

EUROPEAN EXTERNAL ACTION SERVICE



HUMAN RIGHTS, GLOBAL & MULTILATERAL ISSUES

Brussels, 07 June 2019

UN Special Rapporteur on Human Rights of Migrants on "Good practices and initiatives of gender-responsive migration legislation, policies and practices"

This is the contribution of the EU institutions, to the questionnaire of the UN Special Rapporteur on the human rights of migrants on "Good practices and initiatives of gender-responsive migration legislation, policies and practices"

We hope that our contribution will be of interest, ahead the upcoming report of the UN Special Rapporteur to be presented to the 74th session of the General Assembly in 2019, pursuant to Human Rights Council resolution 34/21.

A fundamental aspect of migration that has increasingly come under the spotlight of the EU institutions over the last years is its gender dimension. Men and women are exposed to different types of risks and vulnerabilities during the different stages of migration. Due to their status in society and their gender, women and girls can be particularly subject to discrimination and sexual and gender-based violence – which may themselves be grounds for displacement. They may have specific protection risks and needs that may be overlooked. In addition, failure to take due account of gender issues in asylum systems and integration measures may lead to discriminatory outcomes. Other factors, including age and sexual orientation, also affect vulnerability and needs. A body of gender-sensitive standards and guidance on displacement and asylum has been built up at EU levels.

Gender equality is a principle that flows through the engagements of all EU Institutions in all their internal and external activities and it is mainstreamed throughout the different stages of EU policies, strategies, action plans and projects on development, humanitarian aid, education, migration, etc.

I. The view of the EU on gender-responsive measures in migration policy

- **Gender is central to any discussion on the causes and consequences of migration**, whether forced or voluntary. It is recognised that a person's sex, gender, gender identity and sexual orientation shape every stage of the migration experience.
- **Gender influences reasons for migrating, who migrates and to where**, how people migrate and the networks they use, opportunities and resources available at destinations, and relations with the country of origin. **Risks, vulnerabilities and needs are also shaped in part by one's gender**. It is therefore crucial to understand how gender interacts with migration and to respond accordingly.

With this in mind, **it is important to consider the following aspects when working to strengthen migration governance:**

- o advocating for equal rights in employment and mobility;
 - o combatting discriminatory practices;
 - o understanding how gender affects the types of migration undertaken;
 - o responding to how gender influences access to social services, economic opportunities, education, risks and vulnerabilities;
 - o ensuring diversity and inclusiveness in consultations and participation in activities;
- Thus, **including human rights gender-sensitive considerations in policymaking and planning** can contribute to individuals' social and economic empowerment and promote gender equality; leaving such considerations out can bring further risks and vulnerabilities and perpetuate or exacerbate inequalities.
- It is important to highlight, however, that **migrant and refugee women and girls are not inherently vulnerable**, nor do they lack resilience and agency and we should not base "vulnerability" solely on membership to a particular group, as this is simplistic, at worst discriminatory. However it is true that some migrants might be more at risk of specific human rights violations and abuses than others.
- The *Global Compact for Migration* and the *New York Declaration for Refugees and Migrants* call for **more migration data to be disaggregated by sex and age**. We definitely need to invest in this aspect. Sex-disaggregated data allow for the identification and analysis of specific vulnerabilities and capacities of women and men, revealing gaps and inequalities.

II. Key EU gender-responsive measures in migration policies:

II.a. Legal Migration

DG HOME (Directorate General of the European Commission for Migration and Home Affairs) has commissioned a study with examples of interesting projects/practices deployed in EU Member States targeting migrant women; please note these projects are financed from national/other EU funds: <https://ec.europa.eu/migrant-integration/feature/integration-of-migrant-women>

Pilot Projects on legal migration, launched in 2018 and co-financed by the [Mobility Partnership Facility](#), tend to have a gender dimension, aiming at balanced participation of men and women in the training and mobility aspects of the projects – for example this is underlined in the French project HOMERe, that will support 250 traineeships from North African graduate students in French companies and which aims at a 60/40 participation and has planned specific pre-departure and mobility actions for women.

II.b. Trafficking in human beings¹

¹ To the extent that this relates to trafficking in human beings, below relevant information extracted from relevant European Commission's policy instruments, reports and publications, publicly available on the [EU Anti-trafficking website](#)

Trafficking in human beings (THB) is a grave violation of human rights; it is prohibited by the [EU Charter of Fundamental Rights](#) (Article 5.3), and defined by the [TFEU](#) as a particularly serious form of organised crime (Article 83). Driven by considerable profits and a very complex interplay of supply and demand, trafficking involves a complex chain of actors who are knowingly or unknowingly involved. The European Commission recognises THB of women and girls for the purpose of sexual exploitation as a form of Violence against Women. Trafficking in human beings for the purpose of sexual exploitation continues to be the most reported form. In 2015-2016, in the EU, there were 9759 registered victims of sexual exploitation (both EU and non-EU nationals), making up over half (56%) of the all registered victims who had a recorded form of exploitation, and predominantly women and girls (95% of registered victims of sexual exploitation). (See [Second progress report, SWD](#) Section 2.1.1, and [EU wide data collection on THB](#))

THB is not a migration related phenomenon per se, nor does it require the crossing of borders, and the Commission has consistently stressed the need for [conceptual clarity](#) (see Section 3 of the [Staff Working Document](#)). When it comes to addressing THB in the context of migration, it has to be ensured that THB is appropriately addressed, taking into account emerged patterns, such as the disproportionate targeting of women and girls trafficked for the purpose of sexual exploitation (See [Second progress report, SWD](#) Section 3, and [Frontex Risk Analysis Report 2018](#)).

The EU has in place a comprehensive legal and policy framework to address THB, which is human rights centred, victims centred, gender specific and child sensitive, anchored in the [EU anti-trafficking Directive](#). The [EU Anti-Trafficking Coordinator](#) provides strategic orientation to ensure policy coherence in EU internal and external anti-trafficking action. The [2017 Communication](#) stepping up EU action sets forth targeted priorities: countering the culture of impunity by disrupting the business model and untangling the trafficking chain of this complex crime; improving victims' access to their rights; and ensuring that the EU's internal and external actions provide a coordinated response. Further cross cutting actions are gathering statistical data and ensuring that EU funding matches policy priorities and objectives. This includes projects taking particular account of the gender dimension of the phenomenon, high-risk groups as well as high-risk sectors (see Section 3 and 8.3 of the Staff Working Document accompanying the European Commission [Second progress report](#), 2018). Key deliverables of the [EU Strategy towards the eradication of THB 2012-2016](#) concerned the gender specificity of the crime, such as the [Study on the gender dimension](#), and this is further addressed in key actions of the 2017 Communication. These include, as examples: [EIGE report on gender specific measures in anti-trafficking action](#); working to achieve Agenda 2030 SDGs with particular attention to all three targets addressing THB, 5.2, 8.7 and 16.2 (with 5.2 addressing specifically women and girls); ensuring that the relevant components of the EU-UN Spotlight Initiative to eliminate violence against women and girls are implemented; and more (see the [factsheet](#) with all key actions of the 2017 Communication).

The external dimension is an integral part of the EU policy framework one of its pillars. As a complex phenomenon, THB continues to be systematically addressed in key relevant policy instruments in multiple policy areas, including as examples the [Action Plan on Gender Equality and Women's Empowerment](#) and the [Strategic Engagement for Gender Equality](#). Many EU external policies, agreements, partnership and dialogues with non-EU countries embed trafficking in human beings, among others: the Khartoum and Rabat processes, the priority domains of the follow up to the Joint Valletta Action Plan. The EU continues to be committed to multilateralism upholding the principles and standards enshrined in UNTOC and its Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children. (see Section 7 and 7.4 of the [Staff Working Document](#)).

II.c. Asylum

In Article 17 (5) of the EU Asylum, Migration and Integration (**AMIF**) **Regulation**, which defines the vulnerable groups for **resettlement** (linked to the payment of the lump sums): the first category is women and children at risk. So the particular vulnerability of women (and children) is recognised and hence special attention is given to them in the resettlement process.

In the context of the ongoing reform of the Common European Asylum System the European Commission has proposed to [strengthen the provisions for applicants](#) with special needs, including special needs of victims of gender-based violence. This involves more ambitious provisions for assessing special needs and an obligation for Member States to address such special needs with adequate support. The strengthened provisions also cover asylum applicants' access to medical care, legal support, appropriate trauma counselling and psycho-social care. The proposal for the new [Asylum Procedure Regulation](#) advocates gender-sensitive international protection procedures. For instance women should be given an effective opportunity to have a private interview, separate from their spouse or other family members. Where possible they should be assisted by female interpreters and female medical practitioners, especially if they may have been a victim of gender-based violence.

The European Asylum Support Office (EASO) has furthermore developed [several tools](#), training modules and guidance in order to ensure an effective implementation of legal provisions for gender-related issues.

1. the training module on Gender, Gender Identity and Sexual Orientation, the ongoing development of a training module on reception conditions for vulnerable applicants or their practical tools on Applicants with special needs. https://www.easo.europa.eu/sites/default/files/easo-training-catalogue-2018_en.pdf

2. The EASO tool for identification of vulnerable applicants: <https://ipsn.easo.europa.eu/easo-tool-identification-persons-special-needs>

3. EASO Guidance on reception conditions - operational standards and indicators (<https://www.easo.europa.eu/sites/default/files/EASO%20Guidance%20on%20reception%20conditions%20-%20operational%20standards%20and%20indicators%5B3%5D.pdf>) – see Section 7 on reception for vulnerable persons

EASO has also recently set up an Expert Group on Vulnerables ('VEN'), whose work will also involve a component on gender-related issues.

II.D. Gender responsive measures in EU Development Cooperation and humanitarian assistance

The EU follows a right-based approach in its development cooperation projects and humanitarian relief. Gender-sensitive features are designed in several of our projects. We are highlighting a few examples

<p>The Facility for Refugees with Turkey has already delivered €3 billion of assistance through 72 projects that are being implemented. A second tranche of €3 billion is currently being programmed. The gender equality principle is a key-consideration in the programme design of the Facility. It recognises that it holds an important responsibility to ensure that any actions undertaken in support of refugees in Turkey are equally relevant to girls and women, boys and men, and that they take into account their different vulnerabilities, needs and capacities. The challenges that refugees face in Turkey and the impact of migration differs across gender and age. Some challenges are immediate and humanitarian such as vulnerability to violence and access to health facilities. Others</p>

relate to access to education and labour market programs.

Projects and actions of the Facility are based on gender-sensitive needs assessments, include gender considerations as part and parcel of programming, and ensure that monitoring will allow tracking the different impact the intervention may have on girls and women, boys and men. Concretely, partners need to ensure (by means of contractual specifications) that their actions must at least equally benefit girls and women, as they benefit boys and men. The Facility also ensures that monitoring statistics on actions are detailed enough to demonstrate the specific difference that actions make for either of these groups. As the actions are progressing, positive results for gender-equality become evident as measured by means of gender disaggregated reporting against strategic indicators of the Facility-level results framework.

The EU emergency Trust Fund for Africa, actions under the North Africa Window, are in line with the new EU Gender Action Plan (GAP II), which provides the framework for the EU's promotion of gender equality through external action for the period 2016-2020. The GAP II is based on three thematic objectives: a) securing the physical and psychological protection of women and girls; b) promoting economic and social rights and the empowerment of women and girls; c) strengthening women's and girls' voice and participation.

One of the good examples is the work of the EUTF in Egypt, where it aims to promote the role and status of women in the society, especially through women economic empowerment, in the given support to women and youth's MSMEs development. Also in Libya gender equality is a key consideration in the programming. In this respect community empowerment, focusing on youth, women and marginalized groups, is prioritized, along with an emphasis on including survivors of gender-based violence in livelihood activities. It is acknowledged that migrant women, girls and female unaccompanied minors have greater need for protection, especially in detention centres. The EUTF aims to set up specific actions to address these concerns through the provision gender sensitive services and provision of specialized healthcare.

The Joint **EU- ICMPD Migration EU eXpertise Initiative** (budget 8 million euros) has supported the development of migration-related policies on more than 30 occasions since 2009. Through MIEUX's capacity building initiatives, the initiative was able also to address the topic of gender and develop a stronger understanding of the importance of gender sensitive approaches to migration policymaking.

Key example follows:

- Costa Rica (2017-2018). The **Second National Integration Plan 2018- 2022** developed through our technical assistance includes a specific focus on gender; specificities and needs for migrant women, especially those who are victims of violence, are analysed and integrated into different strategic actions.
- Madagascar (2017 – ongoing). The **Madagascar diaspora engagement policy** (in development) will benefit from a preliminary study with gender-disaggregated data on the composition of the diaspora and remittance sending patterns, produced by the Malagasy government with our support. This data will provide a strong basis for the technical assistance to suggest how the specific objectives and measures of the policy have to be formulated and how the resources available can best be utilised in order to take into account gender specificities.
- Sierra Leone (2017). Structured around three pillars, the **National Migration Strategy of the Republic of Sierra Leone** tackles ten areas of intervention in topics that are relevant to the national context, such as, among others, migration and urbanisation, migration control, migration and development, protection of migrants and migration data and was developed after a series of activities. Gender is considered a key cross-cutting issue that needs to be mainstreamed into migration management and development planning. Encompassing gender-sensitive policy objectives are set, both to mainstream gender into migration management and to ensure that migration policy benefits both men and women.
- Togo (2016). The **Migration and Development Strategy and Action Plan** links migration with national development goals. Four thematic axes link the strategy with diaspora engagement;

mobilisation of funds; facilitation of migration and mobility; and incorporating the social and human dimension of migration. In the latter, one of the two specific objectives relates to including a gender dimension to understand migration in its complexity.

To note the EU also takes into account migration aspects in its policies on Women, Peace and Security, for more information, please see [Council Conclusions on Women, Peace and Security](#) (December 2018)