Migrants’ access to information on their rights

Recommendations to bridge theory and practice
More than one million people applied for international protection in the Member States of the European Union (EU) in 2016, for the second year in a row. The number of arrivals, but also the management of migration flows both at the European Union’s borders and across the wider European territory brought new challenges – and exacerbated the existing ones – for protecting, respecting and fulfilling the fundamental rights of migrants both at European and national level.

In 2017, National Human Rights Institutions (NHRIs) from 12 European countries, including arrival, transit, and destination countries, have joined forces to monitor and improve the access to information on their rights, for migrants in detention and reception centres.

The importance of NHRI monitoring of Migrant detention has been confirmed by the Belgrade Declaration on the Protection and Promotion of the Rights of Refugees and Migrants (2015) and in the GANHRI Statement on the occasion of the United Nations Summit for Refugees and Migrants New York (2016). Indeed, many European NHRIs have access to places of detention without prior authorisation, including through the National Preventative Mechanism (NPM) mandate under the Optional Protocol of the Convention against Torture, a mandate that 24 of the 41 ENNHRI members are holding.

Effective and efficient provision of information to migrants is decisive for migrants’ access to procedures, international protection and remedies but also for their future integration. The right to information is protected by international and regional human rights instruments. It is, essentially, a gateway right, intrinsic to the fulfilment of many other rights, including the right to an effective remedy and a fair trial, as enshrined in Article 47 of the Charter of Fundamental Rights. Without adequate information, a migrant will face difficulties in seeking for example medical and humanitarian services, or in filing asylum claims. Informing migrants on their rights also impacts on their empowerment and autonomy.

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1 Belgium, Bulgaria, Croatia, Greece, Latvia, Lithuania, Netherlands, Slovenia and Armenia, Bosnia and Herzegovina, Kosovo and Ukraine.
2 Asylum seekers, refugees, stateless persons, migrants and persons in need of international protection.
Methodology

- The data relating to migrants access to information on their rights was gathered in 19 reception and detention facilities by NHRIs of 8 EU Member States and 4 non-EU States.

- 83 migrants were interviewed during 19 monitoring visits, which took place between February and July 2017.

- 5 of the NHRIs conducting visits have a National Preventive Mechanism mandate (NPM): Armenia, Bulgaria, Croatia, Lithuania and Kosovo.

During the monitoring visits, the interviews were conducted face to face and were based on a set of open and closed questions prepared by ENNHRI and peer reviewed by OHCHR and the members of ENNHRI’s Working Group on Asylum and Migration.

12 European states
19 Monitoring visits
83 Interviews with migrants

4 With the exception of the visit carried out by the Ombudsperson Institution of Kosovo, which took place on 12th December 2016, and by the Greek NHRI (GNCHR), who carried out visits to 4 open reception facilities and 1 hotspot area in 2016.

5 NPMs are set up within the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and are mandated to conduct regular visits to all types of places where persons are deprived of liberty.
Key NHRIs findings

1. Intake interview

Importance
The intake interview is, most often, the migrants’ first contact with the authorities in charge of the management of the centres where they are accommodated. The interview is an important pre-condition for effective access to subsequent legal procedures, including the international protection procedure, as well as for the detection and management of the possible vulnerabilities. It is also a decisive moment for the staff of these centres to identify possible special needs and vulnerable profiles among the migrants.

Challenges
The overall quality of the intake interview is often compromised. For example, the data collected shows that the duration of the interview is often too short for the complicated information provided to be understood by the migrants. This is even more relevant in case of persons in vulnerable position, such as children. Additionally, professional interpretation / translation is not always available, resulting in potential misunderstandings concerning migrants’ rights. The information itself is not gender specific and is often given by the staff without specific training on how to deliver that type of information.

Recommendations
- Allow enough time for the interview, which should not be limited in time under 1 hour; its duration should be extended in the case of children.
- Provide access to professional translation/interpretation during the interview.
- Provide appropriate training for the staff of the respective centres.
- Provide gender-specific information.
2. Quality of information

Importance
In order to be able to fully communicate their needs and personal circumstances and to allow for a comprehensive and fair assessment, all persons seeking international protection need precise information regarding their situation. The only way that a person can exercise their rights is if the information on these rights is given clearly, timely and accurately.

Challenges
Information is not systematically provided on certain aspects of individuals rights, such as: how to lodge an asylum request or how to lodge a complaint, how to get external/NGO assistance or how to access interpretation / translation services, or other forms of support. In some cases, the information provided to migrants was outdated, inaccurate and incomplete.

Recommendations
- Staff should be informed / trained in order to provide updated information on the international provisions available and on access to interpretation / translation services and other forms of support.
- Provide information, in line with article 21 of the Reception Condition Directive, by means of different channels - including oral information, supporting brochures in easy to read language, leaflets and displays/notice boards.
- Staff should be available to explain and discuss the implications of the information at hand.
3. Migrant’s understanding of information

**Importance**
Effective understanding of the information provided empowers the migrants in exercising their human rights.

**Challenges**
Often migrants do not fully understand the information received. Because of the stressful situation that migrants find themselves in, often exacerbated by language-related issues and by receiving information only on selected communication channels, it is not reasonable to expect that they will be able to memorise and understand all the relevant information given to them at the intake interview.

**Recommendations**
- Detention and reception staff should regularly check on migrants’ understanding of the information provided and get feedback. This can be done by the staff at the centre but also by involving external actors such as the NHRIs and the NGOs visiting the centre, who report back to state authorities.

**Conclusions**
Data collected by the National Human Rights Institutions in Europe shows that there is still some way to go before the reality of migrants’ access to information on their rights matches the theory. Access to professional interpretation/translation, identification of and information on special needs, as well as the training and qualification of reception staff are often the main obstacles. Effective and efficient provision of information should be monitored closely at European level, as complete and up to date information is undeniably decisive for migrants’ effective access to procedures, international protection and remedies and ultimately, for their successful integration.

Based on the findings presented, ENNHRI recommends to consolidate the following elements in the EU legislation:
- **European Commission should pay increased attention on the implementation of all the provisions relating to information provision to asylum seekers** when reporting to the European Parliament and to the Council on the Reception Conditions Directive (Article 30), and the Asylum Procedure Regulation (Article 60)
- **Ensure provision of information at the earliest possible stage**

EU legislation should mention that States have the responsibility to inform migrants, at the earliest possible stage, of their rights and obligations when applying for asylum.
Who are we?

**ENNHRI**, the European Network of National Human Rights Institutions, brings together 41 National Human Rights Institutions (NHRIs) from across wider Europe. ENNHRI’s mission is to promote and protect human rights across the European region. ENNHRI supports the development of European NHRIs by: advising on the establishment and accreditation of NHRIs; coordinating the exchange of information and good practice between members; organising capacity building and training on NHRI methodologies and human rights; building solidarity between European NHRIs; providing support for NHRIs under threat and facilitating NHRIs' engagement with regional and international mechanisms.

**About NHRI**

NHRIs are state bodies, independent of government, with a broad mandate to promote and protect human rights. They are expert monitors, researchers, and advisers to governments and parliaments on various human rights issues, including those in the area of asylum and migration. NHRIs report to international treaty bodies on migrants’ situation at national level, they handle complaints, provide legal assistance, human rights education, training, and awareness raising. As a consequence, NHRIs are recognized at the international level as providing expert, independent and trusted information on the implementation of human rights standards at national level.

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2 Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, 18 December 2002, Article 3 “Each State Party shall set up, designate or maintain at the domestic level one or several visiting bodies for the prevention of torture and other cruel, inhuman or degrading treatment or punishment (hereinafter referred to as the national preventive mechanism)”.
This work was supported by the Jacob Blaustein Institute for the Advancement for Human Rights and the Leo Nevas Family Foundation.