**Please cite as:** EUAA, '5.3. Applicants with disabilities and special health needs' in *Asylum Report 2022*, May 2022.

# 5.3. Applicants with disabilities and special health needs

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icon presenting applicants with disabilities and special health needs

The new EU Strategy for the Rights of Persons with Disabilities was adopted for 2021-2030, and the European Commission called on Member States to work closely with the EUAA and facilitate the training of protection officers and interpreters who are in contact with applicants with special needs, including persons with disabilities.1362 The EUAA published the findings of a consultation process with applicants for international protection on mental health. Recommendations were presented on improving reception conditions and conditions during the personal interview.1363

Several times throughout 2021, courts assessed the impact of medical conditions and health issues in the context of Dublin transfers *(see Section 4.2)* and returns *(see Section 4.15)*, for example in Greece (see here), Iceland (see here and here), Italy (see here), the Netherlands (see here and here) and Switzerland (see here, here and here). The Court of the Hague referred questions for a preliminary ruling to the CJEU on the availability of medical treatment and the possibility to return a former applicant *(see Section 4.15)*.

While the Swedish Migration Agency updated its legal position on the medical examination of applicants invoking physical or psychological harm to support their asylum claim,1364 the UN Committee on the Rights of Persons with Disabilities found in a particular case that the Swedish authorities failed to dispel any doubts about the risks an applicant would face if returned to Afghanistan, when he was diagnosed with and treated for PTSD which was assessed to be life-threatening due to the risk of suicide.

A Belgian project financed by Fedasil established a manual for counsellors working with applicants with hearing impairments.1365 Meanwhile, the Icelandic Directorate of Immigration has been developing new standard operating procedures for applicants with disabilities and mental health issues.

The Irish Centre for Human Rights and the Centre for Disability Law and Policy of the National University of Ireland in Galway drafted a joint submission to the Minister for Children, Equality, Disability, Integration and Youth and to the minister responsible for disability. It highlighted that a strategic approach to managing applicants with disabilities was applied in the development and implementation of the vulnerability assessment tool that was piloted throughout 2021 *(see*

*Section 5.1*).1366

Among initiatives related to reception, the Greek Ministry for Migration and Asylum highlighted that the new CCACs on the islands *(see Section 4.7)* were all wheelchair accessible. In Italy, the number of reception places for applicants with a chronic illness or mental health issues was further increased by 170 places in 2021.1367 The French government aimed to make 2% of reception places accessible to persons with reduced mobility.1368 In the Netherlands, the COA prepared new, simplified information material for illiterate persons and persons who cannot read and write in the Latin alphabet. For example, a new welcome letter was made for new residents *(see Section 4.9)*.1369

Deliberating on health-related issues as a ground for asylum, the Belgian CALL granted refugee status to an HIV-seropositive woman from *Côte d'Ivoire*, taking into account her particular vulnerable situation due to her illness and for being an orphan with physical signs of sexual abuse and suffering from major psychological issues. The regional court in Bruno, Czechia referred a case back for further assessment when an application was made on behalf of a child due to his health status, coming from a country designated as safe country of origin. The court observed that the application should not have been rejected as manifestly unfounded, without considering the health grounds.

In Germany, health services for asylum applicants are covered by state authorities for the first 18 months of their stay. After this period, the statutory health insurance becomes responsible, which only covers the cost of a treatment if it is undertaken by a licensed practitioner. Additional practitioners can be authorised by a special committee according to Ärzte-ZV, Section 31. The judgment B 6 KA 16/20 R by the Federal Social Court clarified that therapists can be authorised according to Ärzte-ZV, Section 31(1) and (2), even if they had not been treating asylum applicants within the first 18 months of their stay in Germany. According to the court, the intention of the cited clause was to combat the general lack of qualified psychotherapists to treat traumatised asylum applicants, not just to avoid the interruption of a treatment started before the 18-month cut. Consequently, the psychotherapy must then be covered by the statutory health insurance scheme.1370

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