



2017/2270(INL)

10.9.2018

OPINION

of the Committee on Women's Rights and Gender Equality

for the Committee on Civil Liberties, Justice and Home Affairs

with recommendations to the Commission on Humanitarian Visas
(2017/2270(INL))

Rapporteur for opinion: Malin Björk

(Initiative – Rule 46 of the Rules of Procedure)

PA_INL

SUGGESTIONS

The Committee on Women's Rights and Gender Equality calls on the Committee on Civil Liberties, Justice and Home Affairs, as the committee responsible, to incorporate the following suggestions into its motion for a resolution:

- A. whereas it is widely accepted that gender falls under membership to a particular social group which is one of the grounds of protection under the 1951 UN Convention relating to the status of Refugees and its 1967 Protocol (the Refugee Convention) and whereas persecution on the basis of gender constitutes a ground for seeking and being granted protection under the international and EU legal frameworks, including the Istanbul Convention, and whereas women worldwide are affected disproportionately by sexual and other forms of gender-based violence and in specific ways during the times of armed conflict and war;
- B. whereas in current refugee crisis, single women travelling alone or with children, women heads of household, pregnant and lactating women, people with disabilities, adolescent girls and elderly women are among those who are particularly vulnerable along migration routes to Europe and are facing particular greater risks of gender-based violence;
- C. whereas the UNHCR Guidelines on Gender-Related Persecution (2002) consider that the refugee definition should cover gender-related claims and urges asylum-grantors to adopt a “gender-sensitive interpretation” of the grounds of protection and ensure a non-discriminatory process;
- D. whereas according to the International Organisation for Migration (IOM) statistics, since 2014 more than 15 thousand migrants have lost their lives or gone missing on the way to Europe in the Mediterranean; and whereas the Central Mediterranean remained the most deadly route with nearly two deaths for every 100 travellers in 2015, which is unacceptable;
- E. whereas the Istanbul Convention, in particular its Article 60, requires the parties to take necessary legislative or other measures to ensure that gender-based violence against women may be recognized as a form of persecution and to ensure that the grounds for asylum listed in the 1951 Refugee Convention are interpreted in a gender-sensitive manner;
- F. whereas the need for safe and legal pathways to the Union are pressing, also from a gender perspective, and whereas humanitarian visas can be complementary, although not replacing, other safe pathways such as resettlement and humanitarian admission;
- G. whereas the current lack of a possibility to request protection on humanitarian grounds outside of the Union means that persons seeking asylum are forced to enter Europe in an irregular manner thereby risking their lives and health, with particular and gendered consequences for women, girls and LGBTI persons, such as rape, violence and being targets of smugglers and traffickers to be sexually and economically exploited;
- H. whereas the creation of humanitarian visa will grant vulnerable people and those

individuals that face specific challenges such as ill people, people with disabilities, families, women, pregnant women, children, elderly and LGBTBI access to asylum procedures and humanitarian protection, travelling in a safe way to Europe where their asylum or humanitarian claim would be processed;

- I. whereas women and girls can be subject to specific forms of gender-related persecution and discrimination in the countries of origin, including but not limited to female genital mutilation, forced marriage, domestic violence, rape, sexual violence, and ‘honour crimes’;
 - J. whereas according to the UNHCR in 2017, women comprised from 9 - 22 % of the sea arrivals to Italy, Greece and Spain ¹, the large gender discrepancy being related to women’s specific vulnerability including economic and other dependencies;
 - K. Whereas women and girls face high risks from sexual and physical abuse and violence including rape and tend to be more vulnerable to all forms of exploitation including labour exploitation and sexual exploitation along the migration routes to the EU; and are often being forced to survival sex in exchange for continuing their journey; whereas criminal groups, some smugglers and traffickers take advantage of the lack of safe passage into European Union;
 - L. whereas girls and women victims of gender-based violence who are in need of international protection may be reluctant to identify the true extent of the persecution suffered or feared and therefore, they require a supportive environment where they can be reassured of the confidentiality;
1. Emphasises the pressing need of safe and legal pathways to the European Union, of which humanitarian visas should be one; this is important from a gender perspective since women and LGBTBI persons are particularly vulnerable and therefore more exposed to sexual and gender-based violence along routes and in reception centres.
 2. Regrets that there is a great degree of inequality between women and men who are forced to leave their countries of origin for international protection; emphasizes that oftentimes vulnerable economic and other type of dependencies put women and girls in third countries in a situation where it is even more difficult for them than for men to safely seek asylum;
 3. Condemns the ongoing situation where in order to seek asylum in the EU, women and girls, as well as LGBTBI persons put themselves under the serious risk of sexual and gender-based violence along routes and in reception centers;
 4. Stresses that gender-based violence, including sexual violence, has serious consequences on women and girls’ life and health, which could affect the mental health of women and lead to post-traumatic stress disorder, anxiety and depression;
 5. Underlines that women, girls, and LGBTBI persons who claim a well-founded fear of gender-based persecution need to be able to safely request visas on humanitarian grounds;

¹ <https://data2.unhcr.org/en/documents/download/63039>

6. Calls for a separate instrument on humanitarian visas, in addition and complementary to a Union programme on resettlement and humanitarian admission, in order to provide a safe and legal access to the EU territory for persons in need of international protection while ensuring its gender-sensitive approach and effective protection of persons suffering gender-based persecution in which it is of utmost importance that the process is handled in a sensitive and respectful way, with full understanding regarding the complexity and the vulnerabilities of all applicants, especially women, children and LGBTI persons;
7. Points out that the instrument of humanitarian visa should also include humanitarian protection claims based on health conditions, compelling family grounds when these do not amount to grounds for family reunification, climate displacement reasons and other compelling cases of humanitarian protection needs;
8. Highlights that gendered forms of violence and discrimination, including but not limited to rape and sexual violence, FGM, forced marriage, domestic violence, so-called honour crimes and gender discrimination condoned by the state, constitute persecution and should be valid reasons for seeking asylum or humanitarian protection and therefore be reflected in the new instrument; calls on the Commission therefore to recognize gender-based persecution as a valid ground for seeking international protection as well as to ensure the inclusion of the gender perspective in all phases of the asylum procedure by complying with the 2002 UNHCR Guidelines on international protection: gender-related persecution;
9. Alerts that the new instrument of humanitarian visa cannot serve as a way to shift the responsibility to assess refugees' claims to countries outside Europe but as a way to ensure asylum seekers and person in need of humanitarian protection travel safe to Europe where their claim then would be processed; whereas proposals such as the disembarkation platforms fundamentally undermine the core principles of international and European refugee protection;
10. Calls on the Commission and the Member States to improve the collection of sex-disaggregated data in current refugee crisis and to ensure that a gender equality perspective is incorporated into relevant asylum policies;
11. Reminds that legislation and policies to combat human smuggling should never prevent access to EU asylum procedures and should seek to help migrant and refugees avoid exploitative harmful situations;
12. Criticises the designation of third countries as safe countries of origin, safe third countries and first countries of asylum and underlines that even in countries deemed safe, women may suffer gender-based persecution, while LGBTI persons may also suffer abuse, thus having a legitimate request for protection;
13. Calls for an immediate end to the detention of children, pregnant and nursing women and survivors of rape, sexual violence and trafficking, and for appropriate psychological support to be made available;
14. Stresses the need for funding to support, specifically, the more vulnerable women and girls in our society, particularly women with disabilities, women refugees and those

who are victims of trafficking and abuse;

15. Calls on the Member States to provide necessary and sufficient trainings to staffs and health professionals involved in dealing with children, girls and women victims of gender-based violence when they arrive in the EU, in order to provide specialised assistance and care services, including sexual and reproductive healthcare and psychological support;
16. Regrets that some Member States have not ratified the Istanbul Convention and reiterates its call for all Member States to ratify the Istanbul Convention and to fully implement it without any delay;
17. Calls for shared responsibility and close cooperation among the European countries, international organizations, relevant stakeholders and sectors at different levels; reminds the Commission and the Member States that the protection of persons in need of international protection is an issue which concerns all and a common response based on the principle of solidarity shall be given;

INFORMATION ON ADOPTION IN COMMITTEE ASKED FOR OPINION

Date adopted	3.9.2018						
Result of final vote	<table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 60%;">+:</td> <td style="text-align: right;">15</td> </tr> <tr> <td>–:</td> <td style="text-align: right;">8</td> </tr> <tr> <td>0:</td> <td style="text-align: right;">0</td> </tr> </table>	+:	15	–:	8	0:	0
+:	15						
–:	8						
0:	0						
Members present for the final vote	Maria Arena, Beatriz Becerra Basterrechea, Malin Björk, Vilija Blinkevičiūtė, Anna Hedh, Mary Honeyball, Agnieszka Kozłowska-Rajewicz, Florent Marcellesi, Krisztina Morvai, Maria Noichl, João Pimenta Lopes, Michaela Šojdrová, Anna Záborská, Maria Gabriela Zoană						
Substitutes present for the final vote	José Inácio Faria, Eleonora Forenza, Jérôme Lavrilleux, Mylène Troszczynski, Monika Vana, Julie Ward						
Substitutes under Rule 200(2) present for the final vote	Cécile Kshetu Kyenge, Patrick O’Flynn, Patrizia Toia						

FINAL VOTE BY ROLL CALL IN COMMITTEE ASKED FOR OPINION

15	+
ALDE	Beatriz Becerra Basterrechea
GUE/NGL	Malin Björk, Eleonora Forenza, João Pimenta Lopes
S&D	Maria Arena, Vilija Blinkevičiūtė, Anna Hedh, Mary Honeyball, Cécile Kashetu Kyenge, Maria Noichl, Patrizia Toia, Julie Ward, Maria Gabriela Zoană
VERTS/ALE	Florent Marcellesi, Monika Vana

8	-
EFDD	Patrick O'Flynn
ENF	Mylène Troszczynski
NI	Krisztina Morvai
PPE	José Inácio Faria, Agnieszka Kozłowska-Rajewicz, Jérôme Lavrilleux, Michaela Šojdrová, Anna Záborská

0	0

Key to symbols:

+ : in favour

- : against

0 : abstention