



The European Network of Migrant Women (ENoMW)'s Contribution to the European Commission Public Consultation:

Debate on the future of Home Affairs policies: An open and safe Europe – what next?

Introduction to ENoMW

The European Network of Migrant Women (ENoMW) is an EU-level non-governmental organisation and a diverse umbrella of migrant-led feminist organisations around Europe united by a common understanding that migration and integration policies have to be gender sensitive and respect women's rights. The common practice of gender-neutral policies affect migrant women and migrant men in different ways, and often to the disadvantage of women, leaving them more vulnerable. This is a problem that spreads over many areas of life, and it is a setback in the overall steps towards integration and full gender equality in Europe.

The objectives of the ENoMW are: to promote equal treatment, equal rights and better integration for migrant women in Europe; to provide regular input on all areas of EU policy development and implementation that have an impact on migrant women's lives; to help shape social policies and design action programmes addressing migrant women's specific needs; to represent member's organisations and lobby for and with migrant women to have a stronger voice at the European level; and to support migrant women's organisations and movements through information and trainings.

ENoMW's Submission to the Consultation

The European Network of Migrant Women welcomes DG Home's initiative to carry out a public consultation on the future of Home Affairs policies in the European Union.

We contributed to, signed and endorse the entirety of the European NGO Platform on Asylum and Migration (EPAM)'s common statement on elements for the Future EU Programme on Migration and Asylum. Hence, with our own submission, we will mostly add detail to the content of that statement, occasionally reinforcing recommendations, but concentrating in most detail on the policy areas that acutely impact on women in specific ways, and on which our most recent work plans have focused. Of the points we have picked out to expand on, we mirror the order of content of the EPAM Statement.

I. Detention of Irregular Migrants and Asylum Seekers

Echoing the NGO Platform Statement's call for the EU to cease detention of all children and families, the ENoMW adds that this discontinuation should extend to detaining elderly women or pregnant undocumented women, as the consequences for their health are detrimental and potentially grave.

II. Labour Migration

Labour migration cannot be separated entirely from family migration, because the former generates the latter. It is therefore necessary to utilise and plan labour and family migration jointly. Joint planning of labour and family migration should pay special attention to discrimination against migrants as a group, the ways in which migrants are vulnerable as a group – always bearing in mind how men and women are affected by labour or family migration differently – and all directives and legislation should fully uphold the ILO's Decent Work Agenda.

Women's labour is historically undervalued and underpaid. We call on the Commission to sign, ratify and implement the UN Migrant Workers' Convention, or as a minimum to call on Member States to do so. The Commission must also ensure that Member States properly implement legislation that specifically addresses migrant workers, such as the Employer Sanctions Directive, the Single Permit Directive and

the Seasonal Workers Directive.

Impeded by a lack of pathways for having the qualifications from their host countries recognised, and potentially without the means to access childcare resources, migrant women are prone to suffering long periods of economic inactivity upon arrival in their destination country. Thus, if and when reentry into the labour market does take place, deskilling is likely to have taken place – hence, migrant women tend to be overqualified for the jobs they perform, and suffer from professional segregations. Cooperation across the European Commission in upholding the Barcelona targets allowing for childcare infrastructure at EU level will thus be key for migrant families often without networks. ENoMW also recommends that the European Institutions do all they can to strengthen any existing provisions for language support and translation services.

Noting the EU 2020 Strategy's Employment Target of a 75 percent rate of employment, “including through greater employment of women”¹, which continues to lag behind the rate for men, it is clear that the EU needs to broaden the scope for increase in migrant women's participation in the labour market. ENoMW urges the European Commission to ensure that piecemeal approaches be avoided in favour of a cross-sectoral harmonised planning of family and labour migration policies, and not to base these on the stereotypical image of a male labour migrant. This will be the only approach that ensures the optimal portability of those European-level social rights held specifically by migrant women – i.e. maternity rights, or also the ability for migrants to take the pension contributions they accumulate in Member States with them back to third countries upon leaving the EU.

a) Domestic Work

Recent research indicates that the Personal and Household Service 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”² It is also observed that the need for migrant domestic workers is ever increasing in the EU³

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 will be included among groups eligible to qualify for a Long-Term Directive, also to have their families reunited. Ignoring the increasing demand of migrant domestic workers 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 ensured⁴ 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”⁵. We believe that the same is true for the regularization of status and improved access to countries where a demand for migrant domestic workers 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 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 esteem that the EU migration policies should anticipate the growing demand for migrant domestic workers by including this category as a pathway to migration under a separate directive.

b) Au Pairs

Member States allowing Au Pairs into their societies need to be prepared to sign, ratify and implement legislation that protects these migrants (who are overwhelmingly female) as workers, and the European Commission should encourage this. The EU must harmonise practices across Member States, especially giving recourse for the Au Pair to seek justice when working contracts are not adhered to in terms of working hours or clear violations of contracts. Ensuring coherence among existing directives through continued monitoring of proper implementation of the Employer Sanctions, Single Permit and Seasonal

¹ <http://ec.europa.eu/social/main.jsp?langId=en&catId=958>

² (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).

³ 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).

⁴ Hein C. and Cassirer N., *Workplace solutions for childcare*, International Labour Office: Geneva, 2010, pp. 82-83.

⁵ Hein C. and Cassirer N., 2010, p. 92

Workers Directive alongside the European Commission Gender Equality Strategy is key to this end. In several Member States (e.g. Denmark), Au Pairs are overworked and treated like domestic workers, yet they have no salary, nor do they have a convention that protects them as people within the private sphere where violations may be reported. Furthermore, there is a very low prosecution rate of violator host families.

If adopted, the Commission should prioritise its monitoring role⁶, ensuring Member States' data collection, eventual transposition and implementation of the proposed Directive of the European Parliament and Council of Europe on the condition of entry and residence of third-country nationals for the purposes of research, studies, pupil exchange, remunerated and unremunerated training, voluntary service and au pairing.

III. Family Reunification

We understand (as we had recommended in our submissions in response to 2012's Green Paper⁷) 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. ENOMW 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 powers. To this end, language requirements should not be put in place with aim of pre-shaping migration flows.

ENOMW recommends an end to the policy of legal dependency between family members that is instituted through the present family reunification policies. Based on our experience, we consider such dependency between spouses to be 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.

IV. Access to Services

It is imperative that the basic services to which every migrant, irrespective of status, has the fundamental right to access, are always provided with an understanding of men and women's differing needs. In fact, all basic services - from education, to healthcare, to accommodation, to justice - require gender-sensitive design; but this consideration becomes especially urgent when implementing access to practical day-to-day services such as hygiene facilities, laundry and storage. ENOMW asks that the European Commission closely monitor Member States' delivery of basic services to ensure they are de facto accessible to migrant women.

V. Trafficking in Human Beings

We would be advocating for the accurate and complete transposition of the EU Directive 2011/36/EU on Combating and Preventing human trafficking and protecting its victims. In particular, we are emphasising the importance of the gendered approach to human trafficking due to its gendered nature. We believe that gender neutral assistance systems do not benefit all victims of human trafficking but rather fail vulnerable female victims who have been severely exploited through rape and other forms of sexual abuse common to trafficking for sexual exploitation. Their social recovery requires more attention and gender understanding.

The other provisions contained in the said directive are also extremely important, and we will urge their accurate transposition. These are measures related to identification of victims of trafficking, avoidance of secondary victimisation, legal assistance, supports for victims of trafficking with special needs, reporting

⁶ See Chapter VIII, Final Provisions <http://www.europarl.europa.eu/oeil/popups/summary.do?id=1255692&t=d&l=en>

⁷ http://ec.europa.eu/dgs/home-affairs/what-is-new/public-consultation/2012/pdf/0023/famreun/internationalorganisationsocialpartnersngos/european_women_s_lobby_-_ewl.pdf

bodies and other matters. We believe that the implementation of the directive in its entirety, is an important minimum standard in addressing human trafficking in the EU.

We welcome the EU Anti-Trafficking Civil Society Platform as an EU-wide NGO initiative that provides opportunities for exchange and partnership creation, which are essential in this area. We welcome the work of the EU Anti-trafficking Coordination office, and the adopted 4 year Strategy in the EU.

We urge that the link between the demand that fosters sexual exploitation of women and children, and the demand for prostitution be acknowledged at the EU policy level. It is important to conduct specific studies on demand in order to address it efficiently alongside programs for exiting prostitution and social recovery. The ENoMW does not consider the prostitution system as an acceptable alternative to employment of migrant women due to the prevalence of violence and the disadvantaged background of the people trapped in.

VI. Violence Against 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 first Directive. We are also cautious that these policies are indeed minimum standards that are sometimes exacerbated by additional limitations to services for migrant 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 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.

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

ENoMW 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; that all provisions within the framework of Violence Against Women apply to them.

For further information, or clarification of any of the above, please do not hesitate to contact:

Lara Natale, Coordinator
European Network of Migrant Women (ENoMW)
18 Rue Hydraulique
1210 Brussels, Belgium

