

Flygtningenævnets baggrundsmateriale

Bilagsnr.:	367
Land:	Diverse emner
Kilde:	Europarådet
Titel:	Protecting the rights of migrant, refugee and asylum-seeking women and girls
Udgivet:	20. maj 2022
Optaget på baggrundsmaterialet:	26. juni 2026

PROTECTING THE RIGHTS OF MIGRANT, REFUGEE AND ASYLUM-SEEKING WOMEN AND GIRLS



Legal instruments

Recommendation CM/Rec(2022)17

COUNCIL OF EUROPE



CONSEIL DE L'EUROPE

PROTECTING THE RIGHTS OF MIGRANT, REFUGEE AND ASYLUM-SEEKING WOMEN AND GIRLS

Recommendation CM/Rec(2022)17

adopted by the Committee of Ministers
of the Council of Europe

on 20 May 2022

at the 132nd Session of the Committee of Ministers

French edition:

*La protection des droits des
femmes et des filles migrantes,
réfugiées et demandeuses d'asile*

(Recommandation
CM/Rec(2022)17)

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Cover design and layout:
Documents and Publications
Production Department
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Printed at the Council of Europe.

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Recommendation CM/Rec(2022)17

of the Committee of Ministers to member States on protecting the rights of migrant, refugee and asylum-seeking women and girls

*(Adopted by the Committee of Ministers on 20 May 2022
at the 132nd Session of the Committee of Ministers)*

Preamble

The Committee of Ministers, under the terms of Article 15.b of the Statute of the Council of Europe (ETS No. 1),

Considering that the aim of the Council of Europe is to achieve a greater unity between its member States, *inter alia*, by promoting common standards and developing actions in the field of human rights;

Recalling that gender equality is central to the protection of human rights, the functioning of democracy and good governance, respect for the rule of law and the promotion of sustainable development and of well-being for all;

Taking account of the Council of Europe Gender Equality Strategy 2018-2023 and its strategic objective to protect the rights of migrant, refugee and asylum-seeking women and girls;

Acting in accordance with the Council of Europe Action Plan on Protecting Vulnerable Persons in the Context of Migration and Asylum in Europe (2021-2025), and notably its aim to identify and respond to vulnerabilities throughout asylum and migration procedures;

Bearing in mind the obligations and commitments as undertaken by States in line with relevant Council of Europe conventions, such as:

- the Convention for the Protection of Human Rights and Fundamental Freedoms (ETS No. 5, 1950) and its protocols, in the light of the relevant case law of the European Court of Human Rights;
- the European Social Charter (ETS No. 35, 1961, revised in 1996, ETS No. 163);
- the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (ETS No. 126, 1987);
- the Council of Europe Convention on Action against Trafficking in Human Beings (CETS No. 197, 2005);
- the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse (CETS No. 201, 2007);
- the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (CETS No. 210, “Istanbul Convention”, 2011); and
- the Council of Europe Convention against Trafficking in Human Organs (CETS No. 216, 2015);

Recalling the following recommendations of the Committee of Ministers to member States of the Council of Europe:

- Recommendation Rec(2002)5 on the protection of women against violence;
- Recommendation CM/Rec(2010)10 on the role of women and men in conflict prevention and resolution and in peace building;
- Recommendation CM/Rec(2012)12 concerning foreign prisoners;
- Recommendation CM/Rec(2015)1 on intercultural integration;
- Recommendation CM/Rec(2019)1 on preventing and combating sexism;
- Recommendation CM/Rec(2019)4 on supporting young refugees in transition to adulthood; and
- Recommendation CM/Rec(2019)11 on effective guardianship for unaccompanied and separated children in the context of migration;

Recalling relevant resolutions and recommendations of the Parliamentary Assembly, the Congress of Local and Regional Authorities and the Conference of International Non-Governmental Organisations (INGOs) of the Council of Europe;

Recalling:

- the United Nations Convention Relating to the Status of Refugees (1951) as amended by its 1967 Protocol;
- the International Labour Organization Domestic Workers Convention No. 189 (2011);
- the United Nations Convention on the Elimination of All Forms of Discrimination Against Women (“CEDAW”, 1979) and its Optional Protocol (1999), as well as relevant CEDAW General Recommendations specifically related to this recommendation;
- the United Nations Convention on the Rights of the Child (1989) and its Optional Protocols (2000, 2011);
- the United Nations Convention on the Rights of Persons with Disabilities (2006);
- the United Nations Security Council Resolution 1325 on women and peace and security (2000);
- the relevant provisions of the United Nations Global Compact on Refugees (2018) and of the United Nations Global Compact for Safe, Orderly and Regular Migration (2018); and
- other relevant documents related to migration drawn up within the framework of the United Nations;

Having regard to the United Nations High Commissioner for Refugees “Guidelines on International Protection No. 1: Gender-Related Persecution within the context of Article 1A (2) of the 1951 Convention and/or its 1967 Protocol relating to the Status of Refugees”, of 7 May 2002;

Bearing in mind the importance of the overall application and impact of the United Nations 2030 Agenda for Sustainable Development, in particular Sustainable Development Goal 5 (“Achieve gender equality and empower all women and girls”); Sustainable Development Goal 10 (“Reduce inequality within and among countries”), with its Target 10.7 to “facilitate orderly, safe, regular and responsible migration and mobility of people, including through the implementation of planned and well-managed migration policies”; and Sustainable Development Goal 16 (“Promote peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions at all levels”);

Reaffirming that all human rights and fundamental freedoms are universal, indivisible, interdependent and interrelated, and that their full enjoyment,

without discrimination on any grounds, by migrant, refugee and asylum-seeking women and girls needs to be guaranteed;

Acknowledging the positive contribution that migrant, refugee and asylum-seeking women and girls may bring to European societies and communities;

Considering the profound changes in migration patterns and the resulting challenges for member States;

Noting in particular the evolution in the situation of migrant, refugee and asylum-seeking women and girls, the fact that their numbers reached record levels in the 2010s and the significant developments in concepts, policies and legal instruments related to gender equality, migration and asylum at all levels;

Noting that the migration experience is different for women and men, and recognising that while existing international human rights standards apply to all persons within the jurisdiction of States, additional efforts should be made to assess the prevention and protection gaps that arise from insufficient implementation, information about and monitoring of existing laws and policies as regards migrant, refugee and asylum-seeking women and girls;

Underlining that women and girls are exposed to a continuum of violence that is specific to them because they are women, or which affects them disproportionately, and that such violence is, in this sense, gender based; recognising with grave concern that migrant, refugee and asylum-seeking women and girls may be particularly exposed to violence, trafficking in human beings, exploitation and abuse in their countries of origin, during their journey and in transit and/or destination countries; and observing that this may constitute a serious violation of their human rights, especially as they face difficulties and structural barriers in overcoming such violence, trafficking in human beings, exploitation and abuse in their diverse forms;

Noting with concern that migrant, refugee and asylum-seeking women and girls may be confronted with multiple and intersectional forms of discrimination and persecution in their country of origin, during their journey and/or in their country of destination, and stressing the need for an inclusive and intersectional approach that takes into account the different situations and personal characteristics of migrant, refugee and asylum-seeking women and girls;

Aware of the multiple and intersecting barriers that migrant, refugee and asylum-seeking women and girls face in terms of empowerment and their access to and exercise of rights;

Recalling the importance of the integration and participation of migrant, refugee and asylum-seeking women and girls to the economic, social, civic, political and cultural life of the host country,

1. Replaces, by the text of this recommendation, Recommendation Rec(79)10 to member States concerning women migrants;
2. Recommends that the governments of member States:
 - i. take all necessary measures to promote and apply the principles set out in this recommendation and its appendix, aimed at ensuring that migrant, refugee and asylum-seeking women and girls can effectively access and exercise their rights;
 - ii. ensure that this recommendation is translated into the official language(s) of their respective countries, and that it is widely disseminated (in accessible formats) among relevant authorities and stakeholders, who are encouraged to take measures to implement it;
 - iii. examine periodically, within the competent Council of Europe steering committee(s) and bodies, the measures taken and the progress achieved in this field.

Appendix to Recommendation CM/Rec(2022)17

I. Scope

1. This recommendation is aimed at covering migrant, refugee and asylum-seeking women and girls.
2. This recommendation acknowledges the absence of an internationally agreed definition of the term “migrant”.
3. For the purposes of this recommendation, the term “refugee” includes those who are recognised as refugees under the 1951 Geneva Convention Relating to the Status of Refugees as amended by its 1967 Protocol (hereafter “the 1951 Convention”) or those who currently benefit from any alternative form of international or European humanitarian, subsidiary or temporary protection. The term “asylum-seeking women and girls” includes those who have applied for such protection.

II. Horizontal issues

4. Member States should take into account the horizontal issues mentioned hereunder in the implementation of all measures put forward in this appendix.

Non-discrimination, intersectional issues and elimination of stereotypes

5. Member States should ensure that migrant, refugee and asylum-seeking women and girls do not face discrimination on any grounds.

6. Member States should apply an intersectional approach in all measures referred to in this appendix, notably bearing in mind the different situations and individual characteristics of migrant, refugee and asylum-seeking women and girls.

7. Member States are encouraged to take measures to enhance the ability of undocumented migrant women and girls to access their fundamental rights, and for those of them who are victims of violence against women or trafficking in human beings, to report the crimes without fear of removal.

8. Within both migrant and host countries and communities, member States should:

- 8.1. pay special attention to measures aimed at dismantling all forms of stereotypes which have a negative impact on the rights of migrant, refugee and asylum-seeking women and girls;
- 8.2. implement awareness-raising and educational measures in respect of gender equality and human rights to promote dialogue.

Girls

9. Member States should adopt a child rights-based approach to migrant, refugee and asylum-seeking girls, which takes account of the age and specific vulnerable situations and needs of girls.

10. Child protection measures should be implemented without discrimination based on migration status.

11. Member States should mainstream gender considerations across policies, guidance and capacity building on unaccompanied and separated children in line with the scope and mandate of each national authority in order to:

- 11.1. strengthen identification procedures, including age assessment when appropriate, in accordance with international standards;

- 11.2. ensure full respect for the best interest of the child by considering the specific situation of every girl, whether she is visibly unaccompanied, travelling with another family or married;
 - 11.3. ensure that reception systems are appropriate to the sex and age of unaccompanied and separated girls and include suitable and safe alternative care arrangements.
12. Unaccompanied and separated children should be promptly assigned an independent and adequately trained guardian.
13. Member States should make efforts to ensure continued access to essential services for migrant, refugee and asylum-seeking girls to support their transition to adulthood beyond the age of 18.

Information, empowerment, awareness raising and promotion of human rights

14. To empower migrant, refugee and asylum-seeking women and girls and enable them to access their rights, they should be provided with relevant and accessible information and advice in a way and in a language that they can understand, covering, at least:
- 14.1. their fundamental human rights as set out in the Convention for the Protection of Human Rights and Fundamental Freedoms and other relevant instruments, including while women and girls are in detention and reception facilities;
 - 14.2. any reporting and complaint mechanisms, in case of violence or other violations of rights by State authorities or private contractors acting on behalf of the State, including rights to civil remedies, compensation and legal aid;
 - 14.3. any protection and support services available in the host country against all forms of violence against women, including trafficking in human beings;
 - 14.4. any available and accessible public services in the host country, notably healthcare including mental health, sexual and reproductive health and rights,¹ age-appropriate and comprehensive sexuality

1. "Sexual and Reproductive Health and Rights (SRHR)" in the context of the Beijing Platform for Action and the Programme of Action of the International Conference on Population and Development (ICPD) and the outcomes of their review conferences. This also applies to paragraph 68.

education, psychosocial support, education, training in languages and digital technology, vocational training, integration programmes, housing and employment.

15. Member States are encouraged to provide resources and tools for the empowerment and support of migrant, refugee and asylum-seeking women and girls, based on their needs and personal characteristics.

16. Member States are encouraged to facilitate the access of migrant, refugee and asylum-seeking women and girls to digital services and connections, including to the internet, in particular if services and information are available solely or largely in a digital format.

Access to justice

17. Migrant, refugee and asylum-seeking women and girls should have access to national and international civil, administrative and criminal remedies, in order to effectively exercise their rights and/or take action in case of violation of those rights in accordance with relevant national and international standards and instruments.

18. Access to legal advice and free legal aid should be granted, under the conditions provided for by internal law, in order to support migrant, refugee and asylum-seeking women and girls who are victims of any forms of violence against women and trafficking in human beings, through criminal, administrative and civil proceedings, as appropriate, including the pursuit of compensation claims and legal redress against the perpetrators.

19. Interpreters, including sign-language interpreters, legal professionals and intercultural mediators, all professionals and preferably women, should be available to assist migrant, refugee and asylum-seeking women and girls seeking protection, when making initial complaints, throughout the justice process and in seeking reparations, as well as in the context of the asylum determination procedures, under the conditions provided for by internal law.

20. Member States should ensure that migrant, refugee and asylum-seeking women and girls receive support as claimants, defendants or witnesses throughout civil, administrative or criminal proceedings under the same conditions as nationals.

21. An intersectional and gender-sensitive approach to migrant, refugee and asylum-seeking women and girls should be adopted when determining

their individual situation and needs, in civil, administrative and criminal proceedings, particularly where decisions have an impact on their legal status.

Artificial intelligence, automated decision making and data protection

22. Member States should ensure that a human rights impact assessment, with a gender equality perspective, is conducted before the introduction of artificial intelligence and automated decision-making systems in the field of migration.

23. Any design, development and application of artificial intelligence and automated decision-making systems by the public or private sectors or by service providers and contractors should be non-discriminatory, consistent with privacy principles, transparent and have clear governance mechanisms, in the context of:

- 23.1. border and immigration control decision-making, including decisions relating to entry or return;
- 23.2. migration management, including the use of biometric information;
- 23.3. policing and security of migrant, refugee and asylum-seeking women and girls;
- 23.4. the provision of services to migrant, refugee and asylum-seeking women and girls.

24. Relevant civil society organisations of migrant, refugee and asylum-seeking women should be involved in discussions on the development and deployment of new technologies affecting them.

25. In relation to data protection, and bearing in mind the particular situations of vulnerability of migrant, refugee and asylum-seeking women and girls, the relevant authorities should:

- 25.1. ensure the confidentiality, security and in general the protection of personal data in accordance with internal law and applicable international obligations;
- 25.2. not transfer any such data to the country of origin without a valid legal basis and without explaining to the person concerned, in a language that they understand, which data are being transferred, for what purpose and under what conditions, including providing the person with the opportunity to exercise their rights, in particular the rights to access, to object, to seek a remedy or to ask for assistance from a supervisory authority if no lawful exception applies.

Co-operation with civil society

26. Member States should co-operate with and support migrant and refugee women's organisations, women's rights organisations and other civil society organisations that uphold the universal human rights of migrant, refugee and asylum-seeking women and girls, and that defend and empower them.

27. Migrant and refugee women's organisations, including where appropriate Roma and Travellers² women's organisations, should be consulted when devising migration, asylum and integration policies.

Data collection, research and monitoring

28. Member States should support the collection of data, disaggregated at least by age and sex, on migration, refugee and asylum issues, notably on victims of violence against women, including trafficking in human beings, and ensure compliance with applicable data-protection requirements.

29. Research, monitoring and evaluation of migration, integration and asylum policies from a gender equality perspective, in particular in relation to preventing any violation of women and girls' fundamental rights, should be supported and adequately resourced at all levels.

30. The data collected and the results of such research and evaluation should be used for the further development and adjustment of public policies in these fields at all levels.

III. Protection and support

31. Member States should protect migrant, refugee and asylum-seeking women and girls from all forms of violence against women, including trafficking in human beings.

32. Measures should be taken to protect migrant, refugee and asylum-seeking women and girls from hate speech and sexism.

2. The terms "Roma and Travellers" are being used at the Council of Europe to encompass the wide diversity of the groups covered by the work of the Council of Europe in this field: on the one hand a) Roma, Sinti/Manush, Calé, Kaale, Romanichals, Boyash/Rudari; b) Balkan Egyptians (Egyptians and Ashkali); c) Eastern groups (Dom, Lom and Abdal); and, on the other hand, groups such as Travellers, Yenish, and the populations designated under the administrative term "Gens du voyage", as well as persons who identify themselves as Gypsies. This is an explanatory footnote, not a definition of Roma and/or Travellers.

33. Member States should develop specific measures to combat the sexual exploitation of migrant, refugee and asylum-seeking women and girls, including the demand for such exploitation; this encompasses protective, punitive, preventive and educational measures. Member States should also implement measures to increase monitoring and awareness, in order to enable the identification of victims and allow for appropriate support and recovery.

34. Member States should ensure that culture, custom, religion, tradition or so-called “honour” are not considered as justification for any exploitation or acts of violence against women and girls.

35. Member States should ensure effective access for migrant, refugee and asylum-seeking women and girls, with or without children, to shelters for victims of violence against women, including trafficking in human beings, regardless of their legal status.

36. General and specialist support services should be provided to victims of violence against women and victims of trafficking in human beings, including those who are accommodated in transit, reception and accommodation facilities. This includes, at a minimum, short- and long-term psychological support and healthcare, including mental healthcare, trauma care, sexual and reproductive healthcare, immediate medical support and the collection of forensic medical evidence in cases of rape and sexual assault, as well as counselling and advice.

37. Member States should allow migrant, refugee and asylum-seeking women and girls access to available compensation schemes, measures or other programmes aimed at the integration or reintegration of victims of violence against women, including trafficking in human beings, in accordance with internal law.

38. Member States should ensure that migrant, refugee and asylum-seeking women and girls are not imposed penalties, including the loss of lawful migration or refugee status, as a consequence of their exploitation as victims of trafficking in human beings.

39. A multi-agency, victim-centred approach that prevents secondary victimisation and is aimed at the empowerment of migrant, refugee and asylum-seeking women and girls, inclusive of migrant and refugee women’s organisations, should be adopted as regards matters relating to their protection and support.

40. Training and awareness raising in matters related to violence against women, trafficking in human beings, gender equality and intercultural issues should be adequately funded and provided to all relevant authorities and staff to enable them to:

- 40.1. promptly identify victims, where possible in collaboration with relevant support organisations, conduct risk assessments, inform the victims about their rights, refer them to relevant authorities and provide protection, treatment and care to migrant, refugee and asylum-seeking women and girls who are victims of any forms of violence, including trafficking in human beings;
- 40.2. be aware of the difficulties that migrant, refugee and asylum-seeking women and girls may face in disclosing incidents of violence against women and trafficking in human beings, due to their insecure legal status, the unavailability of quality interpretation services, a lack of knowledge of their rights and of the relevance of their experiences of violence in relation to migration/asylum decisions, social stigma, poverty and lack of support to them.

41. Easily accessible mechanisms should be in place in all relevant State and privately run institutions to enable incidents of violence against women, including trafficking in human beings, to be reported to staff and by staff. Member States should ensure access to age- and gender-sensitive telephone helplines, procedures for referral to other appropriate agencies and medical and psychological treatment to facilitate reporting.

42. Individual risk assessment and risk management of violence against migrant, refugee and asylum-seeking women and girls should be conducted, taking specific account of their potentially heightened vulnerability, notably owing to their insecure legal status.

State of emergency and crisis management

43. In situations of public health, humanitarian and climate change-related crises, member States should take into account the increased risk of gender-based violence, including trafficking in human beings, poverty and homelessness for migrant, refugee and asylum-seeking women and girls, and should therefore:

- 43.1. take into consideration the situation and needs of migrant, refugee and asylum-seeking women and girls in crisis management and recovery measures, including the protection of rights, notably

- the rights to health, shelter, food security, water, economic empowerment and access to justice and to specialist support services for women victims of violence, by qualifying them as essential services and guaranteeing their continued availability;
- 43.2. ensure that the measures taken during a crisis and any ensuing state of emergency conform with international obligations related to the human rights of migrant, refugee and asylum-seeking women and girls;
 - 43.3. ensure that relevant migrant, refugee and asylum-seeking women and girls' civil society organisations are consulted in such situations.

IV. Arrival

Pre-arrival information

44. Member States should ensure that immigration procedures take into account women and girls' specific situations, characteristics, needs and vulnerabilities, and are age- and gender-sensitive.
45. Member States should provide accessible information about the conditions enabling the legal entry and stay in their territory.

Transit and reception facilities

46. Competent authorities should ensure that transit, reception, accommodation and screening arrangements are age- and gender-sensitive. The screening process should in particular facilitate the identification of victims of violence against women, including trafficking in human beings, at the earliest possible opportunity and ensure that women's protection claims are processed promptly and efficiently. This should be done in a safe, confidential and victim-centred manner. Support services should be provided to victims of violence against women, including trafficking in human beings, as set forth in paragraph 36 of this appendix.
47. Reception and accommodation facilities should be located in areas where women and girls are safe and can access relevant services and information with respect to health, including sexual and reproductive health, social and legal assistance, education and essential shopping facilities.
48. The specific needs and safety concerns of victims of all forms of violence against women, including trafficking in human beings, and any other relevant special needs related to, for example, pregnancy, disability or specific health

needs, should be taken into account when determining residential placements and access to services. Victims of violence against women, including trafficking in human beings, should be accommodated in specialised facilities.

49. The presence of staff, preferably women, trained in human rights, gender equality and violence against women, including, as appropriate, lawyers, social workers, intercultural mediators, interpreters, police officers and guards, should be ensured in these facilities.

50. Women and girls in transit and reception facilities should be offered adequate and safe living spaces. Separate, safe sleeping and sanitary areas, as well as other safe spaces should be provided for single women with or without children (up to age 18). Other elements that should be provided include access to natural and artificial light, sufficient ventilation and heating, a clean bed and bedding, ready access to clean, well-lit shower and toilet facilities, and the availability of a basic sanitary kit/hygiene products free of charge and on a regular basis. Essential infant nutrition and clothing should be provided as needed.

51. Women and girls in transit and reception facilities should have access to a complaint/reporting system concerning violence or other violations of rights, whereby complaints are investigated and referred to the police where relevant, including, where appropriate, access to legal aid. The referral of women and girls to non-governmental organisations, in particular victim support associations, should also be facilitated.

52. Member States should ensure that transit, reception and accommodation facilities and services are subject to regular independent monitoring, including when such services are provided by private contractors, in order to ensure compliance with the standards of protection set out in this appendix.

53. Whenever migrant, refugee or asylum-seeking women and girls are deprived of liberty in transit, reception or accommodation centres, member States should also ensure compliance with the provisions contained in the paragraphs of this appendix related to detention.

Asylum

54. Member States should adopt and implement age- and gender-sensitive asylum standards, practices and procedures.

55. Women and girls should be entitled to access asylum and protection information and procedures at designated locations at the borders and in the territory of member States.

56. The possibility for women and girls to lodge an asylum claim independently from their spouse, partner as recognised by internal law or parents should be ensured, and they should be made aware of this right.

57. Member States should ensure a gender-sensitive interpretation of the 1951 Convention, notably with respect to the grounds for asylum and with respect to the recognition of gender-based violence, including trafficking in women and girls, as a possible form of persecution within the meaning of Article 1A, paragraph 2, of the 1951 Convention.

58. Member States should make efforts to develop comprehensive gender-sensitive guidelines at all stages of the asylum process, including reception and support services, screening, determination of “safe” countries for the purpose of accelerated or suspensive procedures, detention, status determination, adjudication and returns, and to train all relevant staff in respect of such guidelines.

59. Women asylum officers and interpreters should be available to women asylum seekers, who should be informed when this possibility exists.

60. Separate interviews for women and men from the same family, in the absence of children, should be made possible upon request. Women should be informed about this possibility and confidentiality should be guaranteed. The same principle should be applied to underage married girls.

61. In processing and determining asylum claims, regard should be given to:

61.1. the applicant’s own personal circumstances and to an individual assessment of risk;

61.2. relevant country of origin information, including in relation to gender equality and women’s rights. This could encompass access to justice, the legal framework and its implementation, available social, economic and other support and any form of multiple and intersecting discrimination and/or patriarchal attitudes that women and girls are likely to encounter.

62. If the decision on a woman or girl’s refugee status is negative, member States should ensure that they have an effective opportunity to request complementary or subsidiary protection.

Cross-border measures

63. Member States are encouraged to participate in resettlement programmes, to provide complementary pathways for admission and to promote legal pathways to ensure safe transit for women and girls.

64. Member States are encouraged to fund specific assistance and humanitarian resettlement programmes for women and girls who are victims, or at risk, of violence against women or trafficking in human beings, including for the purpose of sexual exploitation.

65. Member States are encouraged to set up and implement effective cross-border protection mechanisms for victims of violence against women and trafficking in human beings, including trafficking for the purpose of sexual exploitation.

V. Residence and integration

Health services

66. Authorities should ensure that healthcare provision takes into account the situation and personal characteristics of migrant women and girls and that it is age- and gender-sensitive.

67. Essential healthcare services, including primary care, urgent and immediate care, palliative care and treatment or assistance necessary for public health reasons, should be provided to all migrant, refugee and asylum-seeking women and girls.

68. Member States should provide migrant, refugee and asylum-seeking women and girls who are legally present in their territory with effective access to quality, age- and gender-sensitive health services. This should encompass in particular mental health, sexual and reproductive health services and rights, health services during and after pregnancy and services related to experiences of violence against women. Member States should also seek to provide such services to migrant women and girls in an irregular situation.

69. Access to essential healthcare should in principle not be dependent on obtaining the authorisation of the immigration authority or permission from any person other than the woman concerned. The treatment of minor girls may be subject to the consent of a parent or an independent guardian, always considering the best interest of the child.

70. Taking into account language, economic and cultural barriers, or disabilities, member States should ensure that women give prior, free and informed consent to any medical intervention except when otherwise required by law.

Social services, social security and housing

71. In any decisions relating to the safety and welfare of women and girls, including decisions taken by social services and in respect of social security, their needs should be a primary consideration.

72. Member States are encouraged to ensure that migration status is not used to discriminate in respect of access to housing and social assistance schemes for migrant, refugee and asylum-seeking women lawfully present in the country.

Integration and participation

73. Member States should ensure that any child born in their territory is entitled to be registered immediately after birth and is granted a pathway to a nationality.

74. Owing to persisting stereotypes and existing inequalities in access to civil rights and participation in political decision making, which are even more serious for migrant and refugee women, member States should take steps to ensure that those migrant and refugee women who are entitled to vote and to stand for election in local, regional, national or European elections are aware of their rights and can participate without any form of discrimination.

75. Authorities should encourage and support initiatives aimed at empowering migrant, refugee and asylum-seeking women and girls within their families, in their communities and in society at large, by developing their self-confidence and self-determination and by protecting women and girls from negative social control. This could include participation in local, cultural or women's associations, sports clubs, youth clubs and other organisations.

76. Public and private coaching, mentoring and other support programmes aimed at migrant and refugee women and girls should be set up and supported, notably in order to promote positive role models and promising practices of integration.

77. The contribution that migrant and refugee women and girls make to society, the economy and culture in host communities should be highlighted as a way to facilitate their integration and empowerment.

Education

78. Authorities should ensure that migrant, refugee and asylum-seeking girls have access to compulsory education equal to that of nationals and should take measures to reach those who may have been prevented from accessing education in their country of origin, ensuring the provision of education or day care, preferably within mainstream educational structures.

79. Where appropriate, migrant, refugee and asylum-seeking women and girls should have access to any available further or higher education, vocational training, lifelong learning, retraining and rehabilitation facilities provided by competent services.

80. Member States are encouraged to take steps to facilitate the recognition and validation of migrant and refugee women and girls' existing vocational and academic qualifications and work experience in practice, including through initiatives such as the Council of Europe's European Qualifications Passport for Refugees.

81. Recognising that the ability to communicate in the host country's language is essential, member States should ensure access to an adequate number of hours of quality language training and integration programmes to migrant, refugee and asylum-seeking women and girls, to promote their empowerment and protection. Literacy, numeracy and digital skills courses in accordance with their needs should also be provided as soon as possible after arrival in the host country.

82. Access to the programmes and measures referred to in paragraphs 79, 80 and 81 for migrants in an irregular situation is subject to internal laws governing eligibility.

Employment and economic empowerment

83. Member States should take measures to prevent discrimination and are encouraged to promote access to employment for migrant and refugee women lawfully present in the country, from an early stage in the migration process.

84. Member States should comply with the obligations regarding the right to work and self-employment for refugee women and girls set out by the 1951 Convention and should consider removing the barriers to work faced by other migrant women and girls after they have been present in the territory for a certain length of time.

85. In respect of those migrant, refugee and asylum-seeking women and girls who are permitted to work under the internal law of member States, the latter should ensure decent and dignified working conditions, including:

- 85.1. taking measures to regulate and improve their working conditions and to eliminate all forms of labour exploitation and discrimination, including when they are multiple and intersecting;
- 85.2. supporting them to access the labour market through self-employment and entrepreneurship, by providing them with the same opportunities for vocational training, lifelong learning, microcredit schemes, start-up loans and business development as those for national workers, and supporting volunteering, internships, apprenticeships and job placement programmes;
- 85.3. facilitating access to the labour market by taking steps to ensure that they have access to work-life balance measures, including care leave arrangements, and flexible working conditions where possible, and ensuring access to and enjoyment of childcare facilities on an equal footing with national workers.

86. Member States should implement the provisions of relevant national and international standards directed at protecting migrant, refugee and asylum-seeking women and girls who are domestic workers from discrimination, exploitation and abuse.

87. Member States are encouraged to provide access to financial services and basic financial literacy training to migrant, refugee and asylum-seeking women, to enable them to use savings and credit options and to better control and manage their income, and thereby empower them.

Residence permits

88. Member States should ensure that migrant, refugee and asylum-seeking women and girls who are granted a residence permit on the basis of a family relationship are entitled to social, economic and labour-related rights and benefits in an autonomous capacity.

89. Member States should take the necessary measures to ensure that migrant, refugee and asylum-seeking women and girls who are victims of violence and whose residence status depends on that of the spouse or partner as recognised by internal law, in the event of the dissolution of the marriage or the relationship, are granted, in the event of particularly difficult circumstances, upon application, an autonomous residence permit irrespective of

the duration of the marriage or the relationship. The conditions relating to the granting and duration of such autonomous residence permits are established by internal law. Migrant, refugee and asylum-seeking women and girls should be made aware of this entitlement.

90. Member States should ensure that migrant, refugee and asylum-seeking women and girls who are victims of violence against women, including trafficking in human beings, are granted a renewable residence permit, where the competent authority considers that their stay is necessary owing to their personal situation, and/or where the competent authority considers that their stay is necessary for the purpose of their co-operation in an investigation or criminal proceedings.

91. The evidentiary criteria and threshold for the granting of residence permits should be realistic and sensitive to the individual situation of migrant, refugee and asylum-seeking women and girls. Responsible statutory agencies should be adequately trained to this effect.

92. Member States should facilitate the possibility for victims of forced marriage brought into another country for the purpose of the marriage and who, as a result, have lost their residence status in the country where they habitually reside, to regain that status. This should also apply, as appropriate, to those who may have lost their nationality.

93. Member States are encouraged to provide security of residence on an independent basis to migrant and refugee women and girls present in a country for a long time, including stateless women and girls. Security of residence should be particularly ensured for victims of violence against women whose children are nationals of the host country, including when they lose custody of their children during separation/family law proceedings.

94. Member States are encouraged to provide pathways to naturalisation and to take measures to ensure that migrant and refugee women and girls are not faced with gender-related obstacles in this regard.

Family reunion

95. Recognising that family reunion can be both a secure pathway to safety for migrant and refugee women and girls and a protective factor in the host country, member States should ensure the right to family reunion for migrant, refugee and asylum-seeking women and girls in accordance with obligations

under the Convention for the Protection of Human Rights and Fundamental Freedoms and relevant international law. In this respect, member States should:

- 95.1 ensure that women and girls are aware of their rights with regard to family reunion and have access to legal advice and assistance to pursue those rights;
- 95.2 consider accepting or seeking the transfer of asylum claims to enable the family reunion of migrant, refugee and asylum-seeking women and girls separated during their journeys;
- 95.3 seek to provide within their internal laws, legal pathways to respect the family life of migrant women and girls lawfully residing in their territory, in particular by providing the immediate and dependent family members with the possibility to migrate with them or to join them in the host country.

Detention

96. In respect of all forms of deprivation of liberty, member States should adopt an age- and gender-sensitive approach which takes into account the individual situation and personal characteristics of migrant, refugee and asylum-seeking women and girls. Member States should also provide the following services to migrant, refugee and asylum-seeking women and girls who are deprived of their liberty:

- 96.1. access to information about their rights and, as appropriate, about legal aid and legal advice, as set forth in paragraph 14 of this appendix;
- 96.2. access to law-enforcement measures and to effective reporting and complaints mechanisms, including referral to and investigation of those complaints by police and, where relevant, access to legal aid;
- 96.3. access to healthcare services, telephone helplines and appropriate trauma support and counselling facilities;
- 96.4. the presence of female staff among border, migration and other police or custody officials, as well as among social workers and whenever possible interpreters;
- 96.5. access to a telephone and/or internet facilities to inform a relative or another party of their deprivation of liberty, as well as to consular assistance;

96.6. the opportunity to remain in meaningful contact with the outside world, including visits, regular access to a telephone or to their mobile phones or to internet facilities.

97. Member States should ensure that places of deprivation of liberty, including administrative detention facilities, are subject to regular independent monitoring.

98. In the event that administrative detention is used under immigration legislation, which should only be a measure of last resort, families should not be separated, and separate safe zones should be provided for women and girls within detention facilities, where their privacy is guaranteed and which cater adequately for their specific needs. Unaccompanied or separated girls should not, as a general rule, be detained.

99. Effective alternatives to administrative detention should be provided in any event for migrant, refugee and asylum-seeking women and girls who have been victims of torture or violence against women, including trafficking in human beings, pregnant and nursing women, elderly women and women with disabilities.

100. Member States should ensure that living conditions in immigration detention centres reflect at least those listed in paragraphs 46 to 52 of this appendix (Transit and reception facilities).

101. Migrant, refugee and asylum-seeking women and girls in administrative detention should preferably be accommodated in centres designed specifically for that purpose. Care should be taken in the design and layout of the premises to avoid, as far as possible, any impression of a prison-like environment. Within the detention centre, migrant, refugee and asylum-seeking women and girls should be restricted as little as possible in their freedom of movement.

102. Migrant, refugee and asylum-seeking women and girls in administrative detention should be offered appropriate activities and they should, in principle, have free access to outdoor exercise throughout the day.

VI. Returns

103. Voluntary returns should be the preferred option. Returns should always be carried out in safety and with dignity, in line with the principle of *non-refoulement*. Member States should therefore ensure that migrant and asylum-seeking women and girls are not returned or removed to a country where their life would be at risk or where they might be subjected to acts of torture or

inhuman or degrading treatment or punishment, including those acts which disproportionately affect women and girls or are directed at them because they are women or girls.

104. In relation to returns, due regard should be given to relevant human rights obligations, notably the right to family life, in accordance with international law and the case law of the European Court of Human Rights, and to the vulnerable situation of the person, particularly with regard to their state of health, including, for example, pregnancy. In relation to returns of girls, the best interest of the child should be a primary consideration.

105. Recognising the particular difficulties that victims of violence against women, including trafficking in human beings, face in fully disclosing the grounds for their international protection claim, member States should put in place safe, confidential and victim-centred processes, to minimise the risk of *refoulement*.

106. Member States should ensure that accelerated and non-suspensive procedures are not implemented before the completion of an individual assessment of international protection needs, especially if there are any signs of violence against women, including trafficking in human beings.

107. Member States should foresee the possibility of suspending expulsion measures for migrant women based on their status as dependent on a spouse, partner as recognised by internal law, parent or other family member, in order to enable them to apply for an independent residence permit.

108. Where deemed necessary by the appropriate authorities, returns should be accompanied by sustainable reintegration and assistance measures in the member States of return. Member States of return should notably take the necessary measures to allow for the recognition of any diplomas or qualifications obtained.

Migrant, refugee and asylum-seeking women and girls form a diverse group in many respects. They also constitute more than half of the migrant population in Europe. Persisting gender inequalities in both countries of origin and destination have an impact on their migration experience. Migration, asylum and integration policies therefore should be gender-sensitive, including specific protection and support mechanisms. In response to this need, the Council of Europe has adopted Recommendation CM Rec (2022)17 on protecting the rights of migrant, refugee and asylum-seeking women and girls. The recommendation brings together the provisions of existing Council of Europe and international standards and the policies that can best ensure the empowerment and protection of the rights of migrant, refugee and asylum-seeking women and girls.

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The Council of Europe is the continent's leading human rights organisation. It comprises 46 member states, including all members of the European Union. All Council of Europe member states have signed up to the European Convention on Human Rights, a treaty designed to protect human rights, democracy and the rule of law. The European Court of Human Rights oversees the implementation of the Convention in the member states.

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