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**Drafting Committee  
on Migrant Women (GEC-MIG)**

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**Draft Recommendation on migrant, refugee and asylum-seeking  
women (*provisional title*)**

**Working document - 27-28 April meeting 2021**

**Consolidated version including amendments proposed for the March  
2021 meeting**

**Draft Recommendation on [GREECE: the international protection and safeguard of the rights of] [Holy See: Protecting the rights of] migrant, refugee, asylum- [BELGIUM: and international protection] seeking women [ITALY - UN WOMEN: and girls] [CoE Youth sector: and young girls]**

1. The Committee of Ministers, under the terms of Article 15.b of the Statute of the Council of Europe,
2. 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;
3. 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;
4. Considering the profound changes in migration patterns and in the situation of migrant, refugee and asylum-seeking women and girls, the fact that the number of displaced people has reached its highest ever in recent years and the significant developments in gender equality-, migration- and asylum-related concepts, policies and legal instruments at all levels;
5. Wishing therefore to review and update its Recommendation No. R(79)10 to member States on women migrants, henceforth replaced by the present instrument;
6. ~~[SPAIN: Noting with appreciation the efforts and activities undertaken by States to accommodate the needs of migrant, refugee and asylum-seeking women and girls;]~~

**[NEW - RUSSIAN FEDERATION: Realizing at the same time that much remains to be done in this regard;]**

7. Bearing in mind 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), **[Secretariat of the CoE CPT: the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CETS 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) and the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (CETS No. 210, Istanbul Convention, 2011);
8. Recalling the United Nations Convention Relating to the Status of Refugee (1951); the International Labour Organisation Convention 189 on Domestic Work (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 **[RUSSIAN**

FEDERATION: relevant CEDAW General Recommendations ~~No 30 on women in conflict prevention, conflict and post-conflict situations (2013); CEDAW General Recommendation No. 32 on the gender-related dimensions of refugee status, asylum, nationality and statelessness of women (2014); [RUSSIAN FEDERATION - HOLY SEE: and CEDAW General Recommendation No. 35 on gender-based violence against women, updating General Recommendation No. 19 (2017);] [RUSSIAN FEDERATION: CEDAW Recommendation No.38 on trafficking in women and girls in the context of global migration (2020)]~~; the United Nations Convention on the Rights of the Child (1989) and its Optional Protocols (2000); and the United Nations Convention on the Rights of Persons with Disabilities (2006);

9. [AUSTRIA: ~~Recalling~~ Noting] the relevant measures contained in the UN Global Compact on Refugees (2018) and in the UN Global Compact for Safe, Orderly and Regular Migration (2018) aimed at promoting gender equality and empowering migrant, refugee and asylum-seeking women and girls, [GREECE: in refugee and host communities] and at ending all forms of sexual and [RUSSIAN FEDERATION: ~~gender-based~~ violence against women] , trafficking in human beings, exploitation and sexual abuse, and harmful practices ;]
10. [RUSSIAN FEDERATION: ~~Having regard to the United Nations High Commissioner for Refugees “Guidelines on International Protection: 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;~~]
11. 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 [CoE Roma and Travellers Division: including ethnic minority groups such as Roma and Travellers];
12. 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) notably its strategic objective to identify and address vulnerabilities throughout asylum and migration procedures;
13. Recognizing the multidimensional [THE NETHERLANDS: and intersecting] reality of the situations of migrant, refugee and asylum-seeking women and girls and bearing in mind the importance of the overall application and impact of the United Nations 2030 Agenda for Sustainable Development on them, in particular Sustainable Development Goal 5 (“Achieve gender equality and empower all women and girls”); Sustainable Development Goal 10.7 (“Reduce inequality within and among countries”), with the target 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”);

14. 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(2015)1 on intercultural integration,<sup>1</sup> Recommendation CM/Rec (2019)1 on preventing and combating sexism,<sup>2</sup> **[CoE Youth sector: Recommendation CM/Rec(2019)4 on supporting young refugees in transition to adulthood]** as well as relevant resolutions and recommendations of the Parliamentary Assembly, of the Congress of Regional and Local Authorities and of the Conference of INGOs of the Council of Europe;
15. Reaffirming that all human rights and fundamental freedoms are universal, indivisible, interdependent and interrelated, and that their full enjoyment, without discrimination on any ground, by migrant, refugee and asylum-seeking women and girls needs to be guaranteed;

**[NEW- RUSSIAN FEDERATION: Recalling that international law, including the European Convention on Human Rights and Fundamental Freedoms, does not guarantee the right of an alien to enter or to (continue to) reside in a particular country, and that there is a difference in legal status between legal and illegal migrants which must be taken into account;]**

16. Noting with concern that migrant, refugee and asylum-seeking women and girls may be confronted with multiple and intersectional forms of discrimination **[THE NETHERLANDS: and violence]** in their country of origin, during their journey and 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;
17. Recognising that while existing international human rights standards apply to all persons, 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;

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<sup>1</sup> **[NEW- RUSSIAN FEDERATION: At the time of the adoption of this Recommendation by the Committee of Ministers, one member State stated that this document did not reflect a common approach of all Member States and reserved its right to comply or not with the Recommendation.]**

<sup>2</sup> **[NEW- RUSSIAN FEDERATION: At the time of the adoption of this Recommendation by the Committee of Ministers, one Member State did not agree with a number of provisions of this Recommendation and in accordance with Article 10.2c of the Rules of Procedure for the meetings of the Ministers’ Deputies reserved its right to comply or not with the Recommendation.]**

18. [SECRETARIAT: Underlining that women are exposed to a continuum of violence that is specific to them because they are women, or which affects women disproportionately, and that such violence is, in this sense, gender-based]; recognising with grave concern, that migrant, refugee and asylum-seeking women and girls are [MEXICO - UN WOMEN: in vulnerable persons situations and] [SECRETARIAT: ~~often particularly~~] exposed to serious forms of [RUSSIAN FEDERATION: ~~gender-based~~] violence in their countries of origin, during their journey, in transit and/or in destination countries, [CoE Roma and Travellers Division : becoming easy targets for trafficking in human beings and other forms of exploitation such as forced labour,] which [DENMARK: may] constitute a serious violation of their human rights, and that they face difficulties and structural barriers in overcoming such violence;
19. Acknowledging the positive contribution that migrant, refugee and asylum-seeking women and girls [RUSSIAN FEDERATION: may] bring to European societies and communities [UN WOMEN: and their leadership capacities and role];
20. Aware of the [RUSSIAN FEDERATION: ~~gender-related~~] barriers [UN WOMEN: : ~~gender-related gender-specific and any intersecting /intersectional barriers and challenges~~] that migrant, refugee and asylum-seeking women and girls face [RUSSIAN FEDERATION: ~~because of their sex in terms of integration, participation, equal access to rights, services, leadership and meaningful participation, and of the need to facilitate their integration and full participation in the economic, social, civic, political and cultural life, including providing pathways to regularization where applicable;~~]
20. Aware of the gender-related barriers that migrant, refugee and asylum-seeking women and girls face in terms of integration, participation, [HOLY SEE: protection of rights, equal access to ~~rights,~~ services, leadership, meaningful participation, [CoE Youth sector: and decision-making positions] and of the need to facilitate their integration and full participation in the economic, social, civic, political and cultural life, [AUSTRIA - LITHUANIA - SWEDEN: ~~including providing pathways to regularization where applicable;~~]

[NEW - CoE Roma and Travellers Division: Acknowledging the issue of statelessness and subsequent lack of ID documentation faced by migrants and refugees but also minority groups in Europe, such as Roma and Travellers, making it difficult to access services such as education and healthcare, making women even more vulnerable to all forms of exploitation and gender-based violence;]

21. Recommends that the governments of member States:
  1. Take [RUSSIAN FEDERATION: if appropriate] legislative or other measures to promote and apply the Guidelines included in the Appendix of this Recommendation, aimed at ensuring that migrant, refugee and asylum-seeking women and girls can effectively access and exercise their rights;
  2. Ensure that this Recommendation, including its Appendix, is [DENMARK: ~~translated and~~ disseminated (in accessible formats) and translated if relevant] among

relevant authorities and stakeholders, which are encouraged to take measures to implement it;

3. **[RUSSIAN FEDERATION: ~~Monitor~~ Evaluate]** progress in the implementation of this Recommendation and **[RUSSIAN FEDERATION: ~~regularly~~ inform if appropriate]** the competent Council of Europe steering committee(s) and bodies of the measures undertaken, and the progress achieved in this field.

## Draft Appendix

### I. Definitions

For the purpose of this recommendation:

**'Migrant':** [AUSTRIA - RUSSIAN FEDERATION: ~~a person who leaves one country or region to settle in another, often in search of a better life, including citizens of Council of Europe member States with a migrant background, and stateless women and girls.~~] [RUSSIAN FEDERATION: any person who changes his or her country of usual residence, with the exclusion of recreation, holiday, visits to friends and relatives, business, medical treatment or religious pilgrimages.<sup>3</sup>]

**'Migrant':** a person who leaves one country or region to settle in another, [Office of the CoE Commissioner for Human Rights: ~~often in search of a better life~~], including citizens of Council of Europe member States with a migrant background, and stateless women and girls.

**'Migrant women'** [GREECE: and girls ~~or 'women'~~] includes both women and girls under 18 years of age.

[HOLY SEE: ~~'Migrant women' or 'women' includes both women and girls under 18 years of age.~~]

**'Asylum seeker':** a person [AUSTRIA: ~~who intends to make, or~~] who has made, an application for international protection.

**'International Protection':** Protection as a refugee under the 1951 Geneva Convention Relating to the Status of Refugees as amended by its 1967 Protocol (hereafter "1951 Convention") or any alternative form of international or European humanitarian, subsidiary or temporary protection.

**'Refugee':** a person who meets the definition at Article 1(A)(2) of the 1951 Convention.

[CoE Roma and Travellers Division – GREECE – UN WOMEN<sup>4</sup>: **'Internally Displaced Persons': persons who have been forced or obliged to leave their homes or places of habitual residence, in particular to avoid the effects of armed conflict, situations of generalized violence, or violations of human rights, and who have not crossed an internationally recognised state border (which is also an issue for minority groups in Council of Europe member States such as Roma and Travellers). They face the same issues such as migrants and refugees and similar gaps when it comes to protection.** ]

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<sup>3</sup> [RUSSIAN FEDERATION: This definition is not meant to be authoritative and corresponds to the definition of "international migrant" by the United Nations Department of Economic and Social Affairs (UN DESA, Recommendations on Statistics of International Migration, Revision 1 (1998) para. 32). Internal migration is not covered by this Recommendation.]

<sup>4</sup> Definition provided by the CoE Roma and Travellers Division

## **II. Horizontal issues**

1. Member States should take into account the horizontal issues mentioned hereunder for all measures put forward in this Appendix.

### **Non-discrimination, intersectional issues, elimination of stereotypes**

2. Member States should ensure that all applicable measures to protect the rights of migrant, refugee and asylum-seeking women and girls are secured without discrimination on any ground.
3. 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.
4. Measures should be established to safeguard the fundamental rights of undocumented migrants and facilitate their access to essential services including, at a minimum, protection and complaint mechanisms and all support services for victims of violence against women and trafficking in human beings, without fearing any reporting to migration authorities.
5. Within both migrant and host countries and communities, member States should:
  - 5.1. 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;
  - 5.2. implement awareness-raising and educational measures to promote dialogue, gender equality and a human rights' approach.

### **Girls**

6. Member States should adopt a child rights-based approach to migrant, asylum-seeking and refugee children, which takes account of the specific situations and needs of girls, which may also vary according to the age, including ensuring suitable and safe alternative care arrangements when they are separated from their parents or caregiver or when they are unaccompanied minors.
7. Owing to migrant girls' situation of heightened vulnerability to exploitation and abuse, care arrangements should be aligned with those for non-migrant children in mainstream child protection services or institutions. Unaccompanied and separated children should be assigned a guardian.
8. Member States should ensure continued access to essential services for migrant, refugee and asylum-seeking girls to support their transition to adulthood beyond the age of 18, including access to education and healthcare, as well as support for their integration and social participation.



### **Information, empowerment, awareness raising and promotion of human rights**

9. 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 a language that they understand, covering:
  - 9.1 Their fundamental human rights as set out in the European Convention on Human Rights and other relevant instruments, including whilst in detention and reception facilities.
  - 9.2 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 and compensation.
  - 9.3 Protection services available in the host country against all forms of violence against women and trafficking in human beings, including access to general and specific support services, specialist support provided by NGOs and legal aid available.
  - 9.4 Available and accessible public services in the host country, notably healthcare including mental and sexual and reproductive health and rights, [*comprehensive sex and sexuality education*], psycho-social support, education, language and digital training, vocational training, integration programmes, housing and employment.
10. Member States should provide resources and tools for the empowerment and support of refugee, asylum-seeking and migrant women and girls, based on their special needs and unique characteristics in order for them to benefit to as great an extent possible from the social services and welfare available.
11. Member States should facilitate the access of refugee, asylum-seeking and migrant women and girls to digital services and connection including the Internet, in particular if services and information are available solely or largely in digital format.

### **Access to justice including legal aid**

12. Migrant, refugee and asylum-seeking women and girls should have access to the different national and international civil, administrative, and criminal remedies, as well as legal aid, to effectively exercise their rights and/or take action in cases of non-compliance with those rights.
13. Member States should ensure that refugee and asylum-seeking women and girls receive adequate support as claimants, defendants, or witnesses throughout civil, administrative, or criminal proceedings.
14. An intersectional and gender-sensitive approach to individual migrant, refugee and asylum-seeking women and girls should be adopted when determining/assessing their credibility in civil, administrative, and criminal proceedings, particularly where decisions have an impact on their legal status.

## **Detention**

15. In respect of all forms of detention, member States should adopt an age- and gender-sensitive approach, which takes into account their individual situation and personal characteristics and provide the following services to migrant, refugee and asylum-seeking women and girls:
  - 15.1 access to law enforcement measures and reporting / complaints mechanisms;
  - 15.2 access to information about their rights, as set forth in [paragraph 9] of the Annex to the present Recommendation;
  - 15.3 access to healthcare and hygiene services, telephone helplines and appropriate trauma support and counselling facilities;
  - 15.4 access to appropriate activities during the time spent in detention.
16. The presence of women among border, migration and other police or custody staff, as well as among social workers and interpreters, should be ensured.
17. Effective alternatives to administrative detention should be provided for certain categories of persons in vulnerable situations, these may include, *inter alia*, migrant, refugee and asylum-seeking and women and girls who have been victims of torture and trafficking in human beings, pregnant and nursing women, elderly women or women with disabilities.
18. In the event that administrative detention is used - which should only be as 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.

## **Artificial intelligence, automated decision-making, and data protection**

19. 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.
20. Any use of artificial intelligence and automated decision-making systems by the public sector and its service providers/contractors, should not cause any discrimination, be operated consistently with privacy principles, be transparent, and have clear governance mechanisms, in the context of:
  - 20.1 border and immigration control decision- making, including decisions relating to entry or return;
  - 20.2 migration management, including the use of biometric information [*and of DNA testing*];

20.3 policing and security of migrant, refugee and asylum-seeking women and girls , and services related to protection and prevention of crimes; and

20.4 the provision of services to migrant, refugee and asylum-seeking women and girls.

21. Migrant, refugee and asylum-seeking women and relevant civil society organisations should be given the opportunity to participate in discussions and decision-making around the development and deployment of new technologies affecting them.

22. Bearing in mind the particular situations of vulnerability of migrant, refugee and asylum-seeking women and girls, relevant authorities should:

22.1 ensure the confidentiality and security of personal data in accordance with their national legislation and applicable international obligations;

22.2 not transfer any such data to the country of origin without explaining to the affected person in a language that they understand which data is being transferred and under which conditions, including providing the affected person the opportunity to object.

### **Co-operation with civil society**

23. 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 and refugee and asylum-seeking women and girls, and that defend and empower them.

24. Mechanisms should be established to ensure that migrant and refugee women's organisations, including Roma and Travellers' organisations are consulted, in particular when devising migration, asylum and integration policies which affect them.

### **Data collection, research and monitoring**

25. Member States should support the collection of data, disaggregated notably by age and sex, on migration, refugee and asylum issues, including regarding victims of violence against women, and ensuring compliance with applicable data protection requirements.

26. 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's fundamental rights, should be supported and adequately resourced at all levels.

27. The data collected and the results of research and evaluation of migration, integration and asylum policies from a gender equality perspective should be used for the further development and adjustment of public policies in these fields at all levels.

### **III. Protection and support**

28. Member States should protect migrant, refugee, and asylum-seeking women and girls from all forms of violence against women and trafficking in human beings.
29. Measures should be taken to protect migrant, refugee and asylum-seeking women and girls including Roma and Travellers from hate speech and sexism.
30. Member States should develop specific measures to address the sexual exploitation of migrant, refugee and asylum-seeking women and girls, in particular the demand for such exploitation, including protective, punitive, preventive and educational measures.
31. Member States should ensure that culture, custom, religion, tradition or so-called 'honour' shall not be considered as justification for any exploitation or acts of violence against women and girls.
32. Member States should ensure effective access for migrant, refugee and asylum-seeking women and girls, with or without children, to shelters for women victims of violence against women and trafficking in human beings, regardless of their legal status.
33. Access to free legal advice and free legal aid available in the language of the beneficiary, should be provided in order to support migrant, refugee and asylum-seeking women and girls victims of all forms of violence against women and trafficking in human beings through criminal, administrative and civil proceedings, including the pursuit of compensation claims and legal redress against the perpetrators.
34. General and specialist support services should be provided to victims of violence against women and trafficking in human beings, including for those persons accommodated in transit, reception and accommodation facilities. This encompasses short- and long-term psychological support and healthcare, including mental healthcare, sexual and reproductive healthcare, immediate medical support and the collection of forensic medical evidence in cases of rape and sexual assault.
35. 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 or trafficking in human beings, on the same conditions as nationals.
36. Member States should ensure that migrant, refugee and asylum-seeking women and girls do not suffer any penalty, including loss of lawful migration or refugee status as a consequence of their exploitation as victims of trafficking in human beings or as a consequence of leaving a violent sponsoring partner or spouse on whom their status was dependant or where they have been taken to another country against their will for the purpose of forced marriage.
37. A multi-agency, victim-centred approach, that prevents secondary victimisation and 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.

38. Professional interpreters, legal assistants, and intercultural mediators, including women, should be available to assist migrant, refugee and asylum-seeking women and girls seeking protection, whilst making initial complaints, throughout the justice process and in seeking reparations, as well as in the context of the asylum determination procedures.
39. Member States should provide and adequately fund training in gender equality and intercultural issues as well as in questions related to violence against women and trafficking in human beings. Such training should be provided to relevant authorities and staff including interpreters, legal assistants and intercultural mediators to enable them to :
  - 39.1 promptly identify victims, where possible, in collaboration with relevant support organisations, conduct risk assessments, refer to relevant authorities and provide protection, treatment and care for migrant, refugee and asylum-seeking women and girls who are victims of all forms of violence and trafficking in human beings;
  - 39.2 be aware of the difficulties that migrant, refugee and asylum-seeking women and girls may face in disclosing incidents of violence against women, of all forms, and trafficking in human beings, due to their insecure legal status, unavailability of quality interpretation services, lack of knowledge of their legal rights and lack of knowledge of the relevance of their experiences of violence in relation to migration/asylum decisions, social stigma, and lack of support to them in this regard.
40. Easily accessible mechanisms should be in place in state- and privately-run institutions, such as reception, transit and detention centres, police stations, prisons, childcare institutions, schools and hospitals, counselling centres and shelters to enable incidents of violence against women and trafficking in human beings to be reported to staff and by staff. This also includes access to age- and gender-sensitive telephone helplines, procedures for referral to other appropriate agencies, and medical and psychological treatment.
41. Risk assessment and risk management of violence against migrant, refugee and asylum-seeking women and girls should be conducted, taking specific account of their potential enhanced vulnerability owing to their insecure legal status.

### **State of emergency and crisis management**

42. In situations of public health crisis, humanitarian crisis and crisis related to climate change, member States should take into account the increased risk of gender-based violence, trafficking in human beings, poverty and homelessness for migrant, refugee and asylum-seeking women and girls and should therefore:
  - 42.1 take into consideration the situation and needs of migrant, refugee and asylum-seeking women and girls in crisis management and recovery

measures, including protection of rights, and notably the right to health, shelter, food security, water, economic empowerment and access to specialist support services for women victims of violence, by qualifying them as essential services and guaranteeing their continuity;

42.2 ensure that measures taken during a crisis and ensuing state of emergency conform with international obligations related to the human rights of migrant, refugee and asylum-seeking women and girls;

42.3 ensure the participation of migrant, refugee and asylum-seeking women and girls and relevant civil society organisations, in decision and policy-making in these situations.

## IV. Arrival

### Pre-arrival information

43. Member States should ensure that immigration procedures, [DENMARK: ~~including those before arrival such as visa issuing procedures~~], [BELGIUM: take into account migrant, refugee and asylum seeking women and girls' vulnerabilities and are age- and gender-sensitive] [RUSSIAN FEDERATION: ~~are age- and gender-sensitive, and take into account the specific situations and needs of women and girls.~~] [GREVIO Secretariat: and include information on their rights and obligations in the host country, including their rights in relation to experience of violence] or as victims of trafficking in human beings.

44. Information should be provided to migrant, refugee and asylum-seeking women and girls about the conditions enabling the legal entry and stay in a member State's territory.

### Transit and reception facilities

45. Relevant authorities should ensure that reception and screening arrangements are [RUSSIAN FEDERATION: ~~age-and-gender-~~ sensitive to the age and different situations and personal characteristics of migrant, refugee and asylum-seeking women and girls.] The screening process should, in particular, facilitate the identification of victims of trafficking in human beings and [RUSSIAN FEDERATION: ~~gender-based~~ violence against women] at the earliest possible opportunity and ensure that women's protection claims are processed efficiently.

46. Reception and accommodation facilities should [RUSSIAN FEDERATION: as much as possible] be located in areas where women are safe and can access relevant services, including [HOLY SEE: healthcare], [MEXICO: health and in particular sexual and reproductive healthcare], social and legal assistance, [DENMARK: and schools and shopping facilities].

47. The specific needs and safety concerns of victims of all forms of violence against women and trafficking in human beings and any other relevant special needs for example pregnancy, disability or specific health needs should be taken into account when

determining residential placements and access to services. **[Secretariat of the CoE CPT: Essential infant nutrition, including drink, food and clothing, should be provided to migrant women with infants or migrant nursing mothers, where necessary.]**

48. Staff should be trained in **[HOLY SEE: ~~women's~~ human rights of women]** **[GREECE: ~~and~~ gender equality-related and trauma]** issues **[BELGIUM: as well as the specificities of gender-based violence and the specific needs of** migrant, refugee and asylum-seeking women and girls, and the presence of professional women social workers **[GREECE: scientists, intercultural mediators,]** interpreters, police officers and guards should be ensured **[BELGIUM: as much as possible]** in these facilities.
49. **[BELGIUM: Provide gender-sensitive reception with regard to infrastructure including]** Separate sleeping areas **[GREECE: /dormitories]** should be provided for single women with or without children (up to age 18), as well as **[SPAIN: other]** safe spaces and clean, separate, well-lit shower and toilet facilities for women **[SPAIN: as well as hygiene products.]**
50. Women in transit and reception facilities should have access to a complaint **[GREECE: /reporting]** system, whereby complaints are investigated and referred to the police where relevant, including, where appropriate, access to legal aid **[SWEDEN - SWITZERLAND: ~~and ensuring regular visits by mobile courts and court officers~~]** **[SPAIN: supported by relevant information].**
51. In cases where service-providers are contracted by a member state to deliver services and accommodation to migrant, refugee and asylum-seeking women and girls, procedures should be in place, including regular monitoring visits by trained migration officials, to ensure compliance with the standards of protection for victims of **[GREVIO Secretariat: gender-based]** violence.

## Asylum

52. Member States should adopt **[RUSSIAN FEDERATION: if appropriate]** and implement ~~gender-sensitive~~ asylum laws, practices and procedures **taking into account special needs of migrant women and girls**.
52. Member States should adopt and implement **[SPAIN: age- and]** gender-sensitive-asylum laws, practices and procedures asylum **[DENMARK: ~~laws~~]**, practices and procedures **[DENMARK: where relevant].**
53. Women and **[CoE Roma and Travellers Division: and (unaccompanied)** girls] should be **[HOLY SEE: able entitled]** to access asylum and protection **[SPAIN: information]** and procedures at **[AUSTRIA: designated locations at** the borders ~~and~~ **or in the territory of member States elsewhere.]**

**[NEW - Office of the CoE Commissioner for Human Rights: The possibility for women to lodge an independent asylum claim should be ensured and women should be made aware of this right.]**

54. ~~[RUSSIAN FEDERATION: To ensure that gender-based violence against women is properly assessed within the framework of the 1951 Convention member States should:~~

~~54.1 ensure that all forms of gender-based violence are recognised as a form of persecution within the meaning of Article 1A(2) of the 1951 Convention;~~

~~54.2 ensure a gender-sensitive interpretation of the 1951 Convention 'grounds' for asylum including the recognition of gender as a basis for the existence of a particular social group;~~

~~54.3 provide comprehensive gender-specific guidelines for all stages of the asylum process including reception and support services, screening, determination of 'safe' countries, detention, status determination, adjudication and returns;~~

~~54.4 ensure border police, migration officials, asylum officers, decision-makers and interpreters receive training in respect of the guidelines mentioned at [§].~~

54. To ensure that gender-based violence against women is properly assessed within the framework of the 1951 Convention member States should:

54.1 ensure that ~~[DENMARK: all forms of]~~ gender-based violence ~~[AUSTRIA - DENMARK: are can be]~~ recognised as a form of persecution within the meaning of Article 1A(2) of the 1951 Convention;

54.2 ensure a gender-sensitive interpretation of the 1951 Convention 'grounds' for asylum ~~[GREVIO Secretariat: including the recognition of gender as a basis for the existence of a particular social group]; [AUSTRIA: if the relevant conditions are met];~~

54.3 provide comprehensive gender-~~[GREECE: sensitive]~~ specific guidelines comprehensive ~~[AUSTRIA: where available]~~ at all stages of the asylum process? including reception and support services, screening, determination of 'safe' countries, detention, status determination, adjudication and returns;

54.4 ensure border police, migration officials, asylum officers, decision-makers ~~[GREECE: intercultural mediators]~~ and interpreters receive training in respect of the guidelines mentioned at [paragraph 54.3] of the Annex to the present Recommendation.

55. Women asylum officers should be available to women applicants [GREVIO Secretariat: and applicants should have the possibility to express a preference for the sex of the interpreter.]

56. Separate interviews for women and men from the same family should be made possible, also in the absence of children, and their confidentiality should be guaranteed.



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

57.1 the applicant's own personal circumstances [GREECE: and individual assessment of risk];

57.2 relevant, [RUSSIAN FEDERATION: ~~gender-specific~~] country of origin information, notably regarding access to justice, including both the legal framework and its implementation; available social, economic and other support; and any [MEXICO: form of multiple and intersecting] discrimination and/or patriarchal attitudes women are likely to encounter.

58. Member States should ensure that women have access to [LITHUANIA: refugee status procedure] as well as complementary/subsidiary protection [RUSSIAN FEDERATION: procedures, where ~~necessary~~ available] [AUSTRIA: and if the women concerned fulfil the criteria for complementary/subsidiary protection.]

58. [Office of the CoE Commissioner for Human Rights: ~~Member States should ensure that women have access to complementary/subsidiary protection, where necessary.~~]

### Cross-border measures

#### Compromise proposal

59. Member States should seek to participate in resettlement and relocation programmes as well as reinforce and promote legal pathways to ensure safe transit for women.

60. Member States should be encouraged to fund specific assistance and humanitarian resettlement programmes for women victims, or at risk, of violence against women and trafficking in human beings, including sexual exploitation.

61. The setting up and implementation of effective cross-border protection mechanisms for victims of violence against women and trafficking in human beings including sexual exploitation should be encouraged.

## V. Residence and Integration

Access to [HOLY SEE: holistic and quality healthcare services, including sexual and reproductive healthcare]

62. Authorities should ensure that healthcare provision is [RUSSIAN FEDERATION: ~~age and gender~~ sensitive to the needs of migrant women and girls.]

63. 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.

64. Member States should also seek to provide affordable, comprehensive [RUSSIAN FEDERATION: ~~and quality and gender-sensitive~~ health services, encompassing mental, sexual and reproductive healthcare including during pregnancy] / [HOLY SEE: ~~health~~

~~services, healthcare services, encompassing mental, sexual and reproductive healthcare including during pregnancy~~] / [DENMARK: health services encompassing ~~mental, sexual and reproductive~~ healthcare during pregnancy], as well as hygiene products, to migrant refugee and asylum seeking women and girls [DENMARK: ~~on the same basis as for nationals, regardless of their migration status~~] [GREECE: or refugee] status.

65. Migrant, refugee and asylum-seeking girls should be provided with access to age-appropriate [HOLY SEE: ~~sexual and reproductive health~~ healthcare,] information and services [UN WOMEN: in a language that they can understand].
66. Access to healthcare should not be dependent on obtaining the authorisation [DENMARK: ~~of the migration authority or~~] of a spouse, partner, parent or other relative, or guardian.
67. Taking into account language and cultural barriers, member States should ensure that women give prior, free and informed consent to any medical treatment.

### **Social services, social security and housing**

68. In all decisions relating to the safety and welfare of migrant women, including decisions taken by social services and in respect of social security, their needs should be [THE NETHERLANDS: ~~the primary one of the main~~] consideration.
69. Member States should ensure that migrant women are given a treatment not less favourable than that accorded to nationals regarding access to housing and rents.

### **Integration, social, cultural and political participation**

70. Member States should ensure that any [DENMARK: stateless] child born in their territory of a stateless woman is entitled to have their birth registered [Office of the CoE Commissioner for Human Rights: immediately after birth] and to be granted be [THE NETHERLANDS: a pathway to] [Office of the CoE Commissioner for Human Rights: citizenship a nationality]. [DENMARK: Such an application for citizenship may be made subject to the lawful and habitual residence on its territory for a period not exceeding five years immediately preceding the lodging of the application].
71. Owing to persisting [MEXICO: gender] stereotypes and existing inequalities in access to civic rights and participation in political decision-making, which are even more serious for migrant, refugee and asylum-seeking women, member States should take steps to ensure that migrant refugee and asylum-seeking women who are entitled to vote and stand for election in local, regional, national or European elections are aware of their rights and encouraged to participate [SPAIN: free from discrimination].
72. 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, women's or other associations, sports clubs, youth clubs and others.

73. Public and private coaching, mentoring and other support programmes aimed at migrant and refugee women and girls should be set up and supported, [HOLY SEE: ~~and positive role models promoted~~ based on good practices of integration].
74. The positive contribution made by migrant and refugee women and girls to society [CoE Youth sector: the economy and culture] [HOLY SEE: and host communities] should be highlighted and encouraged.

### **Education, vocational training and life-long learning**

75. Authorities should ensure that migrant, refugee and asylum-seeking children have access to education and take measures to reach those migrant, refugee, and asylum-seeking girls 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.
76. Recognizing that the ability to communicate in the host country's language is essential for integration, member States should ensure access to [CROATIA: an adequate number of hours of] [Office of the CoE Commissioner for Human Rights: quality] language training [SPAIN: and cultural immersion courses] to migrant and refugee women and girls [SPAIN: ~~and therefore to~~] to promote their empowerment and protection. Literacy and digital skills courses should also be provided to migrant, refugee and asylum-seeking women and girls corresponding to their needs and as soon as possible after their arrival in the host country.
77. Member States should 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 European Qualifications Passport for Refugees.
78. Migrant, refugee and asylum-seeking women and girls should be able to enjoy any further or higher education, vocational training, retraining and rehabilitation facilities provided by the competent services and available for national workers.

### **Employment**

79. Member States [AUSTRIA: ~~should~~ can] take specific and targeted measures to [SPAIN: avoid discrimination and] promote access to employment for migrant [GREECE: and refugee] women, [GREVIO Secretariat: including those that are victims of gender-based violence], at an early stage in the migration process, including safe and legal routes to employment pre-arrival.

80. Member States should consider removing barriers to work, [AUSTRIA: where appropriate] after a migrant woman has been present in the territory for a certain length of time.

[NEW – HOLY SEE: Take measures which prohibit and actively prevent the abuse of minor workers, ensuring that the work is safe and does not harm their health, well-being or jeopardize their educational opportunities.]

81. In respect of at least those migrant and refugee women who are permitted to work under the national law of member States, the latter should:

81.1. take measures to regulate and improve migrant and refugee women's working conditions and to eliminate all [MEXICO: multiple and intersecting] forms of exploitation and discrimination [CoE Roma and Travellers Division: such as forced labour (e.g. debt bondage)];

81.2. support and assist migrant and refugee women to access the labour market through self-employment and entrepreneurship, by providing them with the same opportunities for [CoE Roma and Travellers Division: vocational] training, microcredit [CoE Roma and Travellers Division: schemes], start-up loans and business development as for national workers, and support volunteering, internship, [CoE Roma and Travellers Division: apprenticeship] and job placement programmes;

81.3 in order to facilitate access to the labour market, take steps to ensure that migrant and refugee workers [GREECE: and employees] have access to work/life balance measures including maternity, paternity and parental leave, flexible working [GREECE: hours] where possible, and ensure access to and enjoyment of child-care facilities on an equal footing with national workers; and

81.4 ensure that women migrant and refugee workers who are made redundant and are compelled to leave the country of employment or return to their country of origin [AUSTRIA: retain all do not unjustifiably lose] all their acquired rights.

- 82 Member States should implement the provisions of relevant national and international standards directed at protecting migrant, refugee and asylum-seeking women and girls carrying out domestic work from discrimination and abuse.

[NEW – HOLY SEE: Member States should take the necessary measures to recognize and allow the transfer of educational or other credentials earned abroad, in order to facilitate the reintegration of returnee women.][Secretariat: moved to the "returns" section as part of the revised compromise proposal for that section]

## Residence permits

[NEW - Office of the CoE Commissioner for Human Rights: Member States should provide pathways to naturalisation as a key element to integration and take measures

**to ensure that migrant and refugee women are not faced with gender-related obstacles in this regard.]**

83. Member States should ensure that migrant women and girls who are granted a residence permit on the basis of a family relationship are entitled to the same social, economic and labour-related rights and entitlements as the principal residence permit holder.
84. Migrant women and girls should be made aware of any entitlement to a renewable independent residence permit, for example due to their own protection needs under the Refugee Convention, their status as victim of trafficking in human beings, victim of **[RUSSIAN FEDERATION: gender-based violence against women]**, relationship breakdown, or other particularly difficult circumstances. **[GREVIO Secretariat: Statutory agencies that are responsible in this area should be sufficiently trained on the rights of migrant women to benefit from the granting of an autonomous residence permit in such circumstances.]**  
  
**[NEW - GREVIO Secretariat: The requisite evidential criteria and threshold for granting autonomous residence permits to migrant women should be realistic and sensitive to the situation of migrant women who are seeking to escape abuse and violence.]**
85. Member States should ensure that migrant, refugee and asylum-seeking women and girls **[MEXICO: and their dependents]** are granted a residence permit if their stay is necessary for criminal investigations or proceedings.
86. 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 **[GREVIO Secretariat: retain regain]** such status.
87. ~~**[DENMARK: Migrant women present in a country for a long time, including stateless women and girls should be provided security of residence on an independent basis.]**~~
87. **[SWITZERLAND: Member States are encouraged** to provide security of residence on an independent basis to migrant women and girls present in a country for a long time, including stateless women and girls.]

## Family reunion

### Compromise proposal

88. Recognising that family reunion can be both a secure pathway to safety for migrant and refugee women, and a protective factor in the host country, member States should safeguard the right to family reunion for migrant and refugee women in accordance with obligations under the European Convention on Human Rights and international law. In this respect, member States should:
- 88.1. adopt a definition of family consistent with article 8 of the European Convention on Human Rights;
  - 88.2. ensure that women and girls are aware of their right to family reunion, including as migrant or refugee sponsors, and receive access to legal advice and assistance to pursue that right; and
  - 88.3. consider accepting or seeking the transfer of asylum claims to enable the family reunion of migrant women and girls separated on their journeys.
89. Member States are encouraged to provide within their national laws gender-sensitive legal pathways to respect the family life of migrant women lawfully residing in the host country, in particular by providing the immediate and dependent family members with the possibility to migrate with or join them in the host country.

## VI. Returns

### Compromise proposal

90. Voluntary returns should be the preferred option. Returns should always be in safety and dignity and 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 violence against women, torture or inhuman or degrading treatment or punishment.
91. Recognising the particular difficulties that victims of trafficking in human beings and of violence against women face in fully disclosing the grounds for their international protection claim, member States should:
- 91.1 ensure a process that protects women and girls against the risk of *refoulement*;
  - 91.2 ensure that accelerated and non-suspensive procedures are not implemented under any circumstance, until such a process has been completed to ensure an individual assessment of the international protection needs in conformity with the provisions of this Recommendation, especially if there are any signs of violence against women or trafficking in human beings.
92. Member States should ensure the suspension of expulsion measures of migrant women based on their dependant status on a spouse, partner or parent, in order to enable them to have the possibility to apply for an independent residence permit.

93. In order to facilitate the reintegration of returnee women, member States should take the necessary measures to allow for the recognition of eventual diplomas or qualifications obtained.