

PRESENTATION AND RECOMMENDATIONS
DRAFTING COMMITTEE ON MIGRANT WOMEN (GEC-MIG)

Set up by the Committee of Ministers with the aim of preparing a Recommendation on migrant and refugee women.

INTRODUCTION

Implementing the strategy of mainstreaming the principle of equality between women and men, also known as gender mainstreaming, in all policies and measures has been a European objective since this approach was adopted by the European Commission in 1996. For the Council of Europe, gender mainstreaming *“is the (re)organisation, improvement, development and evaluation of policy processes, so that a gender equality perspective is incorporated in all policies, at all levels and at all stages, by the actors normally involved in policy making”*

To the European Network of Migrant Women, this implies **addressing structural inequalities between women and men in the areas of asylum, migration and integration - from policy design to action and evaluation - with the aim of discovering and correcting the root causes of sex-based discrimination against women and girls, at the intersections with other structural inequalities (such as economic and labour discrimination, legal status discrimination, racial or ethnic discrimination)** which lie in social structures, institutions, values and beliefs. To correct such deep rooted mechanisms, gender mainstreaming on its own is never enough: **specific and positive actions¹ targeted towards women and girls should be implemented side by side with gender mainstreaming.**

For a long time, migration policies in Europe have mostly taken into consideration the male perspective², confining women and girls to the status of “wives” and “daughters”. However, **migrant, refugee and asylum seeking women and girls, as a group, face persistent inequalities and violence, throughout the whole migration journey. Their integration should be a priority on its own.**

In this presentation, we will address the **urgency addressing holistically the violence and discrimination migrant women and girls face, (I)**. As this would be insufficient without a comprehensive integration approach, we will deal with the different **challenges faced by migrant**

¹ Positive action is a term used to define specific measures to eliminate, prevent or remedy persistent inequalities a group has faced for a long time. In 1984, the Council of Europe recommended to adopt a positive action policy to eliminate existing inequalities between women and men. A guide on positive action towards women and girls was published by the European Commission in 1988.

² In 2002, the United Nations High Commissioner for Refugees stated that *“the refugee definition has been interpreted through a framework of male experiences, which has meant that many claims of women and of homosexuals, have gone unrecognized”*.

women and girls through their integration process (II). Finally, we will highlight to what extent **the COVID-19 crisis has disproportionately impacted migrant women and girls (III).**

Throughout this paper, we will consider migrant women, regardless of their status since discrimination on this ground is forbidden by the Istanbul Convention and States have a duty to protect the fundamental rights of all people under their jurisdiction, regardless of their nationality or legal status. (note: not all EU states adopted Istanbul convention and some placed specific reservations on art 59-61 and other articles concerning migrant women, in particular compensation. EU has not acceded to the IC as a whole yet...)

We will also put an emphasis on migrant girls as a particularly vulnerable group with specific needs that ought to be addressed.

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I./ INCLUSION OF PROTECTIVE MEASURES AGAINST DISCRIMINATION ON THE GROUNDS OF SEX IN MIGRATION POLICIES

Male violence, from intimate to structural, faced by migrant, refugee and asylum seeking women and girls (thereafter migrant women and girls) - whether before or during their migration journey or upon arrival in the destination country - take multiple forms; *rape, sexual abuse, female genital mutilation, male violence in the home, forced marriage, sex-trafficking, etc.*

In addition to this sex-based violence and discrimination, migrant women and girls also face racism; cultural exclusion, segregation, ethnic glass ceiling, closed public sectors, lack of degrees and qualification recognition, legal barriers, sexualisation, etc.

Some of them also belong to other discriminated or at risk groups - lesbians, underage girls*, etc. - which results in them being disproportionately at risk.

To understand these intersecting vulnerabilities and barriers, it is needed to look into specific migrant groups. When policies consider “migrant women” as a collective entity it is very easy to overlook the actual discriminations. **It is instrumental to disaggregate and take a specific approach to the group we are targeting** - according to legal status or ethnicity for instance. **This is the basis of the intersectional approach, necessary to efficiently tackle the specific violence faced by each of these different groups.**

****Underage girls represent a particularly vulnerable group within the migrant population, some numbers;***

Worldwide, over half of refugees are under the age of 18. 75% of refugee children have experienced violence and assault by an adult along their migration journey. Globally, refugee

girls at secondary level are only half as likely to enroll in school as their male peers, even though they make half of the school-age refugee population.

A total of 42% of all child asylum seekers in Europe are girls. 4 out of 5 girls arriving from Nigeria to Italy are victims of trafficking for the purpose of prostitution.

The issue of **housing and shelters for survivors of male violence must also be an absolute priority**. In many situations, lack of access to such facilities put migrant women and girls at immediate risk; *upon arrival by boat, while in camps, reception centres or other accommodations facilities for migrants, while being held at a border, etc.*

Authorities in different countries tend to assume that shared accommodation of women and men will help women integrate faster into society after they leave the accommodation facilities. **However, this cohabitation creates an atmosphere of fear for women, especially for those who fled male violence. In some European countries (Finland, Belgium, Denmark), according to GREVIO reports authorities, in fact, have not followed the principles of Istanbul convention in terms of single-sex accommodation, particularly in the case of migrant and refugee women. Women are often being refused shelter accommodation based on their legal status and when they access shelters they find themselves in mixed facilities. The instances of re-traumatisation and even repeated sexual violence against those women inside such facilities are well documented. In Ireland, the so called “direct provision” system channel all asylum seeking women, including the victims of trafficking, into such mixed facilities. There women become victimised as well as sexually exploited by both male residents and guards and case workers. It was only last month that Ireland finally took the decision to create a separate accommodation for female victims of sex trafficking who, as know well, require specialist support and long-term rehabilitation because sexual violence has specific profound impact of victims. In Finland, the government transposed the Istanbul convention incorrectly: their law on “shelters”, in fact state that all shelters must be mixed because domestic violence also affects men. This is completely unacceptable for female victims of male violence. Very similar situation is in Denmark, who has been taking progressively “gender neutral approach” to policy and practice and where specialist facilities for women practically do not exist anymore and all shelters are mixed. This country already has some of the most restrictive migration policies and victims of trafficking, third country nationals, are regularly deported to the countries where they first entered Europe (e.g. Italy) - this means sending women directly into the hands of traffickers.**

On top of that, lack of independent residence status increases the likelihood for migrant women to face violence or exploitation by intimate partners or employers.

Policies targeting specifically all of these issues must be adopted in addition to the standard responses for migrants and refugees.

RECOMMENDATIONS

- Ensure the deployment of specific protection mechanisms, including **places in women only accommodation facilities** (or with at minimum separate rooms and bathrooms for women and men), dedicated **safe spaces for women and girls**, spaces for **confidential interviews with service providers alongside the presence of psychosocial support and translators**, control processes to **guarantee the non-refoulement³ of victims of trafficking**, clinical management of rape as well as **pre-positioned post-rape kits and contraception kits** in migrant accommodation sites as well as entry and exit points with the presence of **specifically trained and supervised protection officers**.
- Collect disaggregated data: analyzing data regarding violence faced by migrant women and girls is difficult due to fragmentation between organisations and agencies. Disaggregated data are often missing at European and national level, which complicates the monitoring of the integration outcomes of migrants and refugees. **Data disaggregated by sex, age, ethnicity and migration status must be available for policymakers to be able to develop evidence-based responses and policies**. This data collection should be efficiently supervised for it not to be used for discriminatory purposes.
 - Data on labour participation should also be updated regularly to monitor not only employment status but also duration of employment, salary scale and progress in career.
 - **Data specific to the experiences of girls through migration and resettlement is overwhelmingly lacking, while they are a high risk group for sex-trafficking and forced marriage**. Collecting data on these specific issues should also be prioritised in order for specialised resources to be allocated.
- Raise awareness and promote equality between women and men: Prevention and response programmes against all forms of sex-based violence must be implemented as well as campaigns against stereotypes and sex-based discrimination.
- Train: all staff, guardians and foster families **on violence against women and girls, including increased risk of sex-trafficking and prostitution, child marriage, sexual violence, FGM and traditional harmful practices for unaccompanied girls**.
- Fund: While there has been a significant increase to European spending on migration, the focus on “border and security” is of concern; **a humanitarian approach** is essential to protect especially migrant women and girls. In addition, **it should be ensured that this**

³ Even though article 61 of the Istanbul Convention associates directly non-refoulement to “victims of violence against women”, this principle is still widely disrespected and its application must be ensured.

funding actually impacts positively migrant women and girls by examining the quantitative representation of women and men amongst the beneficiaries of the funded projects, by analysing how the different needs of women and men are addressed, by evaluating if specific strategies are put into place to ensure the participation of women and girls and by paying attention whether the funded projects use generalisations that could reproduce gender stereotypes.

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II./ SPECIFICITIES AND CHALLENGES OF MIGRANT WOMEN AND GIRLS INTEGRATION

Although integration is the most relevant durable solution for the majority of refugees and migrants in Europe, **there is no specific common and coordinated European integration policy instrument**⁴. It is crucial and timely to see more commitments of the European Union on this subject. Based on the analysis and experiences of the European Network of Migrant Women, this section will

⁴ The 2016 “Action Plan on the Integration of Third-Country Nationals” of the European Commission expired in 2018

aim at assessing the needs in such a matter, particularly with regards to migrant and refugee women and girls.

ACCESS TO RIGHTS, JUSTICE AND INFORMATION

In cases of women and girls seeking refugee status, access to information can be instrumental to the success of the procedure. In many cases, women who felt intimidated or not safe enough to mention sex-based violence during their first interview will be given less credibility in the following steps. As a result, it is essential to ensure that all women and girls applying for asylum are aware of;

- the **possibility to be granted asylum on the basis of sex-based persecution**;
- the **steps and procedure** of the application process;
- **their rights throughout the process** - eg; *having a female interpreter, having individual interviews (away from potentially abusive family members), asking to be interviewed by a woman, being informed of the advancement of the procedure, being provided a transcript of the interview in order to be able to precise or add elements, etc.;*
- the **support services they can access (and should be provided).**

RECOMMENDATIONS

- Adapt the Law : The process of seeking asylum should take into consideration traumatic consequences of sex-based violence (mental health problems, memory loss, dissociative state, etc.) and the burden of proof should be adapted in such cases.
- Provide support services : Such as **childcare during the interviews** to allow women to focus and not to feel restrained to talk about the violence they endured in front of their children.
- Train : Acknowledging that it is hard for victims of sex-based violence to spontaneously talk about what they endured, authorities should be trained to question migrant women and girls seeking refugee status in a proactive yet sensitive way as to establish whether or not they are victims of such violence.

SOCIAL SERVICES : EMPLOYMENT, RECOGNITION OF QUALIFICATIONS, EDUCATION AND TRAINING

Many projects with migrant and refugee women (funded through the Asylum, Migration and Integration Fund and European Social Fund Plus) show that **labour market integration cannot be successful without a prior intervention looking at the development of self-confidence and psychological well-being of women.**

Recognising and **enhancing soft skills, such as confidence or self-esteem, is not easy to capture in hard outcomes, but they are critical first steps for many migrants, and particularly women and girls.**

Employment remains an important measure of impact but **including a broader set of social indicators would better capture the reality.** It is often mentioned that refugee women are not easily reachable and therefore do not benefit from social services in a sustainable way. However, we can see little efforts to **work on the structural and social barriers holding migrant women and girls back.**

While it is also stressed that migrant and refugee women are overqualified for their jobs or unemployed, **constructive measures are not taken in the policy framework to avoid deskilling amongst migrant and refugee women.**

In policy terms, integration of migrants in the labour market is mainly measured with their current employment status, ignoring factors such as **duration of employment, salary scale and progress in career.**

In addition, **domestic and care workers migrant and refugee women constitute a large number of domestic workers in the European Union,** particularly in the Mediterranean region. This sector of reproductive economy, though vital, is often not regulated enough by labour laws. **The working conditions in this sector are exempt from labour inspections and domestic workers face a lack of protection.**

RECOMMENDATIONS

- Adapt the Law : States should be encouraged to **adopt measures supporting full labour integration of domestic workers, through proper employment contracts, skill recognition, collective bargaining, horizontal and vertical labour mobility,** in accordance with the international standards laid in the ILO Convention 189 on Domestic Workers. The **diversity of migrant women’s educational levels, professional experience, routes of entry and situations should be recognised within the development and implementation of national, regional and local integration policies**
- Encourage deskilling prevention and qualification recognition : States should be encouraged to implement processes through which migrant and refugee women either obtain an equivalent degree to their original qualification or a certification of skills, providing **proof of competence to potential employers in non-regulated professions.**
 - Emphasis should be put on **validating skills and upskilling** of migrant and refugee women working below their skill level.
 - Opacity, lack of uniformity, or differentiation in pathways for qualification validation in different job sectors should be avoided.

- The psychosocial aspects of migrant and refugee women's possible reluctance to apply for such programs should be taken into consideration.
- Today, most of these programs (where they exist) are heavily reliant on producing documentation. It can negatively impact women whose country of origin has differing administrative norms. It is also important that these programs account for potential loss of documentation in the migration process.
- Allocate resources : It is crucial to direct resources to **supporting women with established skills in entering the job market before they lose these skills.**
- Implement special programs for “low-skilled” migrant and refugee women : Migrant and refugee women are not a homogenous group in terms of skills and qualifications; certain populations of women have a particularly low educational attainment and need support to develop skills in order to enter the labour market. Other groups of women such as older and long-term unemployed women also need these specific programs in order to enter the labour market and practice meaningful social participation in the European communities. **These specific support programs should include mentoring, assisted volunteering, pre-employment training, job placements, specialised language courses with integrated elements of skill learning, vocational training and skill recognition for women with no official qualifications.**

HEALTH, INCLUDING SEXUAL AND REPRODUCTIVE HEALTH AND RIGHTS

Women and girls arriving at the European Union’s borders are affected by inadequate access to medical care, especially when they are pregnant⁵. Access to hygiene, medical assistance and protection is overwhelmingly lacking in accommodation facilities for migrants.

Language barriers, discriminations, lack of access to clinics, precarity, denial of health services, lack of dignity as an obstacle to care, sexual trafficking: violations of sexual and reproductive rights are omnipresent in the lived realities of many migrant women and girls. Given conditions in refugee settings, including high levels of sexual violence, unwanted pregnancies and unsafe abortions are a massive problem. Yet, services for displaced women and girls who wish to terminate an unwanted pregnancy are almost non-existent. The extent of need for abortion services amongst refugee women remains undocumented. **UNFPA estimates that 25-50% of maternal deaths in refugee settings are due to complications of unsafe abortion.**

Female adolescents represent a particularly vulnerable group within the migrant population. A lack of awareness about sexual health and rights, along with minimal access to contraception, result in pregnant minors seeking unsafe abortions and and risking their lives.

The United Nations High Commissioner for Refugees (UNHCR) has stated that “*[a]s a general rule, pregnant women and nursing mothers, who both have special needs, should not be detained.*” However, this principle is not always respected, which can deeply affect the physical and mental health of women and children.

Women and girls who were victims of FGM⁶ face long-term effects on their health, including severe pain, bleeding, infection, infertility, childbirth-related complications and newborn death. **Specific access to psycho-social and health-related services to identify and assist women and girls with, or at risk of, FGM should be provided.**

5 EU member states limit undocumented migrants’ legal entitlement to emergency care only - *Bulgaria, Finland, Lithuania, Luxembourg and Slovakia.*

In 2 of these States full payment is required even to access emergency care - *Bulgaria and Finland.*

It is also not uncommon for migrant women and girls to be subjected to **involuntary medical examinations without being informed of their rights**⁷. The results of these examinations are

⁵ According to a written declaration by members of the Parliamentary Assembly of the Council of Europe in October 2015, the “lack of access by women, especially pregnant women, to reproductive health services represents a major health disaster.”

⁶ Female genital mutilation (FGM) refers to procedures carried out on millions of young girls and women every year that involve the partial or complete removal of the female external genitalia, or other injury to the female genital organs for non-medical reasons. FGM is recognised as a violation of human rights, and has been the subject of UN and WHO resolutions calling for its abolition.

sometimes communicated to the Social Welfare Services, Civil Registry, Migration Department and other authorities, as well as to individuals (especially members of the detainee's family) without consent.

Even in countries where access to health-care does exist for migrant women and girls, bureaucratic complexity, practice and the lack of consideration of cultural impacts can create insurmountable barriers. Especially migrant women and girls with disabilities and older migrant women face countless challenges to access the health-services that they need.

RECOMMENDATIONS

- Adapt the Law: For policymakers at the national, regional and local levels, reforming legislation and policy that deny or limit access to health services on the basis of residence status is both instrumental to the lives' of migrant women and girls and a good economic choice⁸.
- Tackle administrative barriers to facilitate access to health services: Simplifying, translating and diffusing rules on the process for accessing care, removing expensive or unnecessary requirements and proactively challenging the impact of cultural barriers will facilitate access of migrant women and girls to the health services they need, including sexual and reproductive health services.
- Develop prevention-related interventions: Acknowledging that sex-based violence is directly affecting migrant women and girls' health can enable health services to identify abuse early, providing victims with necessary treatment, and referring them to appropriate care.
- Create firewalls: Provision of basic services, including sexual and reproductive health services, should remain outside of immigration control. Ensuring respect of privacy, consent and confidentiality between medical practitioners and all patients is essential.

MIGRANT WOMEN POLITICAL PARTICIPATION AND POSITIVE CONTRIBUTION TO SOCIETY

⁷ NGOs working in migrant camps such as KISA in Cyprus have gathered testimonies from migrants that have been subjected to involuntary medical examinations.

⁸ In September 2015, the EU Fundamental Rights Agency (FRA) published a report on the financial impact on health systems of excluding undocumented migrants from accessing nonemergency care, looking at the examples of hypertension and prenatal care in Germany, Greece and Sweden. Conditions were selected according to several factors, including *inter alia* their prevalence among undocumented migrants, the cost impact of the condition if left untreated, and the availability of data. According to the study's findings, which are based on economic modelling, Germany and Greece would, after two years, see savings of up to 48 percent of health system costs, and Sweden up to 69 percent, if regular care were made equally available to undocumented women.

Lack of citizenship or legal status should not mean that migrant women and girls have no voice in the political, economic and social affairs of their host country⁹. The United Nations High Commissioner Zero Draft on Refugees calls on States to “*include refugees, particularly women and youth, in key fora, institutions, and decision-making processes*” and to “*support consultative processes that enable refugees and host communities to assess their own needs and help to design appropriate responses*”¹⁰.

In recent years, there have been numerous examples of women, amongst whom migrant and Roma women, acting as agents of change¹¹. Many examples exist of migrant women across Europe contributing both at the national and European levels through and with organisations such as the European Network Against Racism (ENAR) and the European Migrant Women’s Network (EMoWN).

However, due to persistent cultural, religious and structural barriers, **migrant women and girls face particular challenges and are widely excluded from political life in both their host country and their countries of origin**. Language difficulties and multiple pressures to behave in a certain way can limit their ability to engage in community activities. All these constraints may result in isolation and struggle to achieve integration for these women and girls.

RECOMMENDATIONS

- **Raise awareness**: Informing and campaigning amongst migrant communities on the importance of political participation is the first step to enabling migrant women and girls to achieve political and civil society participation.
 - Once again, this information needs to be provided in the languages most frequently used by migrants to provide them with content they understand.
 - Migrant women and girls participation in the making of these awareness-raising campaigns should be encouraged.
 - Awareness should also be raised amongst civil servants and public authorities representatives about the importance of sustaining the political and social participation of migrant women and girls and the obstacles they face.
- **Fund**: Associations and organisations that promote the integration of migrant women and girls through participative approaches.

⁹ According to the Human Rights Council (2014), groups such as refugees, who are often excluded from formal political activities, have an even greater need for alternative means of political participation

¹⁰ Quote from the United Nation Refugee Agency, 2018.

¹¹ The Organisation for Security Cooperation in Europe (OSCE), held a conference in 2012 about migrant women being agents of change in European societies.

- Support dialogue and cooperation with migrant communities: This includes any initiative aiming at fighting racism and stereotypes and recognising diversity amongst migrant communities.

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III./ ACKNOWLEDGEMENT OF THE IMPACT OF THE COVID-19 CRISIS ON MIGRANT WOMEN AND GIRLS AND INCLUSION OF CORRECTIVE MEASURES IN MIGRATION POLICIES

The COVID-19 pandemic has amplified existing sex-based discrimination and violence against women and created new outcomes that disproportionately impact migrant women and girls. It also highlighted the preeminent role that women play in our socio-economic models as they make up the majority of people working in hospitals, education and care services. Given that the current context - especially regarding global warming - makes it likely for international crises to keep occurring in the future, it is becoming essential for migration policies to include measures regarding protection of migrant women and girls during such times.

For many of the **8.5 million women migrant domestic workers in Europe, the onset of the pandemic has led to dismissal from jobs, with their health and safety ignored and even violated while COVID-19 spreads rapidly within their communities.** In countries such as Spain where thousands of seasonal women migrant workers come every year to work in the farms, reports have shown failures to provide them with appropriate personal protective equipment, which puts them at direct risk.

In the case of human trafficking¹² and prostitution, **COVID-19 is making the task of identifying victims even more difficult.** They are also more exposed to contracting the virus. Essential and practical operations to support them have become a challenge, due to countries adjusting their priorities during the pandemic. In addition, **the increased levels of intimate partner and domestic violence reported in many European Union countries is a worrying indicator for the living conditions of many trafficking victims, such as those in domestic servitude or sex slavery, forms of exploitation that disproportionately affect women and girls.**

Many women shelters in member states have also had to close because of reported infections. Lack of housing, healthcare, legal and other services increases vulnerabilities both to trafficking and to COVID-19 infection.

¹² 76% of victims of human trafficking are women and girls according to the European Commission.

As of today, the measures taken by the European Union in relation to the COVID-19 crisis primarily aim at supporting the recovery and resilience of the economies of the member states. However, according to the European Network of Migrant Women, including expertise on intersecting violences faced by migrant women during the COVID-19 crisis is instrumental to ensuring an inclusive vision and strategy to recover from it without leaving anyone behind.

RECOMMENDATIONS :

- Disseminate information : In a context of crisis, migrant women and girls' access to information is even more crucial. Once again, this information needs to be available in different languages¹³. Social media can also be a good tool to disseminate information even faster.
- Guarantee access to health-care during a pandemic crises¹⁴ : In the context of a pandemic, all people must have access to health-care, even in places where it is not usually accessible for some groups (eg; undocumented migrants). The exclusion of migrant women and girls from health-care services and paid sick leave could increase the risk of spreading viruses within the entire community.
- Ensure everyone's protection : In a context of crisis, protection measures taken by the governments and European institutions should benefit everyone, including migrant women and girls. The same level of assistance and protection should be afforded to all¹⁵.
- Control ethical recruitment : As countries struggle to deal with the aftermath of a crisis, they may recruit additional workers from overseas. In this recruitment, it is imperative that countries adhere to WHO's international recruitment code of practice, which discourages the active recruitment of health workers from countries that are facing critical shortages of them.
- Perfecting bilateral labour agreements : The COVID-19 crisis has highlighted the gaps in bilateral labour agreement regarding health-care provision and repatriation. We need these agreements to be generalised and to include clauses detailing the repatriation of workers during crisis situations. Future labour agreements should also include health-care

¹³ Doctors of the World has translated COVID-19 advice into 60 languages.

¹⁴ During the Covid-19 crisis, Colombia has permitted its Venezuelan migrant population to access health-care. In the United States, Connecticut, New York and Vermont are petitioning the Supreme Court to allow migrants to access health-care.

¹⁵ During the Covid-19 crisis, in Canada, temporary foreign workers in the country's agricultural sectors who lost their jobs, became ill, or have had to quarantine due to the virus, are now able to obtain paid protection and are eligible for unemployment insurance. In Spain, unemployment insurance has now been extended to domestic workers. Portugal has granted temporary residency rights to migrants and asylum seekers with open residency applications which allows them to access key social protection programmes.

provisions for all migrant workers.