European Union Agency for Fundamental Rights input for the CEDAW General Recommendation on Trafficking in Women and Girls in the Context of Global Migration, selection of relevant publications and passages from published reports

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1. **Severe labour exploitation reports (SELEX)**

## Out of sight: migrant women exploited in domestic work, June 2018

This paper describes the particularly exploitative working conditions experienced by 51 migrant women – both EU and non-EU nationals – who worked as domestic workers in selected EU Member States between 2013 and 2017 and outlines risk factors that lead to severe labour exploitation of domestic workers.

The findings of this report focus on two aspects:

* Particularly exploitative working conditions experienced by domestic workers; and
* Risk factors for labour exploitation and how Member States can counteract them

Particularly exploitative working conditions experienced by domestic workers:

* Humiliating and degrading treatment and lack of privacy
* Abuse and maltreatment by the employer
* Little pay
* Long working hours

Interviewees’ perceptions of why labour exploitation happens:

* Need to make a living
* Fear
* Uncertain or irregular residence/migrant status
* Impunity of exploiter
* Personality/behaviour of exploitative employer
* Lack of knowledge of the law/their rights
* Lack of controls by authorities ans the prohibitive costs of a lawyer
* Lack of inspections
* Lack of knowledge of language
* No knowledge about who to turn to for support
* Isolation
* Racism/discrimination

*To see the full report, please visit:* [*https://fra.europa.eu/en/publication/2018/exploited-domestic-workers*](https://fra.europa.eu/en/publication/2018/exploited-domestic-workers)

## Severe labour exploitation: workers moving within or into the European Union – Summary, March 2016

The report looks at criminal exploitation of the work of EU and non-EU migrants. It collects information on the nature of and responses to severe forms of labour exploitation across the EU. It builds on previous FRA research, particularly concerning irregular migrants in domestic work, and is linked to current work on victims’ rights and support.

*To see the full report, please visit:* [*https://fra.europa.eu/en/publication/2015/severe-labour-exploitation-workers-moving-within-or-european-union*](https://fra.europa.eu/en/publication/2015/severe-labour-exploitation-workers-moving-within-or-european-union)

## Protecting migrant workers from exploitation in the EU: boosting workplace inspections, September 2018

Severe labour exploitation is widespread across the European Union. While workplace inspections can help counter this phenomenon, they need to be strengthened to do so effectively. Based on interviews and focus group discussions with almost 240 exploited workers active in diverse economic sectors, this report provides important evidence on how unscrupulous employers manipulate and undermine inspections, and on what can be done to counteract such efforts.

*What we found?*

Inspections do happen, but not often enough. Just over half of the workers did not experience, see or hear of inspections at their workplace. In some countries – such as Germany, Poland and the United Kingdom – this is true for over 70 %. Inspections are especially rare in construction and food services, and virtually non-existent in domestic work.

Inspections that take place are not always effective. Some are carried out on ‘auto pilot’. Inspectors question workers in their employers’ presence, let employers choose the workers to talk to, and accept clearly rehearsed responses. Language issues can impede inspections. But inspectors sometimes wrongly assume that foreign workers do not speak the local language and do not even try to interact.

*What next?*

More inspections alone are not the solution. These also need to become more strategic and effective.

Smart resource allocation is crucial. Monitoring and inspections should be targeted, based on insights into what sectors and circumstances entail the highest risks of exploitation. Past FRA research highlights key risk factors. Training monitoring staff to better assess risk factors and spot signs of exploitation can also help.

Where possible, employers – particularly in sectors with higher exploitation risks – should not be told about inspections in advance.

Monitoring authorities should be pushed to talk to workers about their working conditions – without their employers being present. Issuing materials on labour rights in multiple languages, or cooperating with organisations that can provide language and translation services, can help overcome language barriers.

To convince workers that inspections bring more benefits than problems, they need to be able to report exploitation without having to fear losing their only source of money, a place to live, or being deported. Workers need to see that justice is done. In some cases, this means prioritising protecting the rights of crime victims over immigration management.

Information is key. Those responsible for monitoring and enforcement need to take the time to clearly inform workers – about the aim of inspections, their rights, and what the next steps will be; and where they can get support. This helps empower them to take part in proceedings. Seeing that inspections have real consequences for unscrupulous employers can spur action, as well.

Some workers are so dependent on their employers, even exploitative ones, that they are reluctant to seek help. This makes it important for third parties to help bring attention to exploitation. Raising awareness – among businesses, trade unions, hospitals and the general public – is vital.

Important legal steps include making detecting criminal forms of labour exploitation a key aim of workplace inspections. Deceiving inspectors should trigger tough sanctions. Finally, more efforts are needed towards introducing inspections in the domestic work sector.

*To read the full report, please visit:* <https://fra.europa.eu/en/publication/2018/protecting-migrant-workers-exploitation-eu>

1. **Regular overviews of migration-related fundamental rights concerns**

## Thematic focus: Trafficking, May 2016

While an increase in victims of human trafficking is reported or expected in some EU Member States, identification is generally difficult. Victims who are not formally recognised as such have only limited access to justice and other fundamental rights. FRA has found different practices in five areas that are crucial for prevention and protection in the context of human trafficking.

1. [**Identification procedures**](https://fra.europa.eu/en/theme/asylum-migration-borders/overviews/focus-trafficking#identification): such procedures are mainly initiated as part of asylum or child protection procedures and formalised to different extents; constraints commonly relate to human resources; only some EU Member States use the initial health check for identifying trafficking victims.
2. [**Attention to vulnerabilities**](https://fra.europa.eu/en/theme/asylum-migration-borders/overviews/focus-trafficking#vulnerabilities)**:** safeguards are not always provided and when available generally focus on children; in transit situations, attention to vulnerable groups is limited.
3. [**Cooperation with support organisations**](https://fra.europa.eu/en/theme/asylum-migration-borders/overviews/focus-trafficking#cooperation)**:** some Member States proactively involve non-governmental organisations (NGOs) in identification procedures allowing them to approach victims first; in other cases, NGOs report access difficulties; NGO assistance is often insufficient or not formally regulated.
4. [**Guidance and training**](https://fra.europa.eu/en/theme/asylum-migration-borders/overviews/focus-trafficking#training)**:** not all EU Member States provide regular training or specific guidance to staff who are likely to be in contact with trafficking victims; EASO and Frontex tools are seldom used.
5. [**Information on risks and support measures:**](https://fra.europa.eu/en/theme/asylum-migration-borders/overviews/focus-trafficking#information) information material is available at registration and reception in most but not all Member States; it is often provided in cooperation with support organisations.

*To read the full report, please visit:* [*https://fra.europa.eu/en/theme/asylum-migration-borders/overviews/focus-trafficking*](https://fra.europa.eu/en/theme/asylum-migration-borders/overviews/focus-trafficking)

* 1. Thematic focus: Gender-based violence, March 2016

There is increasing evidence that gender-based violence is a major issue for migrant women and girls. A field assessment of risks for refugee and migrant women and girls identified instances of sexual and gender-based violence, including early and forced marriage, transactional sex, domestic violence, rape, sexual harassment and physical assault in the country of origin and during the journey to Europe.

This thematic focus examines gender-based violence in four areas:

* [Reporting and data collection](https://fra.europa.eu/en/theme/asylum-migration-borders/overviews/focus-gender-based-violence#reporting)
* [Identification, referral of cases of gender-based violence and training](https://fra.europa.eu/en/theme/asylum-migration-borders/overviews/focus-gender-based-violence#identification)
* [Protection and prevention of gender-based violence](https://fra.europa.eu/en/theme/asylum-migration-borders/overviews/focus-gender-based-violence#protection)
* [Medical and legal support services](https://fra.europa.eu/en/theme/asylum-migration-borders/overviews/focus-gender-based-violence#medical)

Main findings of the overview:

* Guidelines or procedures for **identifying** and dealing with victims of gender-based violence are in place or are being developed in almost half of the EU Member States reviewed. They are, however, not always considered effective. Cases of violence are often identified during health checks.
* In most Member States, **training** on identifying and dealing with victims of gender-based violence is either not provided or provided in a non-systematic way.
* **Protection** of newly arrived migrant women who may be vulnerable to and/or are victims of gender-based violence is addressed through a number of measures, including: separate accommodation at reception centres; access to special women’s shelters for victims of gender-based violence; medical and psychosocial follow-ups and mechanisms for reporting cases of gender-based violence. Even though all nine Member States covered in this report seem to have one or more measures in place, only a few have procedures that address the response to gender-based violence in a comprehensive and coordinated manner.
* **Measures to prevent gender-based violence** include: awareness raising on gender-based violence at reception centres; infrastructure and housing measures (i.e. separate accommodation and separate sanitary facilities for men and women); inter-agency coordination on the issue; training of staff employed at reception centres; and availability of security measures (for example, security staff and cameras).
* None of the Member States were able to provide **data on reported incidents** of gender-based violence against women and girls who are newly arrived or in need of international protection.
* **Provision of information** on what gender-based violence is, how to report it and where to seek help is considered a major weakness in all Member States.
* **Victims themselves are reluctant to report to reception centre authorities or to the police**. In most Member States, authorities and other actors working at reception centres are taking various steps to facilitate and encourage reporting of violence – such as carrying out asylum interviews with women in private rooms with trained staff and interpreters of the same gender, and separated from the husband; information sessions (group or individual); provision of ‘women-only’ spaces, or provision of written information through leaflets or posters.
* Some countries report a lack of access to **legal support services** or adequate interpretation for victims of gender-based violence at reception centres.

*To see the full report, please visit:* [*https://fra.europa.eu/en/theme/asylum-migration-borders/overviews/focus-gender-based-violence*](https://fra.europa.eu/en/theme/asylum-migration-borders/overviews/focus-gender-based-violence)

* 1. Thematic focus: Children, February 2016

**Child disappearances**

To ensure their best interests, reception facilities need to have specific safeguards in place for children’s safety (Articles 18, 22 and 23 of the Reception Conditions Directive). They should also effectively prevent and respond to disappearances of children. However, accommodation centres, particularly those used in the first reception phase, usually have no effective measures in place.

FRA data further show high rates of unaccompanied children going missing from first reception facilities. This concerns transit, as well as typical destination countries such as Sweden, where one in four children allegedly disappear from their accommodation. Disappearances are also particularly high in Italy and Austria. In Slovenia, an estimated 80 % of children disappear from the open Asylum Home. In contrast, the number of unaccompanied children who disappeared from reception facilities in Greece has decreased in February.

When unaccompanied children go missing, guardians, if appointed, are often informed swiftly. Although in most Member States a report will be submitted to the police, there is no evidence that a tracing procedure is initiated in all cases or that any follow-up action take place. In Bulgaria, for example, it has been reported that no tracing will take place in such cases; however, the missing child’s data will be entered into SIS II.

Despite the increased number of missing unaccompanied children, no comprehensive and only a few concrete measures are in place to prevent disappearances or facilitate tracing, e.g. through fingerprinting or taking photographs.

In Croatia, for instance, photos are taken of all children, but fingerprints cannot be collected for tracing purposes from children under the age of 14 years. Social workers and NGOs in Slovenia inform children of the potential dangers of human trafficking and other risks to prevent disappearances. In Austria, a special cooperation initiative with the local police is in place to support reporting and tracing procedures, as the number of disappearances from the centre in Traiskirchen is increasing. Some Member States, for example Greece, resort to detaining children pending their transfer to specialised facilities in order to prevent disappearances.

In Sweden, the authorities will conduct a national study on disappearances of unaccompanied children to inform the development of a comprehensive policy and preventive measures.

*To see the full Thematic focus, please visit:* [*https://fra.europa.eu/en/theme/asylum-migration-borders/overviews/focus-children*](https://fra.europa.eu/en/theme/asylum-migration-borders/overviews/focus-children)

1. **Fundamental Rights Report 2018**

## 3.1. Chapter 6: Asylum, visas, migration, borders and integration

**Fundamental rights challenges persist as arrival drop**

Several measures contributed to the drop in arrivals. First, in February, Italy signed a Memorandum of Understanding with the Libyan Government of National Accord covering various areas, including the fight against irregular migration and trafficking in human beings. In early August, following a Libyan request, the Italian Parliament gave the green light to deploying military assets inside Libyan territorial waters. Financial support to enhance Libyan border and migration management followed.Meanwhile, the Libyan Coast Guard increased their search and rescue capacities. According to data reported to the Italian National Coordination Centre established under the European Border Surveillance System (Eurosur), the Libyan Coast Guard rescued 6,118 people in 2017, compared to some 2,490 in 2016.

Although primarily implemented as part of bilateral initiatives, the cooperation with Libya reflects a more general EU approach. In this spirit, in July 2017, the EU Trust Fund for Africa adopted a programme of work with € 46.3 million in funding “to reinforce the integrated migration and border management capacities of the Libyan authorities”. Operationally, the developments in Italy reflect the approach taken by **Spain**, where the Spanish authorities cooperate with states on the West African coast and Morocco.

Amnesty International commented that “Italy and other European governments have substituted clearly prohibited push-back measures with subsidised, or subcontracted, pull-back measures”. Indeed, the enhanced cooperation between Italy and Libya raises the question of whether Italy’s assistance to Libya complies with the EU Charter of Fundamental Rights and in particular with the principle of *non-refoulement*. Could, for example, the real-time sharing with Libyan authorities of co-ordinates of locations where migrants are embarking or found at sea engage Italy’s responsibility, if as a result the intercepted migrants are brought back to Libya, detained, and subjected to ill-treatment? In the absence of case law, this remains an open question.

The possible legal consequences for EU Member States supporting operationally third countries to prevent the departure of migrants towards the EU depend on the individual circumstances of each operation. It is presumably for this reason that the Council of Europe’s Commissioner for Human Rights requested clarification about the details of Italy’s bilateral cooperation. FRA developed practical guidance on preventive steps EU Member States can take to avoid *refoulement*; in 2017, it translated this into several official EU languages, including Greek, Italian and Spanish. Frontex used the guidance, inserting it as an important reference document on fundamental rights in the document regulating their operation off the West African coast.

In practice, these new policies resulted in many refugees and migrants on their way to Europe being stranded in Libya, often detained in inhuman conditions and subjected to serious forms of ill-treatment. Efforts to address their plight prompted discussions on new opportunities for legal entry into the EU. These resulted in a first group of 162 vulnerable refugees being directly evacuated from Libya to Italy at the end of the year. Other vulnerable refugees, including unaccompanied children, women at risk, victims of torture or severe ill-treatment, and persons with serious medical conditions, were temporarily transferred from Libya to an Emergency Transit Mechanism UNHCR established in Niger, with a view to identifying solutions for them. UNHCR also issued an urgent call for an additional 40,000 resettlement places for refugees (on top of states’ regular pledges) from the 15 countries hosting refugees along the Central Mediterranean route. Fewer than one third of the requested resettlement places had been pledged by the end of 2017.

*To see the full report, please visit:* [*https://fra.europa.eu/en/publications-and-resources/publications/annual-reports/fundamental-rights-2018#asylum*](https://fra.europa.eu/en/publications-and-resources/publications/annual-reports/fundamental-rights-2018#asylum)

## 3.2. Chapter 8: Rights of the Child

People continue to arrive in Europe and apply for asylum, but their number has considerably decreased. More than 656,800 persons applied for asylum in the EU in 2017, including 199,665 children. The number of children decreased almost by half compared to 2016, when 398,260 applied for asylum. Given the temporary reintroduction of border controls, the EU–Turkey statement56 and changing migration routes, there were drastically fewer applications in some Member States, such as Austria, Bulgaria and Germany. However, in other Member States, mainly on the Mediterranean arrival route, such as Italy, Greece, Spain, as well as in France, the number of applications remained similar or increased compared to 2016.

Unaccompanied children filed 63,245 asylum applications in 2016, according to the latest available Eurostat figures. In Italy, by 31 December 2017, 18,303 unaccompanied children, 93 % male and 7 % female, were registered as being present, according to the Ministry of Labour and Social Politics. In Greece, 5,446 unaccompanied children arrived between January and December 2017, according to UNHCR: 5,204 boys and 242 girls.

These statistics, however, represent only part of the picture. Data collection about children in migration remains a critical issue. The European Commission’s Knowledge Centre on Migration and Demography has expanded the datasets within its Dynamic Data Hub to include data on children in migration, disaggregated by age, on asylum, residence permits, resettlement, arrivals and UNHCR’s populations of concern. Nevertheless, to better understand the necessary policy interventions, data are still needed in areas such as Dublin transfers, family unity and reunification procedures, irregular border crossings, children returned, children in immigration detention, missing children, as well as disaggregation by gender. Eurostat, as a follow-up to the Commission’s 2017 Communication on the protection of children in migration, is already working on specific proposals to respond to policy needs raised. Eurostat has added a separate folder on children in migration to improve the visibility of children in data already collected.

*To see the full Thematic focus, please visit:* [*https://fra.europa.eu/en/publications-and-resources/publications/annual-reports/fundamental-rights-2018#child-rights*](https://fra.europa.eu/en/publications-and-resources/publications/annual-reports/fundamental-rights-2018#child-rights)

1. **Thematic Reports**

## 4.1.Guardianship systems for children deprived of parental care in the European Union – Summary, January 2018

Guardians are a key element of a protection system for children who are temporarily or permanently deprived of their family environment and cannot have their interests represented by their parents. Great disparities exist between the types of guardianship provided to children in and within European Union (EU) Member States. This report explores the key features of guardianship systems put in place to cater for the needs of all children in need of protection, including child victims and those at risk of becoming victims of trafficking in human beings or of other forms of exploitation.

No EU Member State has developed a separate guardianship system exclusively for child victims of trafficking. In principle, guardianship of child vic­tims of trafficking falls under the scope of the gen­eral guardianship provisions set forth in civil and/ or family law, irrespective of the migration or res­idence status of the child victim, even in Mem­ber States where a separate guardianship system for unaccompanied children is in place. Migration and asylum law provisions, however, apply to child victims who are third-country nationals as long as they are not formally identified as victims of human trafficking by the competent national authorities.

Fundamental principles of guardianship systems:

* 1. Non-discrimination
  2. Independence and impartiality
  3. Quality
  4. Accountability
  5. Sustainability
  6. Child’s participation

*To see the full report, please visit:* [*https://fra.europa.eu/en/publication/2018/guardianship-systems-children-deprived-parental-care-european-union-summary*](https://fra.europa.eu/en/publication/2018/guardianship-systems-children-deprived-parental-care-european-union-summary)

## 4.2. Handbook to reinforce guardianship systems to cater for specific needs of child victims of trafficking, 2015

The EU Strategy towards the Eradication of Trafficking in Human Beings 2012–2016 recognises the importance of comprehensive child-sensitive protection systems, for which a robust guardianship system serves as a touchstone. Effective guardianship systems are key to preventing abuse, neglect and exploitation. Yet the roles, qualifications and competences of guardians vary from one Member State to another. This handbook, a joint publication of the European Commission and the European Union Agency for Fundamental Rights, is designed to help standardise guardianship practice, ensuring also that it is better equipped to deal with the specific needs of child victims of trafficking. It provides guidance and recommendations to EU Member States on strengthening their guardianship systems, setting forth the core principles, fundamental design and management of such systems. By promoting a shared understanding of the main features of a guardianship system, it aims to improve conditions for children under guardianship and promote respect for their fundamental rights.

*To see the full handbook, please visit:* [*https://fra.europa.eu/en/publication/2014/guardianship-children-deprived-parental-care-handbook-reinforce-guardianship*](https://fra.europa.eu/en/publication/2014/guardianship-children-deprived-parental-care-handbook-reinforce-guardianship)

## 4.3. Age assessment and fingerprinting of children in asylum procedures – Minimum age requirements concerning children’s rights in the EU, April 2018

The methods used to determine the age of an applicant may include “invasive” medical tests which interfere with the rights of the child, including their right to dignity, integrity and privacy. It is often a challenge to find the right balance between protecting children from harm and promoting their participation in these procedures. This report provides important insights and identifies the implications of collecting children’s biometric data and conducting age assessments.

The lives of children are affected by migration procedures which determine their status and whether they are treated as a minor or an adult, and therefore not entitled to special child protection measures.

The report is one of two FRA reports addressing minimum age requirements in particular fields. The second report outlines age requirements and limits regarding child participation in judicial proceedings; procedural safeguards for, and rights of, children involved in criminal proceedings; as well as issues related to depriving children of their liberty. In addition, FRA has published on its website [comparative data on age requirements in nine thematic areas](https://fra.europa.eu/en/publications-and-resources/data-and-maps/minag?mdq1=dataset): legal capacity; political participation; health; religion; asylum and migration; access to justice; children in the digital world; social and economic rights; and LGBTI issues. Taken together, the reports and published data provide a comprehensive overview of minimum age requirements in the EU.

*To see the full Thematic focus, please visit:* [*https://fra.europa.eu/en/publication/2018/minimum-age-asylum*](https://fra.europa.eu/en/publication/2018/minimum-age-asylum)

## Upcoming publication

The FRA is working together with the EU anti-trafficking Office to develop practical guidance to enhance inter-agency and transnational cooperation aiming to prevent child trafficking of EU children, ensure protection of child victims, find durable solutions and safeguard their rights under EU and international law.

*For more information about this project, please visit:* [*https://fra.europa.eu/en/project/2018/practical-guide-enhance-transnational-cooperation-eu-child-victims-trafficking-or-need*](https://fra.europa.eu/en/project/2018/practical-guide-enhance-transnational-cooperation-eu-child-victims-trafficking-or-need)