Trans Healthcare in Asylum Reception Conditions

article, asylum

Trans people in asylum procedures might have specific healthcare needs. States have to ensure during the asylum procedure that basic healthcare needs of an asylum seeker are met. Trans specific healthcare needs such as expert psycho-social support, hormone replacement treatment, or post-surgical care are not luxury but constitute basic healthcare needs.

Read below what such care might entail, why it is necessary and how international human rights law requires its provision.

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TGEU advocates for an EU Asylum system that requires EU member states explicitly to provide for trans specific healthcare.

Asylum seekers' need for trans-specific healthcare: Trans-specific healthcare in Reception Conditions

What is trans-specific healthcare?

Trans people have particular healthcare needs related to their medical transition from the sex they were assigned at birth to the gender they identify as – this is referred to as trans-specific healthcare.

Trans people in Reception Conditions may therefore often have basic trans-specifc healthcare needs that need to be met, such as hormone replacement therapy and psycho-social services. Access to such basic healthcare should be covered as part of the obligations of member states to provide basic material conditions for asylum seekers, including meeting their immediate health needs. In some cases asylum seekers may also arrive experiencing complications relating to gender reassignment surgery which necessitate urgent medical care.

Decades of robust scientific research and expert professional standards of care show that gender reassignment is the only effective treatment for those trans people who need to medically transition. Trans-specific healthcare is therefore a necessary medical treatment, and not elective or cosmetic.[1]

1. Psycho-social support:

   Individual Insight:

   "In the first days I was full of hope. This will be the country where I will find my full transgender rights. […] My personal dream was to start my physical transition from male to female. My dreams had to wait because […] the environment in the LAGeSo [Berlin's office for health and social affairs] is consisting of endlessly long waiting hours, and the radical, the erratic chaos did throw my personal dream of realizing myself five years behind. […] I felt extremely alone. My dreams were so far away and my transition to be a woman was going backwards instead of forwards"

Maguy Merheby, trans woman refugee from Lebanon in Germany

Trans refugees should as a minimum have access to trained counselling and peer-support services which are vital in order to:

- assist the trans person in dealing with (past and potentially on-going) traumatic experiences of transphobia,
- break up the isolation likely to be felt by trans people in asylum settings and establish a supportive and trusting relationship,
- Stabilise psychological wellbeing
- detect and prevent suicidal ideation and substance-dependence early-on,
- assist in the development of the individual's trans identity and discuss any transition-related plans with the aim to prevent self-medication.

What psycho-social support is not:

Psycho-social support services should not be used to establish a psychiatric diagnosis of gender dysphoria/ transsexualism or similar as a means of supporting the asylum claim. Such diagnostic procedures are often subjective, built on culturally specific notions of gender, lengthy and arbitrary, and not in line with international developments. The World Health Organisation will stop considering being transgender a mental health condition in the International Classification of Diseases from Mid 2018 meaning a psychiatric assessment will be an inappropriate way to establish the diagnosis.[2]

Psychiatric diagnostic assessments are not focused on the individual's needs and well-being and are thus likely to further alienate a refugee, putting their mental health at risk..

1. Hormone Replacement Treatment (HRT):
2. HRT facilitates physical changes that help to bring the bodily appearance closer to the person's gender identity. In order for the effects to be maintained HRT has to be administered lifelong. Research shows clearly that "feminising/masculinising hormone therapy – the administration of exogenous endocrine agents to induce feminising or masculinising changes – is a medically necessary intervention for many transsexual, transgender and gender-nonconforming individuals."[3]

Many trans refugees are likely to have already started HRT before arriving in Europe, either under medical supervision or by self-medicating using hormones purchased through the black market. Hormone products obtained without medical supervision are often of low quality, and can carry serious health risks. This is often exacerbated by lack of medical supervision, including monitorig of various indicators such as liver function through regular blood tests and individuals may therefore arrive in Europe with related health issues.

Interrupting hormone intake can have serious consequences and is by definition a decision to be taken by the individual concerned, on medical advice. Immediate physical consequences may include joint and muscle aches, tiredness and irritability, and increased sweating and flushes. In the long term, the person may develop osteoporosis, and will have increased risk of type 2 diabetes and cardiovascular disease. Unwanted withdrawal of medically necessary hormone replacement treatment will also have serious psychological consequences, such as an acute reduction in well-being, depression, anxiety, and possibly self-harm and suicidality.[4] This is particularly so given that without having had gender reassignment surgery, trans people will see the reversal of many of the physical changes brought about by HRT. Gender ambiguity further accelerates the risk of trans asylum seekers to experience harassment and violence.

The continuation of HRT and all necessary monitoring is therefore essential to ensure the health and wellbeing of trans asylum seekers and mitigate against the risks of self-medication.

Individual Insight:

"Hormones are also illegal before changing your documents. So we need to buy them from the black market. That is tough because you do not know if it is the original one. And it is getting more expensive, but we cannot say no, because there is no way to find another one" Iranian trans man refugee in Hungary

- Post-surgical care:

In some cases, trans people might reach Europe needing immediate medical attention to deal with complications related to previously obtained gender reassignment surgery, such as incontinence, bleedings, inflammation, scarring, urethral stenosis etc. This treatment should be provided in the same way as it would be provided in relation to complications relating to any other surgical procedures.

Why is TSHC important for asylum seekers?

The majority of trans refugees TGEU has been in contact with identified access to trans-specific healthcare as a key concern. Access to medical treatment already saves lives in the general (non-refugee) trans population: "Suicidal ideation and actual attempts reduced after transition, with 63% thinking about or attempting suicide more before they transitioned and only 3% thinking about or attempting suicide more post-transition."[5] The study also shows that lack of access "has a direct [negative] impact upon depression."[6] Trans people in asylum settings are exposed to an elevated level of stress, and are at significant risk of anti-trans bias and violence. This makes accessing trans-specific healthcare even more important in order to protect their mental health and wellbeing.

Many trans refugees see in particular access to hormone replacement as a minimum means to manifest their gender identity in a dignified way. For many, whether they have taken hormones previously or not, HRT is so important that they might risk their health through self-medication or even go back to an unsafe and potentially lethal situation in their country of origin just to have access to hormones.

International obligations of states to provide for TSHC

The Committee of Ministers of the Council of Europe emphasized in its Recommendation 2010(05) that States should facilitate access to TSHC: "Member states should take appropriate measures to ensure that transgender persons have effective access to appropriate gender reassignment services, including psychological, endocrinological and surgical expertise in the field of transgender health care, without being subject to unreasonable requirements; no person should be subjected to gender reassignment procedures without his or her consent."[7] The Parliamentary Assembly emphasized that member states should "ensure that [gender reassignment procedures] are reimbursed by public health insurance schemes."[8] According to the Yogyakarta Principles, States need to "facilitate access by those seeking body modifications related to gender reassignment to competent, non-discriminatory treatment, care and support."[9]

Common misunderstandings

- *Trans asylum seekers come to EU, immediately receive free gender reassignment surgery.*

Providing basic TSHC (hormones and mental health support) are health services distinct from gender reassignment surgery. Gender reassignment surgery would usually only be accessed after an asylum procedure is concluded, and according to the national available procedures. The only departure from this would be if the asylum process is expected to last several years and the person is in a safe and stable situation.

- *Access to trans-specific healthcare in asylum procedures pre-empts the asylum decision of a trans person.*

Providing basic TSHC is part of the obligation of member states to cater to the necessary medical needs of a person. It is not related to a claim for international protection because of a fear for persecution on grounds in the country of origin.

- *Provision of TSHC in asylum settings would also lead to the obligation to provide for it in settings of detention.*

Member states have an obligation to address the healthcare needs of trans people in detention, independently from any obligations arising from EU asylum law. The Committee of Ministers emphasized in its Recommendation 2010(05) that "measures should be taken so as to adequately protect and respect the gender identity of transgender persons" in prison as well as to facilitate access to TSHC in general: "Member states should take appropriate measures to ensure that transgender persons have effective access to appropriate gender reassignment services, including psychological, endocrinological and surgical expertise in the field of transgender health care, without being subject to unreasonable requirements; no person should be subjected to gender reassignment procedures without his or her consent."[10]The UN Special Rapporteur on Torture emphasized the importance of adopting special measures to address the particular health needs of persons deprived of liberty belonging to vulnerable and high-risk groups, including transgender people.[11] Referring to the needs of trans people in prison, the Yogyakarta Principles explicitly stated that States shall "provide adequate access to medical care and counseling appropriate to the needs of those in custody, recognizing any particular needs of persons on the basis of their sexual orientation or gender identity, including with regard to … therapy and access to hormonal or other therapy as well as to gender-reassignment treatments where desired."[12] The United Nations Office on Drugs and Crime recommended that relevant stakeholders "meet the special health care needs of LGBT prisoners, including treatment available in the community for gender dysphoria, such as hormone therapy, as well as sex reassignment surgery, if available in the community."[13]

1. WPATH SoC-7, pp. 33, 58. ??
2. Thomas R. et al, Ensuring an inclusive global health agenda for transgender people**,** *Bulletin of the World Health Organization* 2017; 95(2):154-156. ??
3. WPATH Standards of Care Version 7, 2011, p 33. ??
4. Hembree WC, Cohen-Kettenis P, Delemarre-van de Waal H, Gooren LJ, Meyer WJ, Spack NP, Tangpricha V, Montori VM, HA D de W, Meyer III WJ. (2009). Endocrine treatment of transsexual persons: an Endocrine Society clinical practice guideline. *Journal of Clinical Endocrinology & Metabolism* 94:3132–54. Gooren, L. (2011). Care of transsexual persons. *New England Journal of Medicine*, 364, 1251-1257. ??
5. *Idem*, p. 59. ??
6. *Idem*, p. 52. ??
7. *Recommendation CM/Rec(2010)5 of the Committee of Ministers to member states on measures to combat discrimination on grounds of sexual orientation or gender identity*, Appendix §35. ??
8. Parliamentary Assembly's *Recommendation on Discrimination against transgender people in Europe* – § 6.3.1 ??
9. Principle 17, §g. ??
10. *Recommendation CM/Rec(2010)5 of the Committee of Ministers to member states on measures to combat discrimination on grounds of sexual orientation or gender identity*, Appendix §35. ??
11. *Interim report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment*, A/68/295, 9 August 2013, §55. ??
12. Principle 9, b. ??
13. United Nations Office on Drugs and Crime, *Handbook on prisoners with special needs*, 2009, p. 121, available here. The Handbook provides "an overview of the main needs [of prisoners with special needs including LGBT inmates] and possible responses in line with international standards", and is intended for

the use by actors involved in the criminal justice system including policymakers and prison managers. ??