Regional meeting on rehabilitation for victims of torture for countries in the OSCE region

Copenhagen, Denmark

23-24 June 2016

Background

1. As part of its *Strategy for Implementation and Ratification 2016-2017*, the Convention against Torture Initiative (CTI) held a regional seminar for States in the OSCE region to share experiences and practices on implementation of torture victims’ right to rehabilitation. The event, which was hosted by the Government of Denmark, was held in Copenhagen on 23-24 June 2016 and opened by the Danish Minister of Foreign Affairs, Mr Kristian Jensen. It was organised in partnership with the German Chairmanship of the OSCE and DIGNITY – Danish Institute Against Torture.

2. More than 60 participants from across the OSCE region attended, drawn from departments of justice, home affairs, health, integration and foreign affairs, national human rights institutions, civil society, non-governmental organisations and academia. 22 OSCE participating States were represented: Armenia, Canada, Czech Republic, Denmark, Finland, Georgia, Germany, Greece, Hungary, Italy, Lithuania, Luxembourg, Moldova, the Netherlands, Poland, Portugal, Serbia, Switzerland, Turkey, Ukraine, UK and the United States of America (USA). The meeting also heard country experiences from Bosnia and Herzegovina and Norway by non-State rehabilitation practitioners. CTI core group members Chile, Indonesia and Morocco were also represented at the meeting.

3. In addition to State representation, the event featured inputs from the UN Special Rapporteur on Torture (via videolink), the Chair of the UN Committee against Torture (CAT), the UN Voluntary Fund for Victims of Torture (UNVFVT) and the OSCE Office for Democratic Institutions and Human Rights (ODIHR). The event also benefitted from the participation of a number of non-governmental experts and experienced rehabilitation practitioners from across the OSCE region.

4. The seminar was conducted under the Chatham House Rule to encourage and foster open and frank dialogue. It was informed by a CTI-DIGNITY discussion paper titled “Good Practices and Current Challenges in the Rehabilitation of Torture Survivors”. The discussion paper...
provides an interdisciplinary perspective on key issues and developments related to implementation of torture victims’ right to rehabilitation. It outlines the key components of rehabilitation and presents a number of models and approaches to delivery and promotes a number of promising State practices. Finally, the participants heard two personal testimonies from Mr. Vincent Cochetel, a torture survivor and Director of the UNHCR’s Regional Bureau for Europe, via a CTI short film titled “Rehabilitation for Victims of Torture: Restoring their Humanity”\(^1\) and Mr. Juan Mendez, UN Rapporteur on Torture and torture survivor, via a United Nations Television documentary.\(^2\)

**Objectives**

5. Building on discussions held at a CTI-organised side event during the 2015 OSCE Human Dimension Implementation Meeting, the objective of the meeting was to assist Governments in the OSCE region in fulfilling the requirements of Article 14 of the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (UNCAT) concerning rehabilitation for victims, through:

- Spurring a discussion among OSCE participating States on avenues to improve access to redress and provide rehabilitation to those subjected to torture and ill-treatment or punishment;
- Discussing the right to redress, with a particular focus on the practical realisation of the right to rehabilitation; and
- Promoting dialogue and cooperation among OSCE participating States in order to share experiences and good practices regarding rehabilitation.

**International and regional frameworks**

6. The right to reparation for victims of torture and ill-treatment is firmly grounded in international law. The UNCAT enshrines the right to rehabilitation as a form of reparation in Article 14:

   > Each State Party shall ensure in its legal system that the victim of an act of torture obtains redress and has an enforceable right to fair and adequate compensation, including the means for as full rehabilitation as possible. In the event of the death of the victim as a result of an act of torture, his dependants shall be entitled to compensation [...].

7. While Article 14 speaks of ‘redress’, the contemporary terminology refers to a *procedural* right to an effective remedy and a *substantive* right to adequate reparation.\(^3\) Rehabilitation is one of the five types of reparation; the others being restitution,\(^4\) compensation,\(^5\) and satisfaction\(^6\).

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\(^3\) As laid down in the UN Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and International Humanitarian Law, UNGA resolution 60/147 of 16 December 2005 (‘UN Basic Principles and Guidelines on the Right to a Remedy and Reparation’).

\(^4\) Restitution refers to the restoration of the victim to the original situation before the violation (principle 19).

\(^5\) Compensation refers to measures provided for any economically assessable damage (principle 20).

\(^6\) Satisfaction includes a broad range of measures, from those aimed at cessation of violations to truth seeking, etc. (principle 22).
and guarantees of non-repetition. This is also reflected in General Comment no. 3 of the UN Committee against Torture concerning the implementation of Article 14 by States parties. The right to redress and rehabilitation has been elaborated in various UN resolutions, guidelines and principles.

8. The CAT’s General Comment no. 3 defines the right to rehabilitation as “the restoration of function or the acquisition of new skills required as a result of the changed circumstances of a victim arising from torture or ill-treatment. It seeks to enable the maximum possible self-sufficiency and function for the individual concerned, and may involve adjustments to the person’s physical and social environment. Rehabilitation for victims should aim to restore, as far as possible, their independence; physical, mental, social and vocational ability; and full inclusion and participation in society”. It further explains that rehabilitation should be holistic and include medical and psychological care as well as legal and social services. Finally, it establishes that rehabilitation services must be available, accessible and appropriate.

9. At the European level, the right to rehabilitation is generally subsumed under the right to remedy and reparation. For victims of torture who are asylum seekers, the EU Reception Conditions Directive provides that Member States shall carry out an assessment of their vulnerability within a reasonable time and “shall ensure that persons who have been subjected to torture, rape or other serious acts of violence receive the necessary treatment for the damage caused by such acts, in particular access to appropriate medical and psychological treatment or care” and that staff working with victims receive appropriate training. Likewise, in applying the EU Asylum Procedures Directive, States are to provide torture victims with “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”, while staff are to be trained on how to do so.

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7 Guarantees of non-repetition comprise broad structural measures of a policy nature, e.g. institutional reforms (principle 23).
8 CAT, General Comment no. 3: Implementation of Article 14 by the States parties, CAT/C/GC/3, 19 November 2012.
10 European Convention of Human Rights, Articles 3, 13 and 41; Council of Europe Convention on the Compensation of Victims of Violent Crime, Article 4; EU Charter of Fundamental Rights, Articles 4 and 47.
Rehabilitation in the OSCE region

10. During the meeting it was noted that today, a significant number of torture victims live in the OSCE region. Available estimates indicate that approximately 400,000 victims live in the EU\(^\text{13}\) and up to 1.3 million in the USA.\(^\text{14}\) Many victims are nationals of OSCE countries, while other victims have sought refuge and protection from torture experienced in third countries.

11. Rehabilitation practitioners explained that the impact of torture can be physical, psychological, social, functional and existential. Torture can negatively impact the interpersonal relationships of survivors and rupture social bonds, alienating survivors from others, increasing their isolation, despair and ill-health, which can lead to chronic ill-health, poor social functioning, inability to work or pursue any educational or vocational paths. This can leave the survivor isolated, alienated, suspended and vulnerable to marginalisation, discrimination, exploitation and other harm. The effects may be family breakdown, and for children, there may be enduring and severe intergenerational problems which can affect their own adult relationships, families and future social functioning.

12. Practitioners further explained that rehabilitation can help torture survivors rebuild their lives, their interpersonal relationships and social bonds through a combination of services including medical, psychological, legal and social support. It is a process that recognises the survivors’ agency and empowerment and takes into account their individual needs as well as the cultural, social and political background and environment, in which they live. Rehabilitation can help survivors resume their family, social and work roles and thus facilitate social inclusion and integration and minimise the long-term effects of torture for individuals, their families and societies.

13. The seminar identified a number of key opportunities in the OSCE region. Across the region, there are a number of rehabilitation services and practitioners with extensive expertise in supporting torture victims, and relevant government services, such as social, legal and health support, are generally well developed. There is also a growing body of knowledge about identification of victims and their needs and what are the most effective rehabilitation methodologies.

14. At the same time, there are also challenges in the OSCE region. In some countries, the lack of acknowledgement of torture has denied rehabilitation to those in need. In others, States rely entirely on the private or NGO sector to deliver, at a time without any government funding or only partial funding. In countries where the State does not fully fund rehabilitation services, it was observed that there are often challenges in relation to sustainable funding. In countries where rehabilitation services are State funded, some noted challenges included ensuring independence in service delivery and accountability for rehabilitation services towards victims. These are key aspects of providing quality support to victims.


15. At present, Europe is experiencing a high volume of asylum seekers and refugees and statistically many of them are torture victims in need of rehabilitation. This has presented a specific challenge for many European countries in relation to how to identify vulnerabilities and specifically torture trauma within larger populations who may also have experienced harmful events and/or who are on the move. Similarly, States have experienced challenges in scaling up availability of rehabilitation services without compromising on quality.

16. In the OSCE region, there is broad political support for torture victims’ right to rehabilitation and emerging evidence that providing quality rehabilitation benefits not only victims and their families but also broader society. Many States have significant experience in implementing rehabilitation programmes for other groups such as victims of domestic violence or human trafficking. The meeting encouraged States to draw on these experiences around the region when setting up or seeking to improve existing torture rehabilitation services.

Implementation in practice

17. Considering the current situation in the OSCE region, the discussion on implementation practices had a dual focus on how to ensure rehabilitation for nationals of OSCE countries and for the large number of victims from third countries who are in OSCE countries as asylum seekers or refugees. In this context, many States reflected on their experiences with providing rehabilitation in situations of mass influx. Others mainly focused on their efforts to support their own nationals who have been tortured.

A. Models and options

18. Among the States participating, some have provisions in national law that provide some form of rehabilitation for victims of torture and ill-treatment, or mechanisms for funding it (Bosnia and Herzegovina, Denmark, Finland and USA). Other States noted that they have legislation providing a right to rehabilitation for victims of crime in general (e.g. Czech Republic, Poland and Switzerland), which is accessible to torture victims albeit with limits, and programmes and policies providing rehabilitation to victims of human trafficking and domestic violence (e.g. Bosnia and Herzegovina, Turkey). One State also mentioned a national action plan on female genital mutilation, which could be studied by others (Italy). One State has introduced a specific reparation for torture and ill-treatment where compensation can cover the cost of rehabilitative treatment (Armenia), another has a legislative funding framework in place that allows for the annual appropriation of funds for rehabilitation of persons tortured in third countries (USA), and two States mentioned that they have included rehabilitation in their national human rights action plans (Armenia and Georgia).

19. Many States implement or support rehabilitation services through their national health and social systems and budgets. This either happens through direct provision of rehabilitation services by national health systems (Finland), integration of non-governmental services into national health systems (Denmark), financing of non-governmental rehabilitation services (Canada and USA), or more ad-hoc financing of rehabilitation initiatives (Germany and Georgia). Several States explained how non-governmental rehabilitation centres are central to their efforts to ensure that all victims of torture and ill-treatment enjoy the right to rehabilitation (Canada, Denmark, Finland, Georgia, Germany, Poland, Spain, Switzerland, Ukraine and USA). Participants identified a need to examine how the relationship between
the State and non-governmental organisations can be developed in a way that guarantees victims services that are independent, accountable and sustainable.

20. Some States observed that they currently focus on identifying possible victims of torture and ill-treatment within the State structure and subsequently refer them to services provided by independently funded non-governmental organisations (Spain and Ukraine). One reason for this is the fact that non-governmental services are seen as having a higher degree of specialisation and expertise in providing this specific care than the national health system.

21. The two victim testimonies that informed the meeting both reflected extensively on how engagement with and support from other victims had been an important element in their own personal rehabilitation process. Victim-to-victim support is currently also being used with refugees in Germany. Similarly, the experience from Bosnia and Herzegovina showed the importance and empowering effect of victims actively participating in commemorations of the UN International Day in Support of Victims of Torture on 26 June.

22. One State presented a new system whereby local managing entities establish and operate reception support for asylum seekers and refugees under common standards and central coordination. Within this reception framework, State and non-State service providers offer a wide range of services, including physical and mental health support, but also support with housing, social and labour market integration, and legal and educational support (SPRAR system in Italy). This comprehensive approach was perceived as well-constructed and a useful example for other States to reflect on how to best address the multiple and interrelated needs of refugees and asylum seekers.

23. Many States have elaborate systems for support and rehabilitation to victims of crime, human trafficking and domestic violence. One State presented a programme, in which it funds 26 NGOs to operate a network of specialised centres providing holistic support to crime victims in all regions of the country (Poland). Participants reflected on whether these services, with some modifications, may be able to incorporate rehabilitation for torture victims, or whether lessons could be learned from these systems. Some suggested that it could be useful to build on such existing structures, while others considered that non-torture-specific services may not have the necessary expertise or structural set-up to deal with the complexity of torture trauma.

24. The need for training and capacity was also acknowledged. In this regard, it was noted that basic human rights training for all service providers was important, for example, to ensure compliance and increased awareness about how to identify torture trauma. One State provided an example of provision of human rights for the Security Forces including the National Republican Guard, the Public Security Police and the Aliens and Borders Service (Portugal).

B. Making services available

25. Rehabilitation services need to be available in order for the right to rehabilitation to be realised. This means ensuring that functional services exist in the geographical locations where victims are located. The first step to ensure availability of services is to understand the number of victims of torture and ill-treatment in the country and what their specific needs are. On this basis, States can make decisions on the scale and geographical scope of rehabilitation services.
26. One State presented its experience with undertaking two large health surveys to better understand the health needs of a changing population of migrants and refugees in the country (Finland). The study had specifically examined torture trauma and enabled relevant authorities to better understand the prevalence of torture trauma among different refugee groups and the physical and psychological traumatisation they may be experiencing. Based on this, the Government is now looking at how to improve rehabilitation services to ensure relevant geographical coverage and avoid long waiting lists while ensuring quality. Another State noted that it is currently challenged with adapting its rehabilitation service provided to its nationals to also support increasing numbers of refugees (Chile).

27. Several States presented their efforts to ensure that quality services are broadly available on their territories through promoting uniformity in approaches across municipalities (Denmark) and funding a broad range of non-State service providers (Canada and USA). This discussion also raised the question about the extent to which general health services can provide some or all elements of what can be considered holistic rehabilitation services. The idea was received with some concern about whether general health services are capable of implementing the holistic and multidisciplinary approach often needed by victims of torture. One practitioner presented an experience of a mechanism for screening for torture trauma at a State primary health care clinic (USA – Minnesota) and observed that while there were some challenges (e.g. in reconciling different working methods and priorities between the State health system and the specialised NGO services), it did help identify a number of victims who would otherwise not have received rehabilitation support.

C. Ensuring early access to rehabilitation

28. Ensuring early access to rehabilitation services is an important element in helping victims rebuild their life after torture. Rehabilitation providers in many OSCE participating States observe that early interventions to rehabilitate torture victims have significant benefits in terms of preventing further deterioration of the victim’s physical and psychological state and optimising the impact of treatment.

29. The meeting identified a number of key issues for further consideration with a view to ensuring early access. These include practices for awarding victims’ status, possibilities for judicial recognition and award of rehabilitation, procedures for identification of victims and referral to rehabilitation services, requirements for access to the general health system, and awareness-raising among potential victim groups and service providers.

30. In relation to determination of victim status, several States rely on national legislation to support victims of crime, which most commonly stipulate that identification or conviction of the perpetrator should not be a prerequisite to obtain victims status and access relevant support services (Czech Republic, Poland, Spain, Switzerland and Turkey). It was observed that this approach is effective in ensuring that victims’ needs for prompt support measures are met. One State explained how it applies its legislation to victims of torture and ill-treatment in third countries by awarding access to rehabilitation but not to compensation (Switzerland).

31. Non-governmental experts and rehabilitation practitioners emphasised that victims are victims regardless of criminal trials of the alleged perpetrators and highlighted that the CAT General Comment no. 3 clearly stipulates that victims’ right to rehabilitation is not dependent on pursuit of judicial remedies. They also highlighted that application of statues
of limitation to torture cases can prevent victims from pursuing justice and rehabilitation since the psychological effects of torture often means that victims are only able to pursue their claims many years after the torture. The recent Mocanu case\textsuperscript{15} from the European Court of Human Rights was highlighted as an example of good practice.

32. Experts pointed to a number of concrete initiatives that can be taken to enable victims to effectively pursue claims of justice and rehabilitation. Victims need psycho-social support from the outset of legal proceedings, States should be more active in pursuing extra-territorial claims and there is a need to better understand how to specify rehabilitation claims when the rehabilitation process is still ongoing or has not started.

33. Practices for identification and referral of torture victims among refugee populations vary greatly between participating States. One State has established a multidisciplinary “welcome centre” for refugees, which encompasses housing units, a primary health care clinic and trauma treatment providers and combines this with the use of referral to specialised non-governmental organisations that are members of the International Rehabilitation Council for Torture Victims (IRCT) (Canada). Several States explained that they identify victims of torture and ill-treatment as part of their process for receiving asylum seekers and refugees and that they will subsequently refer victims to specialised non-governmental organisations for rehabilitation (Canada, Spain and USA). One State has implemented a system of “health conversations” with refugees and asylum seekers in order to identify health needs including torture rehabilitation (Norway). Many States observed that identification of torture victims among refugees is often ad-hoc and thus does not happen promptly and therefore expressed a need for more structured and systematised processes for early identification.

34. A practitioner presented one State’s mechanism, which was established jointly between local government and civil society organisations to identify and refer victims of torture and ill-treatment to rehabilitation (Germany). The mechanism was built on the basis of the relevant legal obligations in the EU asylum procedures and reception conditions directives and is composed of three steps: an initial screening, a complete medical assessment and referral for rehabilitation. This was seen as very successful in producing a fast response to a sudden influx of asylum seekers but concerns were raised about sustainability due to high reliance on volunteers and inconsistent funding. Using a similar tool, one State (Denmark) presented a new programme for identification of torture victims amongst refugees once they are settled in municipalities. The programme utilises a tool called the “PROTECT Questionnaire” for an initial screening by municipal case workers and this may be followed by a more detailed medical examination to identify possible torture trauma and rehabilitation needs.

35. One State presented its experience from a transitional justice process, where a victims list drawn up by the Truth and Reconciliation Commission had been the gateway to accessing a national torture rehabilitation programme (Chile).

36. A number of States highlighted that all refugees including torture victims have the right to access the national health and social systems as of arrival in the country and that this can

\textsuperscript{15} European Court of Human Rights, Grand Chamber, \textit{Mocanu and others v. Romania}, Applications nos. 10865/09, 45886/07 and 32431/08, 17 September 2014.
serve as a first point of identification and support (Canada, Czech Republic, Finland, Germany, Italy and Portugal). It was observed that for this to function effectively, some States have started programmes to raise awareness about trauma, mental health and specialised service offers among refugee populations and health and social service providers that come in contact with refugee populations (Finland and Italy). In this regard, non-governmental experts and practitioners observed that it is important to ensure that victims access to rehabilitation is not restricted based on residence status.

D. Ensuring that services are appropriate

37. Appropriateness of services can be generally understood to comprise two elements: acceptability and quality. This entails that services should respect medical ethics and human rights principles and be scientifically and medically appropriate. To achieve the best rehabilitation outcomes for victims, rehabilitation services should be relevant to the victim’s specific needs and the specific context in which they are delivered. Several States presented initiatives to assess their national needs for torture rehabilitation services (Canada, Denmark, Finland, Germany and Italy). These assessments generally focus on determining the proportion of torture victims among asylum seeking populations, their rehabilitation needs, the existence of relevant services and whether these are able to meet the needs. One State presented findings from two large surveys on health in migrant and refugee populations. These concluded that 25-30 percent of refugees suffered from torture trauma, that certain groups had very high prevalence of psychological symptoms and that there was a need to further develop service provision (Finland).

38. There is a growing focus on measuring quality and impact of rehabilitation interventions and several States noted the need to better understand what are the most effective methods in different scenarios and whether general health services can be a sufficient response to addressing torture trauma. One State explained that it places a specific priority on research in quality and impact of rehabilitation services as part of its overall funding for rehabilitation (USA). This gives service providers the necessary space and resources to adequately evaluate their treatment approaches and develop new, more effective methods. Adding to the discussion, several practitioners participating in the meeting presented their work and experience with monitoring and evaluating rehabilitation interventions. It was observed that there is an evolving understanding of how to measure the impact of rehabilitation and the need for common standards.

39. Rehabilitation of torture victims requires specialised approaches that are not necessarily incorporated in relevant State agencies and several States explained that they are looking at how to ensure that existing services take a coherent and interdisciplinary approach in providing rehabilitation services. One State presented a new initiative specifically focused on ensuring that the municipalities take a coherent approach to rehabilitation and that they draw on all relevant state agencies in these efforts including health and social services (Denmark). Another State spoke about its multidisciplinary rehabilitation programme established in connection with a transitional justice process which included psychological and medical health care for life, pension and special measures for children who had been victimised (Chile). Specialised approaches to identifying and rehabilitating specifically vulnerable groups were presented from two States (Bosnia and Herzegovina and Germany).
Among the key lessons were the need to coordinate and collaborate with all actors working with these groups in order to ensure that victims are identified and rehabilitation is effective.  
40. One State presented a model focused on family based support to torture victims, which enables rehabilitation for direct victims and family members affected by vicarious trauma through a coherent approach (Denmark).

E. Monitoring and evaluation  
41. Across the different discussion themes, many States and rehabilitation practitioners expressed a need for a better understanding and common approach to monitoring and evaluating impact of rehabilitation services. They presented activities and initiatives towards building a more comprehensive scientific understanding of rehabilitation and developing global standards. These include research projects by service providers or academic institutions, thematic workshop for service providers to share their knowledge, funding for research on impact and initiatives to map and systematise the global knowledge about implementation of the right to rehabilitation.

42. Several practitioners pointed out that in order to get a comprehensive understanding of the impact of rehabilitation, it is important to assess what the personal, family and community consequences are if victims do not receive rehabilitation services. They observed that there is emerging evidence of social and economic benefits of rehabilitation in that it improves family relations and enables victims and their families to resume fulfilling and productive lives. Likewise, few evaluations have been carried out on the impact of the non-medical rehabilitation services (access to housing, employment, education, etc.) on psychological rehabilitation.

43. Portugal presented its experience of the externally independent monitoring system assured by the General Inspection for Home Affairs.

Observations and Recommendations  
44. There are specialised rehabilitation centres across the OSCE region, which have a high level of specialised expertise in rehabilitation. They know what needs to happen in their local/national context and they know how to do it. States can draw on this expertise to progress in implementation of the right to rehabilitation.

45. States that have surveyed the number of torture victims in their territory and their needs have greatly benefitted from the planning and execution of rehabilitation programmes.

46. There is a need to enhance the understanding of the different rehabilitation models in use across the OSCE and how they function in different contexts so that States can make more informed decisions about which model to apply.

47. The UN Voluntary Fund for Victims of Torture (UNVFVT), which in 2016 is funding rehabilitation projects in 80 countries, was noted as an important source of NGO funding, but with its current funding level it is far from meeting the the number of requests it receives.

48. There remains a need to identify, at the national level, financing mechanisms that can ensure that rehabilitation services are sustainable without compromising their ability to deliver quality specialised services.

49. Examining if and how programmes for rehabilitation of victims of domestic violence or human trafficking can work to support the rehabilitation for torture victims was noted.
50. OSCE field missions may play a role in promoting the establishment and continued operation of rehabilitation services, while it was suggested that the OSCE could play an important role in ensuring protection of rehabilitation providers as part of its human rights defenders work.

51. The CTI was welcomed as a useful platform to continue to share good practices across the OSCE region. Entries on rehabilitation in the CTI’s forthcoming UNCAT Implementation Tool were encouraged, and a follow-up workshop on rehabilitation within the auspices of the OSCE was proposed.

This report was prepared by the Rapporteur of the meeting:

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