



**2015/0000(INI)**

16.11.2015

# **DRAFT REPORT**

on the situation of women refugees and asylum seekers in the EU  
(2015/0000(INI))

Committee on Women's Rights and Gender Equality

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## MOTION FOR A EUROPEAN PARLIAMENT RESOLUTION

### on the situation of women refugees and asylum seekers in the EU (2015/0000(INI))

*The European Parliament,*

- having regard to Article 2 and Article 3(3), second subparagraph, of the Treaty on European Union (TEU),
- having regard to Article 23 of the Charter of Fundamental Rights of the European Union,
- having regard to the 1951 Convention and the 1967 Protocol relating to the Status of Refugees,
- having regard to the 1948 Universal Declaration of Human Rights,
- having regard to the 1979 UN Convention on the Elimination of All Forms of Discrimination against Women (CEDAW),
- having regard to the Council of Europe Convention on preventing and combating violence against women and domestic violence (Istanbul Convention),
- having regard to General recommendation No 32 of the Committee on the Elimination of Discrimination against Women on the gender-related dimensions of refugee status, asylum, nationality and statelessness of women of 14 November 2014,
- having regard to UN Security Council resolution 1325 on women and peace and security of 31 October 2000,
- having regard to the Beijing Declaration and Platform for Action adopted by the Fourth World Conference on Women on 15 September 1995, and to the subsequent outcome documents adopted at the United Nations Beijing +5, Beijing +10 and Beijing +15 special sessions and the Beijing +20 review conference,
- having regard to the Commission communication of 13 May 2015 entitled ‘A European Agenda for Migration’ (COM(2015)0240),
- having regard to the Council conclusions on migration of 12 October 2015, and particularly the commitment expressed therein to the human rights of women and girls,
- having regard to Directive 2011/36/EU of the European Parliament and of the Council of 5 April 2011 on preventing and combating trafficking in human beings and protecting its victims and replacing Council Framework Decision 2002/629/JHA,
- having regard to Directive 2013/33/EU of the European Parliament and of the Council of 26 June 2013 laying down standards for the reception of applicants for international protection,

- having regard to the proposal for a Regulation establishing an EU common list of safe countries of origin for the purposes of Directive 2013/32/EU of the European Parliament and of the Council on common procedures for granting and withdrawing international protection, and amending Directive 2013/32/EU,
  - having regard to the Council conclusions entitled ‘Gender Action Plan 2016-2020’ of 26 October 2015,
  - having regard to the Commission communication of 25 March 2015 entitled ‘Implementation of the European Neighbourhood Policy in 2014’ (SWD(2015)0076),
  - having regard to Rule 52 of its Rules of Procedure,
  - having regard to the report of the Committee on Women’s Rights and Gender Equality (A8-0000/2015),
- A. whereas an unprecedented and increasing number of men, women and children are seeking international protection in the EU as a result of ongoing conflicts, regional instability and human rights violations, including gender-based violence and rape as a weapon of war;
  - B. whereas women seeking asylum have specific protection needs which require that the implementation of all asylum policies be gender sensitive;
  - C. whereas the relevant acts making up the Common European Asylum System must be transposed and implemented in accordance with the Geneva Convention relating to the Status of Refugees and other relevant instruments;
  - D. whereas the treatment of women and girls seeking asylum across Member States is inconsistent, and very significant shortcomings remain;
  - E. whereas women seeking asylum are vulnerable to gender-based violence in their countries of origin, transit and destination;
  - F. whereas criminal networks are taking advantage of regional instability and conflict and the vulnerability of women and girls trying to flee in order to exploit them through trafficking, prostitution and sexual exploitation;
  - G. whereas the Office of the United Nations High Commissioner for Refugees (UNHCR) has reported instances of violence and abuse, including sexual violence, against refugee women and children, particularly in overcrowded reception centres in the EU;
  - H. whereas girls fleeing conflict and persecution are at a heightened risk of child, early and forced marriage;
  - I. whereas separation from family members exposes women and children to greater risks;
  - J. whereas the Beijing Platform for Action highlighted the need to increase the participation of women in conflict resolution at decision-making levels and the need for refugee, displaced and migrant women to be appropriately involved in decisions that affect them;

- K. whereas an estimated 20 000 women and girls from countries of origin practising female genital mutilation (FGM) seek asylum in EU Member States every year according to the UNHCR;

### **General recommendations**

1. Believes that, to improve the security and safety of women refugees, safe and legal routes to the EU must be made available for those fleeing conflict and persecution; believes that legislation and policies relating to irregular migration should never prevent access to EU asylum procedures;
2. Reiterates its call for all Member States to sign and ratify the Council of Europe Convention on preventing and combating violence against women (Istanbul Convention);
3. Expresses its deep concern at reports that women and children are engaging in survival sex to pay smugglers to continue their journey to seek asylum in the EU;

### **Gender dimension of refugee status determination**

4. Calls for a new, comprehensive set of EU-wide gender guidelines to be adopted as part of wider reforms to migration and asylum policy;
5. Calls on the Commission to amend Regulation (EC) 862/2007 on Community statistics on migration and international protection with a view to adding more gender disaggregated data categories, particularly in relation to stages in the asylum process after an initial decision has been made;
6. Urges the Commission to develop interpretative guidelines on FGM which give full consideration to the UNHCR Guidelines on gender-based persecution and Guidance Note on FGM and which clearly outline Member States' obligations;
7. Notes the Commission's proposal to establish a common EU list of safe countries of origin; demands that all appropriate steps be taken to ensure that this approach is consistent with the principle of non-refoulement and that the rights of women, children and other vulnerable groups are not undermined; calls for gender differentiation to be applied; believes that claims based on fear of gender-based violence or discrimination should never be subject to accelerated asylum procedures;
8. Calls for more objective and gender-sensitive approaches to credibility assessment in all Member States, and enhanced training on credibility assessment for decision-makers which incorporates a gender dimension;
9. Calls on the Member States to give reasons for positive asylum decisions in order to make available useful data on the consideration given to gender-based violence and to provide transparency about the Convention grounds on which asylum claims have been granted;

### **Needs of women in asylum procedures**

10. Urges the Member States to guarantee and publicise the right of women seeking asylum

to request a female interviewer and interpreter and to deliver comprehensive and mandatory training for interviewers and interpreters on sexual violence, trauma and memory;

11. Urges the Commission and the Member States to guarantee full access to sexual and reproductive health and rights, including access to safe abortion, and to allocate additional resources to healthcare provision as a matter of urgency;

### **Reception and detention**

12. Calls on the Commission and the Member States to take immediate measures to ensure that reception conditions are safe and adequate, with separate accommodation and sanitation facilities for women and families;
13. Highlights that many women asylum seekers and refugees have experienced extreme violence and that detention may exacerbate their trauma; calls for an immediate end, in all Member States, to the detention of pregnant women seeking asylum and the detention of survivors of rape and sexual violence;
14. Stresses the urgent need for independent investigations into all allegations of abuse at places of immigration detention and for access to be granted to journalists;
15. Urges all Member States to reduce maximum limits to the duration of detention prior to removal to below the limit stipulated in the Return Directive; considers that prolonged detention disproportionately harms vulnerable groups;

### **Social inclusion and integration**

16. Calls on the Member States to develop and implement specific measures to facilitate labour market participation of women refugees and asylum seekers, including language classes, lifelong learning and training; stresses the importance of widening access to higher education for women refugees; calls for robust and transparent procedures for recognising qualifications obtained abroad;
17. Highlights the critical importance of accessible childcare in enabling the economic and social empowerment of women refugees;
18. Calls for swifter, more efficient family reunification procedures and the collection of gender-disaggregated data on decisions relating to family reunification; stresses the importance of access to legal aid in family reunification cases;
19. Believes that mutual recognition of positive asylum decisions would enable better opportunities for jobs, integration and family reunification;
20. Encourages the sharing of best practice amongst Member States on the involvement of community-based organisations in representing the views of refugee and asylum-seeking women to policymakers;
21. Instructs its President to forward this resolution to the Council, the Commission and the UNHCR.

## EXPLANATORY STATEMENT

In 2014, half of the world's refugee population were women and girls.<sup>1</sup> Historically, international conventions and national asylum policies have tended to overlook the specific position of female asylum seekers and the gendered nature of refugee situations. Asylum systems have largely been seen through the lens of male experience. Despite the creation of the Common European Asylum System (CEAS), law, policy and practice in member states continues to vary significantly and there is a noticeable gap in the protection given to women seeking asylum in the EU.

Accurate statistics on the demographic diversity of refugees trying to reach Europe are, by their nature, difficult to generate. However, all contemporary research suggests that more single men reach the EU to seek international protection than women and children. This is largely a result of the gendered barriers to accessing protection that women face throughout their journeys. Traditional unequal divisions of labour mean women are often left behind to care for children and elderly family members. Many lack the independence - both financial and administrative - to leave their country of origin in the first place.

The increasing numbers of women who do flee are vulnerable at all stages of their journeys; in countries of origin, transit and destination. As well as being a key driver behind women's decisions to flee, gender-based violence is a common feature throughout journeys to and within the EU.

### **The gender dimension of refugee status determination**

It has been argued that the European Parliament was the first international body to acknowledge the need for a gender-sensitive interpretation of the Refugee Convention, in a resolution of 13 April 1984<sup>2</sup> which was then echoed by subsequent UNHCR conclusions and guidelines. Many EU member states have adopted their own gender guidelines but these are non-binding and their effectiveness has been partial and uneven.

It is widely recognised that harms perpetrated against women seeking asylum are often at the hands of non-state actors, including family members. Persecution takes place when the state is unable or unwilling to provide protection to women in such cases. As a result, persecution must be considered as both vertical and horizontal in dimension, particularly in the context of gender-based claims.

Many member states have still not signed and ratified the Council of Europe Convention on preventing and combating violence against women and domestic violence ('Istanbul Convention'). The Convention requires states parties to interpret Refugee Convention grounds in a gender-sensitive way and to provide gender-sensitive reception conditions, support services and asylum procedures.

The quality and form of decision-making in asylum processes affects women and men in

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<sup>1</sup> "World at war. UNHCR Global Trends. Forced displacements in 2014", <http://unhcr.org/556725e69.html>

<sup>2</sup> EP resolution of 13 April 1984 on the application of the Geneva Convention relating to the status of refugees, OJ C 127, 14.5.1984, p.137.

different ways. Women are less likely to have evidence to corroborate a claim. This is due to various factors including their economic, social and political status in their country of origin, and the nature of the persecution they have experienced or fear. For this reason, oral testimony tends to play a more significant role in women's asylum claims, particularly in credibility assessments.

Where women have experienced trauma, they may be reluctant or slow to disclose relevant information. Some NGOs have reported a culture of disbelief in which decision makers fail to account for the complexity of the recollection of histories of harm and trauma and place too high a burden on refugee claimants with limited documentary evidence.

The proposed Regulation to establish an EU common list of safe countries of origin<sup>1</sup> raises important questions about the situation of women applying for asylum in the EU. If adopted, the Commission must ensure these changes take full account of the situation of women, LGBTI persons and other vulnerable groups, providing for specific derogations where necessary. No country can be deemed truly 'safe' for women and girls when gender-based violence is a global and endemic problem. This should be explicitly acknowledged in any new rules and gender-differentiation should be applied.

A new, comprehensive set of EU-wide gender guidelines should be adopted as part of wider reforms to migration and asylum policy.

### **The needs of women in asylum procedures**

Women seeking asylum should have access to high quality legal advice at the earliest possible opportunity. The psychological trauma, shame and stigmatisation many women experience as a result of violence can make it difficult for legal representatives to gain trust. It is imperative that women have the confidence to disclose intimate details of traumatic experiences.

Gender-related claims for asylum are often complex and may require additional legal work as a result. In many member states, legal aid expenditure has been reduced significantly in recent years as part of austerity programmes. Lack of funding may discourage legal representatives from taking complex gender-related cases to appeal and, as a result, many women seeking asylum have no choice but to submit appeals without any legal representation.

Incorrect decisions can result in irreversible tragedy. Legal aid is therefore a vital safeguard against erroneous decisions. The Fundamental Rights Agency has also highlighted obstacles that asylum applicants face in accessing effective remedies.<sup>2</sup> Lack of legal assistance also means recognised refugees are often unable to exercise their right to be reunited with their family.

Women have specific needs in screening and interview processes and standards continue to vary significantly across member states. To address this, as a minimum, member states should:

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<sup>1</sup> COM (2015) 452 final, 9 September 2015.

<sup>2</sup> Fundamental Rights Agency, 'Access to effective remedies: The asylum-seeker perspective' Thematic report, 2011.



- guarantee and publicise the right to request a female interviewer and interpreter.
- deliver comprehensive and mandatory training for interviewers and interpreters on sexual violence, trauma and memory.
- provide trauma counselling for women who have experienced gender-based harm
- provide information about the asylum process, rights and entitlements specific to women seeking asylum.
- provide childcare during screening and asylum interviews
- inform women of their right to make an independent application for asylum

There is a need for more coordinated training for all professionals who may come into contact with those affected by Female Genital Mutilation (FGM) including training on existing initiatives such as the web knowledge platform on comprehensive training for professionals.<sup>1</sup>

### **Trafficking, smuggling and sexual violence**

Forced displacement leads to many concomitant gendered forms of exploitation and persecution, including trafficking for sexual or labour exploitation. Women and girls fleeing conflict face a heightened risk of child, early and forced marriage. Evidence also suggests survival sex has become a currency with which to pay unscrupulous smugglers in some regions.

Sexual violence is often used as a strategy to deprive women and girls of their basic human rights and may result in forced, unwanted and child pregnancies. More than a third of maternity related deaths worldwide take place in crisis settings, such as refugee camps. This is primarily due to the lack of access to basic emergency obstetric care and skilled health personnel. The inadequacy or absence of sexual and reproductive health care provision puts millions of women and children at unnecessary risk of illness and death.

The Commission and member states should guarantee full access to sexual and reproductive health and rights, including access to safe abortion. Additional resources must be allocated as a matter of urgency.

The problems of trafficking in human beings and smuggling are often related and interlinked. However, the two categories are distinct and give rise to different legal obligations. Trafficking always involves coercion and exploitation and need not involve irregular crossing of borders. To ensure appropriate and targeted policy and criminal law responses, the two phenomena should be considered separately.

The increased use of smugglers and insecure migration routes engenders specific problems for women. When women and their families are left with no choice but to take more perilous routes, their exposure to violence and reliance on criminal smugglers is increased. Ultimately, to improve the security and safety of women refugees, safe and legal routes to the EU must be made available for those fleeing conflict and persecution.

Security and respect for women's rights need not be conflicting policy objectives.

### **Reception and detention**

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<sup>1</sup> [www.uefgm.org](http://www.uefgm.org)

Women have specific reception needs, as recognised in Article 60 (3) of the Istanbul Convention which requires that parties:

*take the necessary legislative or other measures to develop gender-sensitive reception procedures and support services for asylum seekers (...)*

However, under the Reception Conditions Directive, women are not systematically considered as a category of ‘vulnerable persons’ or entitled to tailored accommodation.

Pressure on the asylum reception systems should never excuse failure to protect women from violence nor should women seeking asylum experience any double standards; they should have the same rights as other victims of gender-based violence. The Victims’ Directive also stipulates that the rights contained within it must not be made conditional on the victim’s residence status or on the victim’s citizenship or nationality.

A number of other issues relating to reception conditions should be addressed:

- gender-specific training for staff including comprehensive training on sexual violence, trafficking and FGM.
- separate sleeping and sanitation facilities for women and men
- access to gender-sensitive health services including prenatal and postnatal care
- access to counselling
- childcare

Detention should be used only as a last resort and vulnerable people should not be detained. The needs of pregnant women, women with young children, and survivors of sexual violence are more appropriately accommodated through alternatives to detention, such as the surrender of travel documents or reporting obligations.

### **Social inclusion and integration**

Women refugees face a number of specific integration challenges and experience multiple and intersectional discrimination based on characteristics including gender and minority ethnicity. This puts them at an even higher risk of social exclusion, violence and poverty.

In Europe today, asylum seekers are living on incomes well below the poverty line and some are forced to rely on charity to meet their basic human needs. It is deeply concerning that pregnant women and new mothers are not receiving adequate financial assistance. Even after refugee status has been granted, women encounter very significant barriers to employment and social assistance, including lack of access to childcare provision.

Member states should make greater use of cohesion funds alongside the AMIF to promote integration into the labour market. Childcare is critical in enabling the participation of women refugees in society and should be a priority.

The rise of far-right populism and extremism in Europe puts women refugees and asylum

seekers at further risk of racist abuse, discrimination and violence. Member states have an obligation to promote safe and welcoming environments for those seeking international protection and to combat all forms of discrimination. Policy makers at all levels must speak out about the positive economic, social and cultural contributions refugees can make.

## **Conclusion**

The key acts making up the CEAS have so far not guaranteed consistent and gender-sensitive treatment for women seeking protection in Europe. Despite the existence of legislation and policy designed to operate in a gender-sensitive way, very significant shortcomings remain. Even where policies are sensitive to gender, this does not always mean they are implemented effectively in practice.

European Union asylum policy must be sensitive to women's experiences at every stage. For policy makers to fully understand how gendered relations of power result in forced displacement and give rise to specific gendered experiences and needs, women asylum seekers and refugees must be given a greater voice.

The enormity of the humanitarian crisis currently facing Europe is a cause for grave concern. Unequal gender relations become magnified at such times of crisis. But this time of uncertainty and turmoil also presents the opportunity to harmonise best practice in the treatment of women asylum seekers and refugees in Europe.