

Spring Exchange 2008

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Theme "Residents with unacceptable behaviour"

'Toolkit for the participants'

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COUNTRY	NETHERLANDS	SPAIN
HOST COUNTRY	SWITZERLAND	SWITZERLAND
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Itinerary – list of places and people visited

Federal Office for migration - Head Office, Bern

- Asylum Division (Christian Zumwald, Legal adviser)
- Voluntary Return, IOM Switzerland (Erika Laubacher-kubat, Head of office IOM)
- Repatriation (Philip Haas, Deputy Head Repatriation Directory for Entry, Stay and Return)

FOM Federal office for Migration, Chiasso

Reception Centre for Asylum seekers Chiasso

SOS (Swiss Workers Help Organization) Lugano

House Rules

When an Asylum seeker comes into a reception centre he or she would receive specific house rules as well as more general Swiss regulation concerning their situation. These are rules centrally developed and legally binding by the federal office and are the same for the different reception centres in Switzerland. This information is available in several languages and asylum seekers receive them both written and orally; some times by other residents from the same country. These rules, and some information on the facilities and the town, are also visibly placed at the entry where the security staff sits. If any person does not speak one of the languages in which rules are available, or if an asylum seeker cannot read and write, the rules will be translated and explained to them by members of the staff and/or by country fellowmen of the centre.

This regulation includes information on rights and duties, guidelines on behaviour and practical information. We include here a copy of the abbreviated regulation in English given to the asylum seekers.

Abbreviated Regulations

The following are some of the principal information points useful for your stay at the Registration Centre Chiasso.

Meal Hours:

Breakfast: 06:30 - 07:00

Lunch: 11:00 – 11:30

Dinner: 18:00– 18:30

Assistance Office – opening hours:

Within the limits of their possibility, the ORS personnel of the Service of Assistance will be available for:

- requests for personal hygiene materials
- obtaining change of bed linen and towels
- limited medical assistance
- general information (not regarding asylum procedure)
- **counter opening hours: 06:00 – 09:00**
12:30 – 17:00
19:00 – 20:00

Order and discipline:

- respect meal times and counter opening hours
- do not smoke inside the building
- do not change your room without authorisation from the collaborators of the Assistance Service
- do not hang clothes or towel from windows or over the external fence, for this purpose use the washing room located on the semi-underground floor
- do not make molesting noise in the area outside
- in the refectory, at the moment of the distribution of food, give priority to women and families

Cleaning and hygiene:

You are held to collaborate in the daily cleaning of the building. The numbers of those who have to collaborate in this cleaning will be posted every morning; the cleaning involve: kitchen, refectory, WC and showers, rooms and stairs, courtyard and other special work

RE-DO your bed every morning and leave your room by 08:15 at the latest.

Adequate minimum personal hygiene is required

Do not throw objects on the floor or out of the windows but use the appropriate waste bins.

Departure:

On the day of your departure from the Centre you have to give back the bed linen and towel at the counter of the Assistance Office by 07:00 at the latest. In addition, fold the blanket and leave it with the pillow on the bed.

Various:

In case of doubt, do not hesitate **YOU CAN ASK**

In case of real need, there is the possibility of having a change of (used) clothes. To get this please refer to the Assistance Office.

RESPECT TO OTHER ASYLUM SEEKERS, MEMBERS OF THE PERSONNEL AND THE BUILDING IS REQUIRED.

Further information on rights and obligations as well as sanctions are developed in the more general rules also given on paper to the asylum seeker enclosed at the end of the report (i.e. *when you endanger any third person by your behaviour, disturb the peace at night or refuse to follow orders given by the staff, you may be evicted from the EVZ for a maximum of 24 hours. Any order to this effect will be disclosed by the authority with instructions about your right to appeal*)

Reception Centres like the one visited in Chiasso have private security staff that helps the team to look after the house rules, being sometimes hard to support them due to the big amount of residents and the small number of security staff (4 security guards per shift for 200 residents). For example, smoking inside the building is not allowed, but this rule is not always strictly followed. We could see and smell someone smoking marijuana inside the building and the social worker asked them to stop doing it, or to do it outside the reception centre but there were no further consequences to this behaviour.

For some minor unacceptable behaviour like the example above or refusing to collaborate in the house work, there is not a fixed set of measures which make this rules hard to support, and consequently not strictly followed. We saw the case of the Georgian single men that permanently refuse to do any work in the centre because they claim it is women's job. The staff then decide not to clean their rooms and they don't give them the opportunity of getting one day paid jobs for the municipality outside the reception centre. But these measures are decided by the team and are not written down. The social workers have to be creative because there is not written sanctions such as a financial set of measures to deal with the unacceptable behaviour: One of the staff decided to take away the ball from a table-ball game of some people who did not collaborate with the house work, saying to them if they wanted to play they will have to clean up first. We were also told that sometimes people who do not support the house rules won't get to lend DVDs or books from the library.

For major unacceptable behaviour such as aggression and fighting there are special facilities inside the centre to separate the people involved in the violent incident in order to prevent them from hurting or being hurt. These facilities are a military cellar within the building. They can also be put out on the street for 24 hours or transferred to another centre. When a big fight happens the security staff will do everything to put the other residents out of danger and call the police to handle the situation.

As we already pointed out above, an asylum seeker can make an official complaint if he doesn't agree with the sanctions or measures taken. A lawyer and/or the security staff will help the resident with the complaint.

During 8 months no major incident occurred on the reception centre but two months ago a big fight between different ethnic groups took place and the media made of it a political issue. During the last year, the incidents that occurred were incidents related to alcohol and drug abuse, small smuggling, sexual intimidation, psychiatric problems but mainly just not cooperating with the house work.

Residents with Unacceptable Behaviour

In the reception centre of Chiasso a resident with unacceptable behaviour may be considered someone who does not support the rules and/or someone who disturbs the social climate. There is not a special centre or institution for this kind of people, although some members of the staff consider that having such a place would help, because some times they do not know how to handle this kind of behaviour.

The private security group that works within the reception centre is a preventive measure for unacceptable behaviour happening. There is also cameras, and the security staff carry walkie-talkies and protective sprays in case some resident become really aggressive. When an asylum seeker comes back to the centre is checked to make sure he or she is not introducing any kind of weapons, such as knives, or drugs and alcohol.

Also the staff can send a resident to a family doctor when they observe that someone may have some psychiatric problem, in order to get the medical attention required.

There is no assessment for identifying the sources of unacceptable behaviour due to the short period of time the asylum seekers are staying in reception centres. There is no special facilities to treat, deal or even observe to asses asylum seekers with unacceptable behaviour. There is only a cellar, as we explained above, where eventually trouble makers can be placed to prevent them from hurting others or being hurt by others. Asylum seekers see this as a punishment and not as a preventive measure, which is its real purpose.

Anyway different categories are used to define the sources of unacceptable behaviour, such as drug related, cultural based... For example, there are clashes between different ethnic groups, lack of respect an aggressive talking to female members of the staff, and the week pay day there is usually violent problems due to alcohol and drug abuse, as it happened during our stay in Chiasso.

The security staff is the only specialized staff in dealing with behavioural problems, although some other members of the staff might have taken a course by a external company called Spectra in how dealing with aggression. Any way aggressions occurred mostly between residents and very rarely and never physically to members of the staff.

There is no special protocol of how dealing with a violent incident, or how to cope with it afterwards like stress management team or a social worker or psychologist to help the members of the staff, apart from informal talking; anyway if someone is in the centre of some incident it can be sent home to get time off. Security staff have to write down a report of every incident for the file of the asylum seeker, and it would be taken into consideration during the interviews.

The staff working in the reception centres have no information on the asylum seekers which are identified for organisational purposes with a number written in a card. They only get information on the asylum seekers stories when the asylum seekers themselves decide to talk to the staff. It then depends on the members of the staff what relation they have with the asylum seekers. If any member of staff needs some information for a special reason like a medical issue they can ask the office for it. The information is recorded in the interviews but it is confidential information so the asylum seekers have to agree that a social worker get to it.

Apart from the interviewers, the staff working in the centre and the security staff, only the medical care personnel is involved. There is 5 doctors and every asylum seeker is checked in relation to TBC.

Staff training

Members of the staff take two days courses twice a year from a company called Spectra. Some of them related to deal with unacceptable or aggressive behaviours or with cultural differences.

The interviewers update their training as well in different issues.

The background of the staff working in the reception centre is heterogeneous, and they don't have specific training or special diploma in social worker or social help.

Members of the security staff are checking by a security test once in a year, and time to time take courses on how to deal with aggression, but no specific courses in multiculturalism.

LEAFLET FOR PERSONS SEEKING ASYLUM AND IN NEED OF PROTECTION

I. PURPOSE OF THE LEAFLET

This leaflet provides you with information on your rights and duties during the asylum procedure. You have the obligation to read this leaflet carefully and keep it until the end of the asylum procedure.

Once you have filed an application for asylum, you may not additionally file an application for a residence authorisation by the Aliens' Police. However, all steps regarding a regulation in Switzerland, which were initiated already, will be cancelled once your application for asylum is filed.

Filing an application for asylum shall not void possible involvements with the judicial authorities of Switzerland. The Federal Office for Migration (BFM or Federal Office) shall inform the competent judicial authorities of any violations of international public law.

II. STAY AND ACCOMMODATION

When you are not travelling on into another country or are unable to return home without

danger, you may stay in Switzerland until conclusion of the asylum procedure.

Right now, you are in the Reception and Procedure Centre (EVZ or Centre), the place where you are accommodated. Your stay in the EVZ may generally last up to 60 days. During your stay here, you have to observe the Rules of the House and keep available for the authorities. You must not leave the EVZ without permission. Should you have any additional questions regarding your stay in the Centre, please consult the exhibited Rules of the House or turn to the competent persons. For security reasons, items considered as dangerous will be confiscated.

When the staff of the EVZ requests you to participate in maintenance and cleaning work in the localities, or in case of violations of the Rules of the House, permission to leave may informally be refused to you. The same applies when you have to keep available to the authorities for procedural acts. You will receive an identification document from the EVZ for your leaves. Finally, access to individual localities of the Centre may be refused to you, depending on any violations committed.

When you endanger any third person by your behaviour, disturb the peace at night or refuse to follow orders given by the staff, you may be evicted from the EVZ for a maximum of 24 hours. Any order to this effect will be disclosed by the authority with instructions about your right to appeal.

For reasons of public health, you will be subjected to a control upon your arrival, which serves to assess your risks in connection with tuberculosis. Apart from that, other medical information may be provided to you.

III. RIGHTS AND DUTIES DURING YOUR STAY IN SWITZERLAND

When you return to your home country during the procedure, or when you contact the authorities of that country, the Federal Office will assume that you are neither prosecuted nor threatened there. Although the documents handed over to you by the Swiss authorities enable you to prove your indicated identity everywhere in Switzerland, you may not use them to leave the country.

Members of your family shall not be permitted to come to Switzerland. If you have stayed in Switzerland or any other country before already, you have the duty to inform the authorities accordingly.

You have to hand in your travelling and identity documents not later than 48 hours after filing your application for asylum.

IV. PUBLIC ASSISTANCE, WELFARE AND WORK

You may not take up gainful employment during the first three months after you filed your application for asylum. When your application for asylum is rejected during these three months, the prohibition to take up gainful employment may be prolonged to six months. Before you start to work, you have to obtain approval by the Canton you have been allocated to.

If you are unable to pay for your subsistence during the procedure, you will receive the necessary public assistance from the Canton you are allocated to. However, you have the obligation to pay back this public assistance, when you are allowed to work later. If you have assets of – when converted - more than CHF 1000.- with you upon your arrival in the EVC, you shall be obliged to hand in this money. When you are working, part of your wage will be withheld as well. This money will be used to pay welfare moneys or your

transport back into your home country. If more money has been withheld from you than necessary for this, the remainder of the money will be paid back to you.

You have to buy a ticket to use means of public transport.

Stays in hospital have to take place in the Canton where the Reception Centre is located, or later in the Canton you will be allocated to.

Child benefits for your children living abroad will only be paid out to you, if you have been recognised as refugee or have been granted temporary admission.

You may receive pocket money during your stay in the EVZ.

Public assistance is cancelled, as soon as a negative decision on the application for asylum (from January 1, 2008) or a decision not to take action (from January 1, 2007) takes effect, as well as upon expiry of the deadline for leaving the country. You may receive emergency aid upon request.

V. ASYLUM PROCEDURE

1. Entitlement to confidentiality

The entire asylum procedure is subject to confidentiality. For this reason, you can speak freely and without fear during interrogations, because all persons handling your application for asylum are prohibited to tell anything about it to any persons other than members of competent Swiss authorities.

2. Demand to assist with the procedure

a) Keep available for the authorities

You have the obligation to follow instructions by the Swiss authorities and to comply with any summons and request to assist with the procedure. You will usually not be granted an opportunity to perform acts in retrospect, once you wilfully omitted them.

Any change of address has to be notified to the competent authorities.

You have the duty to collect mail by authorities, which was sent to your address, within 7 days. This shall also apply when you receive mail poste restante or have made similar arrangements with the Swiss postal services. If you failed to collect any mailed item before the deadline, it shall nevertheless be considered as served. If you cannot be reached by the authorities due to violations of the obligations mentioned above, you may incur disadvantages. Especially in the event that you are not taking notice of the asylum decision, so that the term for objections passes unutilised, you will not have any possibility any more, to file an appeal against the asylum decision.

If you have authorised somebody to represent you in the asylum procedure and if you have informed the BFM about this, then the mailings by the authorities will be served to the authorised person. If the authorisation signed by you mentions expressly that this does not include any choice of domicile, then the mail of the BFM will be handed over to you personally.

b) Hand-over of travelling and identity documents

You have the duty to hand in all your travelling and identity documents. If you do not hand in any document complying with legal provisions upon your arrival, you will be granted a period of 48 hours to do this. If you fail to follow instructions by the authorities, you are violating your

duty to assist (refer to item VI).

You are not allowed to destroy or forge documents or treat them in such manner, that they cannot be read any longer. The competent authorities may have the authenticity of your documents verified.

c) Investigation of facts

You have the duty to prove or at least show probable cause that you are a refugee. You have to provide a complete and true statement of all facts supporting your application for asylum. Furthermore, you have to answer all questions submitted to you in writing or orally by cantonal or federal authorities.

You have to hand in all proofs you possess or are able to obtain and you have to provide information on all necessary documents for the assessment of your application for asylum.

In this respect, the same duties apply as for identity documents (see above). Finally, you have to have the documents translated into one of the official languages (German, French or Italian), if any authority requests you to do so.

d) Determination of identity

You have the obligation to indicate your correct personal data to the competent asylum authorities and to disclose your true identity. The authorities may verify your statements. You will be photographed and your finger prints will be compared by computer with all prints formerly collected by the authority and the police. They may also be compared with those in other European states. Finally, your biometric data may be collected and investigated by the Federal Office.

3. Steps of the procedure

An initial interrogation will take place in the EVZ, in order to record your personal data and the reasons for your presence and your journey.

A more in-depth hearing on the reason for asylum, in presence of a representative of a relief organisation, may take place during your stay in the EVZ and in the BFM and the Federal Office for Migration may decide on your application for asylum. In this case, you will remain in the Reception Centre during the entire procedure.

Interrogation and hearing will be recorded in minutes. By your signature under the minutes, you will confirm in each instance that all your statements have been recorded completely and correctly. You have the right to be heard on all important points, before a decision is made on your application for asylum. Vulnerable persons will be granted special, particular attention.

It is possible however, that you are sent into a Canton allocated to you, where your stay will continue for the duration of the procedure.

In the event that you are allocated to a Canton, you will receive an allocation notice. The Federal Office takes care that members of a family in the strict sense (i.e. spouses and minor children) are able to stay together. Otherwise, you may enter recourse against this decision immediately upon your arrival in the allocated Canton, on the grounds that this decision contradicts the principle of family unity. Changes of Canton may as a rule only take place when both Cantons agree. The allocation notice mentions the day, time and place, where you have to represent yourself in the allocated Canton. You have to strictly comply with these

instructions.

The Federal Office or the Canton shall determine the place of your stay during the procedure and will organise your accommodation. You may not change this without permission by the authorities. Once you have received this permission, you have to communicate your new address to the competent authorities immediately. The authorities have to be able to reach you at your address during the procedure.

If the BFM does not accept your application for asylum, you have to leave Switzerland without notice and on your own, as soon as the decision becomes effective. If your application for asylum is rejected, you will be granted a grace period for leaving Switzerland. If there are impediments for leaving the country, you may be granted temporary admission. If you are granted asylum, you will receive a residence permit for Switzerland. Should you have any questions regarding your stay in case of temporary admission or grant of asylum, please contact the Canton allocated to you.

Should you belong to a group relating to which the Bundesrat [*Federal Council*] has resolved provision of temporary protection, the Federal Office may grant a temporary stay in Switzerland to you. During the term of such grant of protection, the asylum procedure will not be continued. The decision on this interruption is not appealable.

If you belong to a group of persons requiring protection but expressly file an application for recognition as refugee, you will only be entitled to execution of a regular asylum procedure, if clarifications at the Reception Centre show that you are obviously prosecuted.

Apart from that, the Federal Office may perform remunerations.

4. Support during the procedure

You have the right to retain a legal representative during the entire procedure. He may perform certain acts relating to your asylum procedure without you. However, he cannot perform any acts which you have to execute yourself. The legal representative may for example accompany you to an interrogation, but you will have to answer the questions put before you yourself. The legal representative may not be an asylum seeker in Switzerland himself. You will have to issue a written power of attorney to him, in order to enable him to represent you. This power of attorney has to be sent to the BFM without delay. If a legal representative demands money for his work, you will have to pay it yourself.

When you are considered an unaccompanied minor, a person of reference will be appointed to you. This person has the task to support you in the asylum procedure. If necessary, an interpreter will be present at the interrogation and the hearings.

During the in-depth hearings regarding the grounds for asylum, a representative of a relief organisation for refugees will be present as well. This person has the task to monitor whether the interrogation is performed correctly and if the facts are investigated in their entirety. You have the right to reject presence of this person.

During the interrogation and the hearings you may, at your own costs, have an interpreter of your own choice and a person of your trust accompany you. These persons too, may not be asylum seekers in Switzerland themselves.

5. Official investigation measures

You have to submit to investigations relating to your person and facts concerning you. You also have to have your finger prints taken. The asylum authorities may procure expertises or

oral or written analyses of origin about you from experts or they may order medical examinations. The authorities furthermore have the right to procure information in European states and the Swiss missions abroad and to request an opinion from the United Nations High Commissioner for Refugees.

The Swiss authorities may however, not take up contact with the authorities of your home country - particularly in connection with your return - or with states where the danger exists that they will inform your home state before the Federal Office rejected your application for asylum or refused to accept it.

In case of doubts about the age you indicated, the competent asylum authorities may request you to subject yourself to a bone analysis to estimate your age.

6. Inspection of files and right of appeal

Upon conclusion of investigations, you or your legal representative will have the right to inspect your files. Furthermore, you have the right to file an appeal against a decision which is unfavourable for you. In case of a rejection of the application for asylum, the period allowed for filing appeals is 30 days. If the Federal Office does not accept your application for asylum, the period allowed for filing appeals is 5 days.

VI. CONSEQUENCES OF VIOLATIONS OF THE OBLIGATION TO ASSIST

If you violate any of the obligations to assist as mentioned above, you incur the risk that your application for asylum is not accepted. This means that it is not examined any longer, whether you fulfil the requirements for a grant of asylum and that you may possibly be removed to your home state or state of origin by the Swiss authorities on short notice and if necessary with application of coercive measures.

VII. COERCIVE MEASURES

When your application for asylum is rejected, you will be granted an appropriate period during which you will have to leave Switzerland. In this event, you have the duty to take all necessary measures to organise your departure. If you let the term granted to you pass by, you may be expelled by the authorities under application of coercive measures.

If your application for asylum is not accepted because it is abusive, or if you do not sufficiently assist with the necessary procurement of documents for your departure, or if there are any other signs that you intend to evade expulsion, the authorities may take you into expulsion arrest until expulsion can be executed.

The authorities may however arrest you already during your asylum procedure. This will apply in particular, if you refuse to disclose your identity, if you file several asylum applications under different identities, or if you repeatedly fail to comply with summons without sufficient reasons.

In this context, you may either be arrested in the EVZ (from January 1, 2008) or in the allocated Canton (from January 1, 2007). The duration of your arrest may amount to up to 24 months, if you are not cooperative.

VIII. Repatriation grant

If you desire a repatriation grant, you may contact the competence services or authorities.

IX. FINAL NOTES

Postal address of the Federal Office für Migration [*Federal Office for Migration*]

Bundesamt für Migration

Federal Office für Migration

Quellenweg 6

3003 Bern-Wabern

Should you have any additional queries in connection with the asylum procedure, please do not hesitate to contact the asylum authorities.