



EUROPEAN WOMEN'S
LOBBY
EUROPÉEN DES FEMMES

CONTRIBUTION

21 January 2014

EWL contribution to DG Home consultation: The future of Home Affairs

The European Women's Lobby (EWL) welcomes the DG Home's initiative to carry out a consultation on the future of Home Affairs. This contribution refers to specific issues addressed in the current Stockholm Action Plan, which will end this year. The EWL therefore hope that its recommendations will be taken into account for the New Agenda on Home Affairs.

The **European Women's Lobby** (EWL) is the largest umbrella organisation of women's associations in the European Union (EU), working to promote women's rights and equality between women and men. EWL membership extends to organisations in all 28 EU Member States and three candidate countries, as well as to 21 European-wide organisations, representing a total of more than 2000 associations.

1. Trafficking in human beings
2. Violence against women
3. Migration and asylum

1. Trafficking in human beings

Trafficking in women and girls is directly linked to systems of prostitution globally and all over Europe. New data unveiled by the European Commission on 15 April 2013 support this analysis: the majority of the identified and presumed victims are trafficked for sexual exploitation that is prostitution (62%); women and girls account for 80% of identified and presumed victims. In addition, 84% of suspected traffickers traffic human beings for sexual exploitation.¹ In its answer to parliamentary question E-008411-12 of Member of the European Parliament (MEP) Inês Zuber, the European Commission said that it "acknowledges the interplay between prostitution and trafficking in human beings".²

The European Commission has acknowledged the gendered nature of trafficking, and recognizes that trafficking in women and girls is a form of violence against women, and therefore an obstacle to equality between women and men.³ In its Strategy for Equality between women and men (2010-2015), the European Commission states that "Inequalities between women and men violate fundamental rights" and that "The Union is bound to strive for equality between women and men in all its activities".⁴ If the EWL welcomes the inclusion, in the EU directive on trafficking, of an obligation for Member States to discourage and reduce the demand that fosters all forms of exploitation related to trafficking, we however regret the lack of political will to address the root causes of trafficking for sexual exploitation, which is prostitution.

Indeed, trafficking is the only human rights violation driven by financial profit. Trafficking proliferates when profit is possible, and this money comes from the buyers: regarding trafficking for sexual exploitation, the buyers are the sex buyers of prostitution. Legal frameworks on the phenomenon of prostitution differ from one country to the

¹ Eurostat, Trafficking in human beings, 2013, http://ec.europa.eu/dgs/home-affairs/what-is-new/news/news/2013/docs/20130415_thb_stats_report_en.pdf

² <http://www.europarl.europa.eu/sides/getAllAnswers.do?reference=E-2012-008411&language=EN>

³ <http://ec.europa.eu/anti-trafficking/entity.action?path=Events%2Fcswwsideevent>

⁴ <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2010:0491:FIN:EN:PDF>



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other in the EU; in some countries, prostitution markets have been legalised, which makes it possible for NGOs to develop demand reduction strategies. In this context, the European Commission needs to challenge the national frameworks of the Member States in terms of demand reduction and of prostitution legislation.

The EC should also investigate who has a direct financial interest in keeping trafficking (for example, the sex industry represents 5% of the GDP of the Netherlands). The EC should also propose a directive to criminalise the purchase of sex (based on article 83 of the Treaty, referring to sexual exploitation), therefore going beyond Article 18 of the EU directive on trafficking. A recent Finnish governmental report supports this proposal: it recommends extending the current Finnish legislation (which criminalises the purchase of sex from victims of trafficking, according to Article 18 of the EU directive) and criminalising all purchase of sex.

All measures on demand should be locked with exit programs and migration measures, that will not push or entrap women (noting that the majority of women implicated are migrant women) further into this informalised sector, or leave them with an undocumented status. The EWL does not consider this informalised and high-risk sector a professional niche or option an acceptable alternative to employment that justifies denying migrant women access to the open labour market

The EWL and its members therefore expect from the European Commission to address, in the New Agenda for Home Affairs, the root causes to end sexual exploitation and prostitution, which are fueling trafficking in women and girls in and to Europe.

2. Violence against women

The Stockholm Programme states: “All policy instruments available will be deployed to provide a robust European response to violence against women and children, including domestic violence and female genital mutilation, to safeguard children's rights and to fight all forms of discrimination, racism, xenophobia and homophobia. The needs of those in vulnerable situations are of particular concern.”

In Europe, seven women die every day from male domestic violence and an average of 25% of women experience violence at the hands of their partner or ex-partner. One in ten women experience sexual violence yet only between four and 10% of rape cases are reported to the authorities, and far fewer end in justice for victims.

The EWL continues to strongly support the existence of the Daphne Programme. The newly adopted European Protection Order is also a very important tool to guarantee women's protection when they travel in the EU. However, the reality in Europe is that women not equally protected in the EU. Male violence against women is prevalent in all EU Member States, yet tackled in widely differing ways, ranging from an absence of its recognition as a fundamental violation of women's human rights, to a broad policy framework based on a feminist analysis of gender power relations in our societies. The EU victims' package is a tool to guarantee women's rights when they fall victims of a form of male violence, but it won't solve the issue of discrepancy between national legislations and might therefore not apply to many women if their country doesn't qualify violence against women as a crime. Moreover, consideration on victims remains addressed in gender neutral terms, and the different instruments fail to include any reference to female victims and their specific needs. The victims' package is very far from providing the essential measures for a strong EU action on combating violence against women

The EWL is therefore calling on DG Home to fulfil its promise included in the Stockholm Action Plan and elaborate a comprehensive EU strategy to end all forms of violence against women. Such strategy should consist of a comprehensive policy framework, based on the definition of violence against women from international human rights instruments, linking with EU commitment to equality between women and men and mainstreaming violence



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against women in all policies (coordination). It should address all forms of violence against women, and be transformative through the five Ps: prevention, protection, prosecution, provision, partnership. It should include a wide range of actions, from legally-binding instruments to awareness-raising activities, and be allocated with sufficient and sustainable human and financial resources.

To fulfil this recommendation, the EWL hopes that DG Home will build on the various recommendations of the European Parliament, and in particular the current work of the EP Committee on Women's Rights and Gender Equality on a Legislative Initiative Report 'Combating Violence against women'. The EWL calls for 2016 to be the EU Year to End Violence against Women, in order to give visibility to the issue and support political action toward a Europe free from violence against women.

The European Commission should also monitor and ensure the effective transposition and implementation of the Victims' Directive (2012/29/EU), establishing "minimum standards on the rights, support and protection of victims of crime" to strengthen the rights of all victims and their family members, irrespective of their residence status as stated in Article 1 of the Directive.

The European Union should sign and ratify the Council of Europe Istanbul Convention, which introduces the possibility of granting migrant women an autonomous residence permit if they are trapped in an abusive relationship with a spouse or partner on whom their residence status depends; and guarantees the suspension of any expulsion procedure. The Commission should also encourage Member States to sign, ratify and properly implement the Convention.

3. Migration and Asylum

The European Women's Lobby strongly supports the views of the European Network of Migrant Women when it comes to the EU migration and asylum policies.

Asylum

In the EU, it is estimated that around 35 percent of all asylum applicants were women or girls during the year 2010. If women may seek asylum for the same reasons as men, they may also be victims of persecutions for reasons that are specific to their gender. EU asylum directives recognise that acts of a gender specific nature can constitute persecution. In spite of this, many hurdles are to be overcome to ensure that the gendered nature of persecution is fully understood by EU and Member States asylum authorities.

It is absolutely necessary in this context that the European Asylum Support Office acts now to support the establishment of an overarching and uniform gender-sensitive asylum system in the EU. The drafting of the EASO work programme 2014 represents a key opportunity to make this a reality. Below are detailed recommendations following the structure of the draft work programme.

EASO Training

The EWL welcomes the objective in 2014 to strengthen the quality of the EASO training material and tools. In order to mainstream gender effectively into the EASO training, the EWL calls the EASO to:

- Revise EAC training modules in order to incorporate a gender perspective in all modules and develop a specific module on gender-related asylum claims;
- Include in the curriculum for Members of Courts and Tribunals a specific course on gender-based persecutions;
- Include in the annual Didactic Seminar for EASO trainers issues related to gender-based persecutions and invite experts on this issue;
- Revise EASO Training Tools and materials in order to incorporate a gender perspective;



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- A regular and automatic evaluation of the needs for gender, sexual orientation and gender identity training of asylum authorities should be put in place;
- Include in the data-base of relevant case-law cases related to gender-based persecutions;
- Use relevant material and tools in trainings produced by academics and NGOs on gender-based persecutions.

Quality Support

The EWL welcomes the commitment of the EASO to continue to facilitate the sharing of information on good practices, projects and quality initiatives in the Member States. In this regard, we would like to draw the attention to the expertise of NGOs and call on the EASO to consult them in this process of information sharing and involve them in experts meetings.

The EWL calls also on the EASO to develop objective criteria defining and promoting good practices at national level. Good practices should promote a human rights-centred and gender sensitive approach to asylum. Criteria for good practices should refer to the rights enshrined in the EU Charter of fundamental rights, in the UNHCR Guidelines on gender-based persecution and the UNHCR guidance notes on female genital mutilation and on sexual orientation and gender identity.

Country of Origin Information (COI)

The EWL welcomes the objective of the EASO to further develop its COI capacity given its paramount importance when it comes to gender-based persecutions. In this regard, we call the EASO to systematically include information on the situation of women and LGBT persons and State's responses to the violation of their rights in the Country of Origin Information, both legally and de facto. The Country of Origin Information should include situations of threat or persecutions by non state actors, such as female genital mutilation. A good practice example of resource is the Asylum Aid guide "*Country of Origin Information and Women: Researching gender and persecution in the context of asylum and human rights claims*"^[1] which provides practical guidance on the undertaking of research on women's gender related claims, based on experience of working directly with women asylum seekers, its legal representatives and supporters. The guide addresses legal representatives, Country of Origin Information researchers, information professionals and volunteers supporting women asylum seekers.

EASO Practical Cooperation

The EWL sees practical cooperation as a key element of improving the quality of the Common European Asylum System and in this regard calls on the EASO to include gender issues in practical workshops, notably by encouraging Member States to ensure that UNHCR guidelines on gender-based persecution, guidance notes on female genital mutilation and on refugee claims relating to sexual orientation and gender identity are properly disseminated amongst asylum officers. They should be integrated into all training modules for asylum officers and taken into account in the processing of claims for international protection.

Violence against migrant women

Migrant women are experiencing domestic violence at rates that are similar to those suffered by native women. The difference in migrant women's experience stems from the added burden of lack of extended family, knowledge of the existing services and eligibility to such services, language comprehension and legal status that often links the abused women's residence rights to those of the abuser. The EU Directive on Family Reunification of third country nationals and the Freedom of Movement Directive provide some minimum standards of response to the cases of domestic violence. We are noting that not all EU Member States have ratified the mentioned Directives. We are also cautious that these policies are indeed minimum standards that are sometimes exacerbated by additional

^[1] Available here: http://www.asylumaid.org.uk/data/files/publications/68/Country_of_Origin_Information_and_Women.pdf



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limitations to services for women suffering domestic violence, such as for example the eligibility to services linked to the habitual residence condition. We urge the EU to maintain firmly the minimum standards established and to further improve these standards in future.

The EU Victims' Package is currently inadequate and leaves gaps in the protection of migrant women who are victims of male violence: the European Commission should aim for a comprehensive EU strategy addressing all forms of violence from prevention and protection standpoints.

The EWL notes that victims of Female Genital Mutilation in the EU are entirely migrant women and children, or women and children of migrant background: we will continue to support the elimination of Female Genital Mutilation, and advocate for survivors and victims of this practice in the EU to be treated as victims of violence. We want the EU to address FGM as part of a comprehensive strategy to end all forms of violence against women.

Family reunification

We understand (as we had recommended in our submissions in response to 2012's Green Paper⁵) that DG Home will not reopen the Directive on Family Unification, which we believe is appropriate in the current political climate, and are pleased to hear that the European Commission is indeed working towards the enforcement of existing provisions.

Family Reunification in itself is of course a gender-neutral provision, but it impacts most acutely on migrant women. Migrant women are often prevented from achieving family reunification due to tough requirements in relation to earning. Policies should not preclude women with lesser earning potential to enjoy their fundamental right to family life. The EWL urges the European Commission to work towards ending the policies establishing dependency between family members, particularly when these might affect migrant women in an adverse manner. The conditions for obtaining Family Reunification rights that are linked with income must take into account the disadvantaged position of migrant women and their lower earning partners. The EWL considers this an unnatural family situation that could become even more dangerous in families prone to violence. Dependent status then implies not only financial, but also legal and psychological dependence. The distortions that occur, e.g. in situations of domestic violence, usually affect migrant women, and sadly they tend to endure the abuse longer as there is not a real alternative outside of the family – they do not have extended family around and are not eligible to access services.

Domestic work

Recent research indicates that the Personal and Household Service (PHS) sector is one of the main working-places for migrant women. Migration scholars agree that domestic work sector in Europe is "potentially the largest informal sector employing migrant women"⁶. It is also observed that the need for migrant domestic workers is ever increasing in the EU⁷.

Therefore, there is a need for legal avenues of migration and decent working conditions for migrant workers. The current situation will not change, unless current domestic workers, especially Migrant Domestic Workers (hencefore

5 http://ec.europa.eu/dgs/home-affairs/what-is-new/public-consultation/2012/pdf/0023/famreun/internationalorganisationssocialpartnersngos/european_women_s_lobby_-_ewl.pdf

6 Floya Anthias and Maja Cederberg "Gender, Migration and Work: Perspectives and Debates in the UK" in Women in New Migrations, Slany, Kontos and Liapi eds. (Cracow: Jagelonian University Press, 2010) p. 35).

7 Anja K. Frank and Andrea Spehar, Women's labour migration in the context of globalisation, report to WIDE (Brussels: WIDE, 2010); Helen Schwenken, "Domestic Slavery" versus "Workers Rights": Political Mobilizations of Migrant Domestic Workers in the European Union, Working paper 116 (San Diego: University of California, 2005).



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MDWs) will be included among groups eligible to qualify for a Long-Term Directive, also to have their families reunited. Ignoring the increasing demand of MDWs will be detrimental for the implementation of the ILO Convention 189 on decent work for domestic workers.

The ILO study indicates that in order to improve the quality of PHS services, firstly decent working conditions must be ensured⁸. It was concluded that "decent wages and working conditions and opportunities for training are critical factors for retaining the childcare workers and improving the childcare quality"⁹. We believe that the same is true for the regularization of status and improved access to countries where a demand for MDWs is met by the shadow economy.

We believe that the Post-Stockholm agenda on the future of Home Affairs policies has to complement the initiative undertaken by the European Commission to sign the ILO Convention 189 on the decent working conditions for domestic workers. We would like also to acknowledge deficiencies in the Article 8 of the Convention on Migrant Domestic Workers. We problematise pronouncing Migrant Domestic Workers as a separate category for the mutual agreement between sending and hosting states, whereas we do believe that the EU migration policies shall anticipate the growing demand for MDWs by including this category as a pathway to migration under a separate directive.

⁸ Hein C. and Cassirer N., *Workplace solutions for childcare*, International Labour Office: Geneva, 2010, pp. 82-83.

⁹ Hein C. and Cassirer N., 2010, p. 92