidiary protection status have the right to "healthcare under the same eligibility conditions as nationals of the Member State that has granted such protection" (Ibid.: Article 30(1-2)). Healthcare includes special treatment for people with special needs, such as pregnant women or persons who have experienced sexual violence (Ibid.: Article 30(1-2)).

Victims of human trafficking are explicitly mentioned at one point in the Directive. There it says that "Member States shall take into account the specific situation of vulnerable persons" when implementing all articles related to the content of international protection. Victims of human trafficking and pregnant women are mentioned, among others, in the list of this group of persons. (Ibid.: Article 20(3))

1.1.4. Identification of applicants (the revised Eurodac Regulation, Regulation (EU) 603/2013)

The revised Eurodac Regulation entered into force on the 19th of July 2013 (European Asylum Support Office 2016:15+17). This regulation´s core is the Eurodac database. The Eurodac database stores fingerprints and gender of each asylum seeker who lodged an asylum application in one of the 28 Member States, Iceland, Liechtenstein, Norway or Switzerland and

is not less than 14 years old (European Asylum Support Office 2016:41). The Eurodac database stores the fingerprint data for ten years. After the period of ten years has expired, the fingerprint data will be deleted automatically weather asylum was granted or not. (European Union 2014:9)

The original purpose of the Eurodac Regulation is to effectively apply the Dublin Regulation described below (Regulation (EU) 603/2013: recital (1)). Additionally, national law enforcement authorities of Member States and the European Police Office (Europol) can request access to the Eurodac database "for the purpose of the prevention, detection or investigation of terrorist offences" (Ibid.: recital (8)).

1.1.5. Country responsible for asylum application (the Dublin III Regulation, Regulation (EU) 604/ 2013)

The Dublin III Regulation, entered into force on the 19th of July 2013 (European Asylum Support Office 2016:17). The Regulation applies to the 28 Member States and additionally to Iceland, Liechtenstein, Norway and Switzerland (European Union 2014:3). The Dublin Regulation aims to determine which Member State is responsible for examining an asylum application (European Asylum Support Office 2016:34) and therefore lays out a set of criteria.

In the case that none of the criteria that is set out in the Regulation apply (see below), the first Member State in which the asylum seeker applied for asylum is responsible (Regulation 604/2013: Article 3(2) and Article 15).

If the Member State that´s determining the responsibility, finds that the Member State that would be responsible due to this Regulation brings a risk of "inhuman or degrading treatment" (Ibid.: Article 3(2)), the Member State determining is responsible.

If the asylum seeker has a family member[2] who is a beneficiary of international protection or is an applicant for international protection in a Member State, and the asylum seeker expressed his desire to move to that Member State in writing, that Member State is responsible (Ibid.: Article 9 and 10).

If several family members apply for asylum in the same Member State but the criteria of the Dublin Regulation would lead to their separation, the Member State that is responsible for the largest number of them, is responsible (Ibid.: Article 11).

If the asylum seeker has a valid residence document or visa, the Member State which issued the residence document or visa is responsible (Ibid.: Article 12).

Just as in the regular asylum process, an asylum seeker has the "right to an effective remedy in respect of decisions regarding transfer to the Member State responsible" (Ibid.: (19)).

Brekke and Brochmann[3] (2015) found that most asylum seekers know about the Dublin Regulation and about their little changes to get their asylum application examined in the Member State of their desire. Still, a lot of asylum seekers try to apply in the Member State of their desire, even multiple times. The asylum seekers interviewed by Brekke and Brochmann "idealized the lives of asylum seekers and refugees in the countries further north" (2015:153–54). They have heard about the Dublin Regulation and the significance of fingerprints and

[2] The definition of family member is set out in Article 2 (g) of Regulation (EU) 604/ 2013.

[3] Brekke and Brochmann (2015) did research about secondary movement of Eritrean asylum seekers from Italy to Norway.

therefore know that secondary movement does not have any legal consequences, apart from a possible forced return to the Member State where they´ve fist applied for asylum (Ibid.).

1.2. Application of the CEAS in the Member States

Since the beginning of the CEAS, tension existed between the ambitions of the EU to harmonize supranational asylum regulations and the still existing national differences in asylum procedure, integration possibilities, welfare policies and labour market opportunities in the Member States (Brekke and Brochmann 2015). Therefore, these chapters will describe the application of the CEAS in three Member States as an example. Because the researchers in this study are working with NGO's in Germany, Austria and Italy, these three Member States were selected for study.[4]

1.2.1. Germany´s application of the CEAS

In Germany, asylum procedures vary from one federal state to another. The two most striking criticisms of German asylum procedures found in literature are the lack of identification of vulnerable persons and the lack of comprehensible information on the asylum procedure. The following section presents these two points of criticism and some relevant figures on Nigerian asylum seekers in Germany as well as outgoing and incoming Dublin applications to Germany.

Overall there is no systematic identification of vulnerable persons described in Directive 2013/32/EU (recital 29), except of unaccompanied minors. Federal states have the opportunity to inform the Federal Office for Migration and Refugees (*BAMF*) about the vulnerability of an asylum seeker, but they are not obliged to do so. Since the medical examination undergone by every asylum seeker does focus on communicable diseases, a screening for potential vulnerabilities is not included. In this light, the asylum interview is probably the point in the asylum process at which the needs of vulnerable people are most likely to be taken into account. Some of the employees at the BAMF are trained to become so-called *special officers* (*Sonderbeauftragte*). These specialized employees completed an extra training module on how to interview vulnerable persons. In 2017, there were 79 special officers for interviewing victims of human trafficking. The BAMF does collect statistics about the number of unaccompanied minors, but there are no statistics exist about the number of other vulnerable persons, such as victims of human trafficking. (AIDA, Kalkmann 2017)

German NGOs and lawyers also criticize the German application in terms of the right of information, as mentioned in Directive 2013/32/EU (Article 12(1a)). Asylum seekers receive a set of leaflets form the BAMF at the very beginning of their stay in Germany. These leaflets are available in different languages. The interview should provide space to clarify understanding problems and to ask questions about the leaflets. There is no official solution for illiterates who are not able to read the leaflets. Most Nigerian SOT´s are illiterates. The leaflets as well as the instructions in the interview are hard to understand for a lot of asylum seekers. In some accommodation centres, there are additional bulletin boards where various information is

[4] The information presented in this Chapter mainly comes from the Asylum Information Database (AIDA), a database managed by the European Council on Refugees and Exiles (ECRE).

provided, such as the opening hours of NGOs and other institutions and authorities. (AIDA, Kalkmann 2017)

In 2017, 8,261 Nigeran male and female asylum seekers applied for asylum in Germany. 75,8% of them got rejected, 9,5% got Refugee Status, 1,7% got Subsidiary Protection Status and 13% got Humanitarian Protection Status. (AIDA, Kalkmann 2017)

Due to AIDA, Germany is the top sender and top recipient of Dublin requests. However, no data are available for France and Italy, although both are probably among the top recipients. In the first half of 2018, Germany sent 30,305 outgoing Dublin requests to other countries. Interestingly, only 4,922 outgoing transferred actually happened in the same period of time. Italy was clearly the country receiving most of these outgoing requests from Germany. 10,748 outgoing requests were sent from Germany to Italy, 1,686 transferred took place. Germany also receive quite some incoming Dublin requests from other countries. 12,313 Dublin requests were sent to Germany in the first half of 2018, 3,470 transfers happened in the same period of time. (AIDA 2018)

1.2.2. Austria´s application of the CEAS

As in the case of Germany, there is no effective system in place to systematically identify vulnerable asylum seekers in Austria. Also, there is no centralised formal identification of victims of trafficking as such, defined as a decision by a competent authority which is binding for other authorities. (AIDA, Knapp 2019) In practice, if an Austrian official, such as a caseworker of the Federal Office for Immigration and Asylum (BFA), assumes that a person may be a victim of trafficking, s/he is requested to contact the criminal police office of the respective federal province. If the specialised unit of the police confirms the suspicion, criminal investigations are initiated, the victim and a specialised victim protection NGO are contacted and informed, a reflection period may be granted, and certain victims' rights in criminal proceedings are provided. In the identification process, a central role is therefore given to the Federal Criminal Intelligence Service. Most victims of trafficking in the asylum procedure are women from Nigeria. (Ibid.)

All asylum seekers must have one personal interview. If an asylum seeker bases the fear of persecution on infringements of the right to sexual self-determination, they should be interviewed by an official of the same sex, unless they request otherwise. The authorities must prove that they have informed the asylum seeker of such possibility. In the procedure before the Federal Administrative Court (BVwG), this rule only applies if asylum seekers have already claimed an infringement of their right to sexual self-determination before the BFA or in the written appeal. (AIDA, Knapp 2019) Each division of the BVwG has a different field of competence regarding the nationalities of asylum seekers. Asylum procedures for people from any African country, except for East Africa, are held at the BVwG division in Innsbruck in the province of Tyrol. Therefore, all Nigerian asylum procedures are held here as well. Since female refugees have the right to a female judge if their sexual self-determination has been violated (see above), it is usually one of the five female judges of the Federal Administrative Court in Innsbruck who is in charge of a Nigerian woman's case. Thanks to their interpretation of the Refugee Convention, human trafficking has become a recognized ground for granting asylum to Nigerian women. (Sander 2018)

Interpreters are provided by the BFA and are available for most languages, but interviews may also be conducted in a language the asylum seeker is deemed to understand sufficiently. Asylum seekers from African countries, e.g. Nigeria, are often interviewed in English or French, languages they are supposed to understand. Asylum seekers are asked at the beginning of the interview if they understand the interpreter. There are no standards for the qualification of interpreters in asylum procedures. Interpretation is often not done by accredited interpreters, and usually persons with the requested language knowledge are contracted on a case-by-case basis. A provision like the abovementioned is lacking regarding interpreters of the same sex, and in practice, this is not consistently applied. (AIDA, Knapp 2019)

In 2017, 1,382 Nigeran male and female asylum seekers applied for asylum in Austria. 92.3% of them got rejected, 0.9% got Refugee Status, 1.5% got Subsidiary Protection Status and 5.3% got Humanitarian Protection Status. (AIDA, Knapp 2018)

10,490 outgoing Dublin requests were issued and 3,760 transfers were implemented in 2017 in Austria, mostly to Italy, Germany and Bulgaria. There were 5,521 incoming requests, mostly from Germany, France and Greece. In 2018, Austria issued only 5,191 outgoing requests and implemented 2,285 transfers. The main countries receiving transfers in 2018 were Italy, Germany and France. There were 6,289 incoming requests and 996 actual transfers. In 2018, the number of Dublin procedures has dropped significantly, as only 2,597 final rejections have been issued on the basis of Article 5 AsylG – Since Austria has not passed any national legislation to incorporate the Dublin III Regulation, as it is directly applicable, Article 5 ASylG making reference to the Dublin III Regulation is used. (AIDA, Knapp 2019)

1.2.3. Italy´s application of the CEAS

In Italy Legislative Decree N. 18/2014 transposed into national law Directive 2011/95/EU on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted (recast) (GRETA (Group of Experts on Action against Trafficking in Human Beings) 2017).

Legislative Decree No. 142/2015 transposed Directive 2013/33/EU on minimum standards for the reception of asylum applicants and Directive 2013/32/EU on common procedures for the recognition and revocation of the status of international protection.

The reception system in Italy is based on several types of facilities: government reception centres, temporary facilities and the SPRAR network, which due to the different functions have also have different organizational models, cost breakdown and hosting times (Ministero Dell´Interno (Study Group on the reception system) 2015).

Legislative Decree No. 142/2015 has added victims of human trafficking in the list of "vulnerable persons" previously contained in Article 8 of Legislative Decree No. 140/2005 on "Implementation of Directive 2009/3/EC on minimum standards for the reception of the asylum seekers in Member States". The examination of applications for international protection by vulnerable persons is to be given priority by the Territorial Commissions.

Where during the asylum examination procedure, well-founded reasons arise to believe the applicant has been a victim of trafficking, the Commissions may suspend the procedure and inform the *Questura* (Police Central Station), the Prosecutor's office or the organisations

providing assistance to victims of human trafficking (Article 32(3-bis) LD 25/2008, as implementation of Directive 2005/85/EC).

Law Decree 142/2015, as application of the Directive 2013/33/EU, clarifies that trafficked asylum seekers shall be channelled into a special programme of social assistance and integration (Article 17(2) LD 142/2015 in conjunction with Article 18(3-bis) LD 286/1998 and LD 24/2014).

Legislative Decree 24/2014, adopted in March 2014 for the transposition of the Anti-Trafficking Directive 2011/36/EU, foresees that a referral mechanism should be put in place in order to coordinate the two protection mechanisms established for victims of trafficking, namely the protection systems for asylum seekers and beneficiaries of international protection, coordinated at a central level, and the protection system for victims of trafficking established at a territorial level (Article 13 L 228/2003; Article 18 Consolidated Law on Immigration LD 286/1998).

Giving effect to the legal provision, in 2017, the National Commission (CNDA) and UNHCR published detailed guidelines for the Local Commissions on the identification of victims of trafficking among applicants for international protection and the referral mechanism (Commissione Nazionale per il Diritto di asilo e dall'Alto commissariato delle Nazioni Unite per i Rifugiati - UNHCR 2017) .

As noted by the UNHCR as well as the Group of Experts on Action against Trafficking in Human Beings, the amount of Nigerian women and girls arriving in Italy and seeking international protection has grown over the last number of years. In particular, the number of women arriving from Nigeria has nearly doubled (+95.5 per cent): from 5,633 in 2015 to 11,009 in 2016. (GRETA (Group of Experts on Action against Trafficking in Human Beings) 2017).

In 2017, 25,964 Nigeran male and female asylum seekers applied for asylum in Italy. 72,5% of them got rejected, 4,9% got Refugee Status, 1,8% got Subsidiary Protection Status and 20,8% got Humanitarian Protection Status (AIDA, De Donato 2017).

According to Eurostat statistics for 2016, Italy received 64,844 incoming requests, far ahead of any other country. The number of incoming transfers implemented in 2016 was 4,061. The Italian authorities tend to use circumstantial evidence for the family unity purposes such as photos, reports issued by the caseworkers, UNHCR's opinion on application of the Dublin Implementing Regulation 118/2014, and any relevant information and declarations provided by the concerned persons and family members (AIDA, De Donato 2017).

The Dublin Unit does not provide data on the application of the discretionary clauses under Article 17 of the Dublin III Regulation. No data are available on the use of the discretionary clauses. However, according to civil society organisations experience, it seems that the "sovereignty clause" is more frequently applied than the "humanitarian clause", in particular on vulnerability and health grounds (AIDA, De Donato 2017).

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