

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



**PRACTICAL GUIDE
for public
authorities**

COUNCIL OF EUROPE



CONSEIL DE L'EUROPE

**Practical guide for public authorities
to support the implementation
of the Council of Europe Recommendation
on protecting the rights of migrant,
refugee and asylum-seeking
women and girls**

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Introduction

In May 2022, the Committee of Ministers of the Council of Europe adopted [Recommendation CM/Rec\(2022\)17 on protecting the rights of migrant, refugee and asylum-seeking women and girls](#).

The recommendation is a comprehensive set of guidelines that conveniently brings together relevant Council of Europe treaties in one document, in particular standards such as the [European Convention on Human Rights](#), the [Convention on Preventing and Combating Violence against Women and Domestic Violence](#) (the Istanbul Convention) and the [Convention on Action against Trafficking in Human Beings](#) (the Anti-Trafficking Convention). It also reflects the United Nations [Convention Relating to the Status of Refugees of 1951 and the 1967 Protocol](#) (the 1951 Refugee Convention) in the current gender- and age-sensitive approach to it.

The work to draw up the recommendation took into account the evolution of the situation of migrant, refugee and asylum-seeking women and girls in the last few decades and the significant developments in concepts, policies and legal instruments related to gender equality, migration and asylum at national and international levels. This work was also based on the recognition that the migration experience is different for women and men, and that additional efforts should be made to address existing prevention and protection gaps.



Women and girls are affected disproportionately by violence that is specific to them because they are women. Migrant, refugee and asylum-seeking women and girls may be particularly exposed to violence, trafficking in human beings, exploitation and abuse. They can also be confronted with multiple and intersectional forms of discrimination and persecution in their countries of origin, during their journey and in transit and/or in destination countries.

Challenges posed by different crises, migration flows and rising global conflicts, notably the situation in Ukraine since Russia's military aggression in 2022, exemplify the importance of gender and child rights-sensitive approaches to migration policies. Such a gender-sensitive approach is described in the 2002 United Nations High Commissioner for Refugees (UNHCR) [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](#).

The present publication is based on the [Guide to the implementation of the Council of Europe recommendation on protecting the rights of migrant, refugee and asylum-seeking women and girls](#), produced by the Council of Europe in April 2024 in the framework of the "Combating Violence against Women in Ukraine – Phase II project". Originally designed to support national legislation and policy reforms related to combating domestic violence, the project was adjusted after the February 2022 Russian war of aggression against Ukraine to better meet the needs of migrant, refugee and asylum-seeking women and girls, including as a result of conflict-related sexual violence.

Aim of this guide

This guide is a practical awareness-raising tool to support public authorities in the implementation of [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](#).

States may already have policies in place or be working towards realising the rights of migrant women and girls. Users are invited to adjust and apply the contents of this guide to their local context, utilising their professional expertise and judgment.

In the different chapters of the guide, you will find a brief description of why the topic is important, as well as a checklist to assist the development and implementation of law and policy.





Definitions and terminology



Migrant	There is no international agreement on the definition of the term “migrant”, but a broad, inclusive approach is encouraged.
Refugee	For the purposes of the recommendation on protecting the rights of migrant, refugee and asylum-seeking women and girls, the term “refugee” includes those who are recognised as refugees under the 1951 United Nations Geneva Convention Relating to the Status of Refugees as amended by its 1967 Protocol, or those who currently benefit from any alternative form of international or European humanitarian, subsidiary or temporary protection.
Asylum-seeking women and girls	For the purposes of the recommendation, “asylum-seeking women and girls” include those who have applied for the protection described above.
Girls	“Girls” applies to all girls under the age of 18.
Trafficking in human beings (Article 4 of the Council of Europe Anti-Trafficking Convention)	Trafficking in human beings refers to “the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs”.

Grounds of discrimination	Discrimination can be based on a variety of grounds, such as sex, gender, “race”, ¹ colour, language, religion, political or other opinionw, national or social origin, association with a national minority, property, birth, sexual orientation, gender identity and expression, sex characteristics, age, state of health, disability, marital status, migrant or refugee status, or other status (Gender Equality Strategy 2024-2029).
Intersectional approach	An intersectional approach can allow for insight into the more complex forms of discrimination, exclusion and violence to which individuals may be exposed. Various grounds on which such discrimination is based may intersect, leading to unique lived experiences and vulnerabilities. In the context of gender equality policies, an intersectional approach can be used to understand, take into account and address the interactions between gender and sex and other personal characteristics/statuses as listed above and the resulting compounded forms of discrimination. Anyone can be vulnerable to these forms of discrimination, but certain groups of women and girls are particularly exposed to them and thus stand to benefit in particular from an intersectional approach to gender equality policies (Gender Equality Strategy 2024-2029).

1. Since all human beings belong to the same species, the Committee of Ministers rejects, as does the European Commission against Racism and Intolerance (ECRI), theories based on the existence of different “races”. However, in this document, the term “race” is used in order to ensure that those persons who are generally and erroneously perceived as “belonging to another race” are not excluded from the protection provided for by the legislation.

Multiple discrimination	Refers to discrimination suffered on two or more enumerated grounds, for example, on the grounds of religion and gender as experienced by a Muslim woman (Glossary of the European Commission against Racism and Intolerance).
Unaccompanied children	Children who have been separated from both parents and other relatives and are not being cared for by an adult who, by law or custom, is responsible for doing so (UN Committee on the Rights of the Child, General Comment No.6, 2005).
Separated children	Children who have been separated from both parents or from their previous legal or customary primary caregiver, but not necessarily from other relatives. These may therefore include children accompanied by other adult family members (UN Committee on the Rights of the Child General Comment No.6, 2005).

Undocumented migrants

The recommendation has an inclusive approach, and it covers the rights of undocumented migrant women and girls.

From a human rights perspective, it is preferable not to use the term “illegal” migrants and to use the terms “**undocumented migrants**” or “**migrants in an irregular situation**”.

The term “illegal” implies criminality. A person is not “illegal” as such, and migration is not a crime.

The term “illegal” is discriminatory: as a status it only applies to migrants and is used to deny them their rights.

The term “illegal” impacts negatively on policy and on the public perception of migration.

General actions



The aim of the recommendation on protecting the rights of migrant, refugee and asylum-seeking women and girls is to better protect all migrant, refugee and asylum-seeking women and girls. For the purpose of implementing the recommendation, a broad, inclusive approach is encouraged to ensure all migrant, refugee and asylum-seeking women and girls are protected from acts of multiple and intersectional forms of discrimination, violence and exploitation.

General actions required by Council of Europe member states

- ☐ **Take all necessary measures to promote and apply the principles** set out in the recommendation and its appendix aimed at ensuring that migrant, refugee and asylum-seeking women and girls can effectively access and exercise their rights.
- ☐ **Translate and disseminate the recommendation** to relevant authorities and stakeholders.
- ☐ **Examine periodically** within the competent Council of Europe steering committee(s) and bodies the measures taken and progress achieved in this field.

Member states of the Council of Europe are required to implement the measures listed in the appendix to the recommendation, to translate and to disseminate the recommendation, and to regularly review its implementation. The appendix to the recommendation covers the wide range of human rights issues that are addressed by different types of public authorities and services and other stakeholders.

These issues are described in Chapters 1 to 5 of this guide and include: non-discrimination, specific considerations for girls, the provision of information, empowerment, awareness raising, promotion of human rights, access to justice, artificial intelligence, automated decision making and data protection; civil society; data collection, research and monitoring; protection and support; state of emergency and crisis management; arrival, transit and reception facilities; asylum; cross-border measures; residence and integration; detention and returns.



RESIDENCE PERMITS
INTERNATIONAL PROTECTION
ASYLUM AND GENDER EQUALITY SUPPORT SERVICES
FAMILY REUNIFICATION ACCESS TO JUSTICE
RECEPTION AND ACCOMMODATION SOCIAL SERVICES
DETENTION CRISIS MANAGEMENT GIRLS
NON-DISCRIMINATION VULNERABILITIES
SAFETY AND HYGIENE CIVIL SOCIETY
VIOLENCE AGAINST WOMEN
CROSS-BORDER MEASURES NON-REFOULEMENT
EMPLOYMENT AND INDEPENDENCE STAFF TRAINING
SAFE COUNTRIES AND GENDER EQUALITY ACCESS TO INFORMATION
TRAFFICKING AND SEXUAL EXPLOITATION WOMEN STAFF



Chapter 1 CROSS-CUTTING PROVISIONS



Non-discrimination



Discrimination is one of the most common human rights violations and is prohibited by law. It means “treating differently, and without an objective and reasonable justification, persons in relevantly similar situations”.

Discrimination against women can also lead to tolerance of violence against women. Migration status, nationality or lack thereof and other factors (see “[Terminology](#)”, page 10) can create cumulative disadvantages and migrant, refugee and asylum-seeking women and girls are therefore often subject to multiple and intersectional forms of discrimination. Additionally, the position of and perceptions towards migrants, notably migrant women in receiving countries, can contribute to discriminatory situations. Comprehensive and gender-sensitive measures in this area are crucial in a context of persistent racial discrimination and a significant increase in anti-Muslim hatred and discrimination in many member states of the Council of Europe, as stressed repeatedly by ECRI.

Women with undocumented migrant status face a heightened risk of violence, exploitation and discrimination. They often have no access to healthcare services and do not report the discrimination and crimes that they are confronted with for fear of being deported. The recommendation encourages states to take measures to enhance the ability of undocumented migrant women and girls to access their fundamental rights.



Checklist for an intersectional and non-discriminatory approach

- ☐ Identify and address any specific forms of discrimination relevant to your own country and culture and those prevalent in migrant communities.
- ☐ Raise awareness of policy makers and other staff of the multiple and intersecting forms of discrimination experienced by migrant, refugee and asylum-seeking women, taking into account specificities related to their status, so professionals can recognise and address them in their work.
- ☐ In both migrant and receiving communities:
 - combat negative stereotypes about migrant, refugee and asylum-seeking women and girls;
 - raise awareness of gender equality and human rights to promote dialogue.
- ☐ Concerning undocumented migrant women, consider:
 - whether the lack of migration status is a barrier to receiving protection or assistance;
 - whether undocumented women and girls are experiencing a risk to life contrary to European Convention on Human Rights Article 2 on the right to life; or are experiencing inhuman or degrading treatment such as domestic violence contrary to Article 3 on the prohibition of torture; or if they are experiencing exploitation or trafficking contrary to Article 4 on the prohibition of slavery and forced labour.
- ☐ Take measures to ensure that victims of violence against women or trafficking in human beings can report these crimes and obtain protection and rehabilitation assistance without fear of removal.
- ☐ Implement the provisions of the recommendation relating to residence permits (see “[Residence and integration](#)”, page 47) and pathways to nationality.

Girls



Migrant, refugee and asylum-seeking girls can be in a particularly vulnerable situation throughout all stages of migration as a result of the multiple and intersecting forms of violence that they may face (based on their sex/gender, age, family status or health status, social origin, etc.). According to UN Women, “being a migrant accentuates the risks of women and girls to various forms of gender-based violence in countries of origin, transit, destination, and return” (UN Women, “From evidence to action: Tackling gender-based violence against migrant women and girls”, 2021).

Key principle: the best interests of the child

Article 3(1) of the [UN Convention of the Rights of the Child](#) stipulates “in all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, **the best interests of the child shall be a primary consideration**”. In its General Comment No. 14, the UN Committee on the Rights of the Child clarified that the “child’s best interests” is a threefold concept:

- a **substantive right**: the right of the child to have his or her best interests assessed and taken as a primary consideration when different interests are being considered in order to reach a decision on an issue and an intrinsic obligation for states to guarantee that this right will be implemented whenever a decision is to be made concerning a child, a group of identified or unidentified children or children in general.
- a **fundamental, interpretative legal principle**: if a legal provision is open to more than one interpretation, the interpretation that most effectively serves the child’s best interests should be chosen.
- a **rule of procedure**: whenever a decision is to be made that will affect a specific child, a group of identified or unidentified children or children in general, the decision-making process must include an evaluation of the possible impact (positive or negative) of the decision on the child or children concerned.



In a migration context, the best interests of the child determination imposes a requirement to take into consideration the child's well-being, their overall needs and rights, which are determined by a variety of individual circumstances, such as the sex, age, the level of maturity of the child, the presence or absence of parents, the child's environment and experiences, and their own views. Depending on the child's status, for example in a situation of a child seeking asylum, the determination of the best interests of the child should be a fundamental procedural aspect in gathering evidence about the situation of the child and their specific needs.

The following is a non-exhaustive list of issues that should be considered when addressing the child's best interests:

- ▶ the views of the child;
- ▶ the child's identity and sex;
- ▶ preservation of family and maintaining family relations;
- ▶ care, protection and safety of the child;
- ▶ any situations of vulnerability, such as their migration status, presence or suspicion of violence against women, including sexual exploitation and abuse;
- ▶ when determining custody rights, take into consideration situations of domestic violence;
- ▶ children's rights, including but not limited to their right to health, education, protection from all forms of violence, non-discrimination and the right to life, survival and development.



Checklist to ensure an approach based on the best interests of the child and on children's rights with regard to migrant, refugee and asylum-seeking girls

- ☐ Adopt and implement an approach based on the best interests of the child and on children's rights to all issues affecting migrant refugee and asylum-seeking girls. This should include ensuring the participation of girls in all decision-making processes affecting them, guaranteeing the quality and effectiveness of the services provided, capacity building for those working for and with children and ensuring the right of all girls to non-discrimination of any kind.

- ☐ Mainstream a child rights-based approach and provide relevant guidance. All personnel should be trained in the guidance and implementation of the child rights-based approach.
- ☐ Ensure continued access to essential services for migrant, refugee and asylum-seeking girls to support their transition to adulthood beyond the age of 18.
- ☐ Ensure all child-protection measures in the country are implemented without discrimination on the grounds of migration status.
- ☐ Ensure all measures in respect of migrant, refugee and asylum-seeking girls take into account the age and specific vulnerable situations and needs of girls.
- ☐ Consider mainstreaming a gender equality perspective across policies, guidance and capacity-building measures on unaccompanied and separated children, in line with the scope and mandate of each national authority, in order to:
 - strengthen identification procedures, including age assessment when appropriate, in accordance with [Council of Europe Recommendation CM/Rec\(2022\)22 on human rights principles and guidelines on age assessment in the context of migration](#);
 - ensure full respect for the best interests of the child by considering the specific situation of every girl, whether she is visibly unaccompanied, travelling with another family member or married;
 - ensure that transit and reception facilities (see ["Transit and reception facilities"](#), page 40) are adapted to the sex and age of unaccompanied and separated girls and include suitable and safe alternative care arrangements.
- ☐ Review the existing care provisions to ensure that unaccompanied and separated children are promptly assigned an independent and adequately trained guardian in accordance with [Council of Europe Recommendation CM/Rec\(2019\)11 on effective guardianship for unaccompanied and separated children in the context of migration](#).

Access to information



Migrant, refugee and asylum-seeking women and girls need to know their rights and the services available to them to be able to exercise them, but they often lack this information and legal literacy.

Proper access to information can also act as a protective factor against violence, abuse and exploitation. It can also assist integration and help to remove cultural barriers between migrant and receiving communities. Obstacles to accessibility such as learning ability, sight, language and communication difficulties should be considered at all stages. Measures to address them could include verbal or recorded information and sign language.



Checklist to ensure effective access to information

- ☐ Provide relevant and accessible information and advice in a language and manner that migrant women and girls can understand.
- ☐ Ensure this information is also available to migrant women and girls in transit, reception and detention centres.
- ☐ Provide resources and tools for support and empowerment (for example, state-provided services or funding to civil society organisations providing language, legal literacy or advocacy training).
- ☐ Ensure women and girls can access digital services and connections, including the internet, or provide alternative access to the information and services available solely or mainly in digital format.
- ☐ Information and advice should cover the following topics:
 - the protection and support services available to victims and those at risk of all forms of violence against women and trafficking in human beings;
 - fundamental human rights as set out in the European Convention on Human Rights;
 - relevant reporting and complaint mechanisms, covering cases of violence or other violations of rights by state authorities or by private contractors acting on behalf of the state, including rights to civil remedies, compensation and legal aid;
 - available and accessible public services, notably: healthcare, including mental health, sexual and reproductive health and rights, age-appropriate and comprehensive sexuality education; psychosocial support; education and vocational training; integration programmes; training in languages and digital technology; housing; employment.

Access to justice



In order to effectively exercise their rights and act in case of violation of those rights, migrant, refugee and asylum-seeking women and girls require effective access to justice in accordance with relevant national and international standards. Access to justice for victims of discrimination and crime, also deters those who seek to do harm.

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. This is particularly important where decisions have an impact on their legal status, for example in proceedings related to deportation, trafficking-related identification or residence permits and asylum.



Checklist to ensure effective access to justice

- ☐ Ensure access to national and international civil, administrative and criminal remedies.
- ☐ Ensure access to legal advice and free legal aid under the conditions provided for by internal law, including, where relevant, for the pursuit of compensation claims and other legal redress against perpetrators of violence against women and trafficking in human beings.
- ☐ Ensure support throughout the legal processes under the same conditions as for nationals, for example, victim support services or access to lawyers or to NGOs.
- ☐ Put in place gender-sensitive justice measures and adopt an intersectional approach when determining individual needs.
- ☐ Make relevant professional assistance available, including interpreters and sign-language interpreters, legal professionals and intercultural mediators. This should be available for those 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.

Artificial intelligence (AI), automated decision making and data protection

Issues of bias and discrimination in and through new technologies, including algorithms, big data and applications such as facial recognition, are increasingly documented as affecting women in particular. Migrant communities especially have also faced discrimination through the use of algorithmic decision making by public authorities. These challenges highlight the importance of strengthened human rights protection and of the integration of a gender equality perspective in relation to the digital environment. The Council of Europe [Framework Convention on Artificial Intelligence and Human Rights, Democracy and the Rule of Law](#) (2024) aims to uphold standards in human rights, democracy and the rule of law, and to minimise the risk of those rights and principles being undermined as a result of the use of AI.

Checklist to reduce the negative human rights impacts of technology

- ☐ Ensure that human rights impact assessments with a gender equality perspective are conducted before the introduction of AI and automated decision-making systems in the field of migration. Existing systems should be reviewed for bias.
- ☐ Implement policy and practices to ensure any design, development and deployment of AI and automated decision-making systems by the public or private sectors or by service providers and contractors is non-discriminatory, consistent with privacy principles, transparent and has clear governance mechanisms, in the context of:
 - border and immigration control decision making, including decisions relating to entry or return;
 - migration management, including the use of biometric information;
 - policing and security of migrant, refugee and asylum-seeking women and girls;
 - the provision of services to migrant, refugee and asylum-seeking women and girls.
- ☐ Ensure civil society organisations that uphold the rights of migrant, refugee and asylum-seeking women and girls are included in consultations and discussions on the development and deployment of new technologies affecting them.

In relation to data protection, including data abuse, it is important to bear in mind the particular situations of vulnerability of migrant, refugee and asylum-seeking women and girls.

Checklist for appropriate data-protection measures

- ☐ Take appropriate cybersecurity measures to ensure the confidentiality, security and protection of personal data in accordance with internal law and applicable international obligations.
- ☐ Do not transfer any personal data to the country of origin without legal basis and without explaining to the person concerned, in an accessible format and in a language that they understand, which data are being transferred, for what purpose and under what conditions. Where a legal basis for the transfer of personal data is established, and no exception applies, the person should have 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.



Co-operation with civil society

Migrant and refugee women's organisations, women's rights organisations and other civil society organisations can play a significant protective role in ensuring that the universal human rights of migrant, refugee and asylum-seeking women and girls are upheld. For example, services for victims of domestic violence and other forms of violence against women are often run by non-governmental or civil society organisations. As they are on the front line, they usually have a deep understanding of the needs of the women and girls they serve.



Checklist for effective co-operation with civil society

- ☐ Ensure effective co-operation with and support (including funding), for 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.
- ☐ When devising migration, asylum and integration policies, establish mechanisms to ensure the wide and systematic consultation of migrant and refugee women's organisations, including where appropriate Roma and Travellers women's organisations.²

Data collection, research and monitoring

Systematic and adequate collection of data disaggregated by sex and possibly other factors has long been recognised as an essential component of effective policy making in the field of promoting gender equality and combating all forms of violence against women. At the moment, the lack of sex-disaggregated data in migration policies contributes to the invisibility of the challenges involved for women and therefore to possibly inadequate policy responses. The collection of data on migration and equality issues disaggregated by age and sex enables states to efficiently and systemically monitor, research and evaluate the impact of relevant policies. This should lead to more efficient and effective allocation of resources and quicker identification and resolution of protection gaps. Data collection and processing should conform to data protection and privacy laws.



Checklist regarding data collection, research and monitoring

- ☐ Collect data on migration, refugee and asylum issues, in particular on victims of violence against women and trafficking in human beings.
- ☐ Data should be disaggregated at least by age and sex. In cases of domestic violence and violence against women, the nature of the relationship with the perpetrator should also be recorded.
- ☐ Research, monitoring and evaluation of migration, integration and asylum policies from a gender equality perspective should be conducted, supported and funded, in particular in relation to preventing any violation of women's and girls' fundamental rights.
- ☐ Develop and adjust public policy based on evidence, notably the gender-disaggregated data collected and the results of gender-sensitive research and evaluation.

2. The terms "Roma and Travellers" are used 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.



Chapter 2

PROTECTION, SUPPORT AND CRISIS MANAGEMENT



Protection and support



Migrant, refugee and asylum-seeking women and girls may be confronted with multiple and intersectional forms of discrimination and persecution at all stages of migration: in their country of origin, during their journey and/or in their country of destination. They often find themselves in situations of social, legal and economic vulnerability, which increases the risk of becoming victims of the worst crimes. Preventing violence against migrant, refugee and asylum-seeking women and girls also includes addressing anti-migrant and racist attitudes.

There is never any justification for violence committed in the name of so-called “honour”

Crimes committed in the name of so-called “honour” are crimes that have long been part of the criminal law landscape of Council of Europe member states. These crimes can include murder, manslaughter and bodily injury, among other offences. However, the intent behind these crimes is what distinguishes them from other crimes. It can be the restoration of family “honour”, the desire to be seen as “respecting tradition” or complying with the perceived religious, cultural or customary requirements of a particular community.

Family or community members who kill, maim or injure a woman or a girl for her real or perceived transgression of cultural, religious or traditional norms should not be able to invoke any of the above grounds as justifications in criminal proceedings.

Harsher punishment should be imposed if the crime is committed by a family member or by two or more people acting together.

In terms of prevention and protection, it may be necessary to review and improve the domestic legislative framework and policy measures to ensure they work towards the prevention of all forms of violence against women, domestic violence and trafficking in human beings and the protection of survivors. Positive action is often required to protect persons in situations of vulnerability, which includes vulnerability arising from migration or refugee status or lack of status.

What is protected?

The legal and policy framework should include protection from:

- ▶ all forms of violence against women and domestic violence;
- ▶ all forms of trafficking in human beings and all forms of sexual exploitation;
- ▶ discrimination, hate speech and sexism.

Incidents of violence against women and domestic violence should not be given low priority in investigations and judicial proceedings. Investigations must be carried out with due diligence and in an effective manner. All procedures should be carried out in conformity with the fundamental principles of human rights, taking a victim-centred approach and using a gendered understanding of violence. Practice has shown that such approaches to the protection of women and girls who experience violence are more likely to result in successful prosecutions and successful outcomes, such as the empowerment of women and girls and their ability to move on from violence, abuse and exploitation.

Migrant, refugee and asylum-seeking women and girls may experience specific types of harm and specific barriers to access protection and justice. It is therefore important that their voices are heard and taken into account as part of the law- and policy-making process.

Key elements for the effective protection of migrant, refugee and asylum-seeking women and girls:

- ▶ Access to general and specialist support services.
- ▶ Compensation and reintegration schemes.
- ▶ No penalties related to migration status as a consequence of trafficking or situations of violence (see “[Residence permits](#)”, page 55).
- ▶ A multi-agency, victim-centred approach.
- ▶ Training and awareness raising of professionals, particularly on violence against women, including domestic violence and trafficking in human beings.
- ▶ Effective complaints and reporting processes.
- ▶ Individual risk assessment and risk management.



Checklist for the protection and support of migrant and asylum-seeking women and girls

- ☐ Adopt a multi-agency, victim-centred approach to protection. This should seek to prevent secondary victimisation and be aimed at the empowerment of migrant, refugee and asylum-seeking women and girls.
- ☐ Introduce screening, identification and referral mechanisms, including at borders, reception and detention facilities.
- ☐ Swiftly refer to support services the victims of all forms violence against women and trafficking in human beings.
- ☐ Monitor and evaluate protection measures.
- ☐ Combat the sexual exploitation of migrant, refugee and asylum-seeking women and girls, including the demand for such exploitation. Such measures should be protective, punitive, preventive and educational.
- ☐ 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.
- ☐ Ensure effective and non-discriminatory access to specialist shelters for victims of violence against women and of trafficking in human beings. The migration status should not be a barrier to access specialist shelters.
- ☐ Ensure the availability of general and specialist support services to victims of violence against women and victims of trafficking in human beings, including those who are placed in transit, reception and accommodation facilities. This encompasses, 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.
- ☐ Ensure that migrant, refugee, and asylum-seeking women and girls have access, in accordance with internal laws, to compensation schemes, measures or other programmes aimed at integrating or reintegrating victims of violence against women and trafficking in human beings.
- ☐ Ensure penalties are not imposed, including the loss of lawful migration or refugee status, as a consequence of exploitation as a victim of trafficking in human beings.
- ☐ Adequately fund and conduct training and awareness-raising programmes in matters related to violence against women, trafficking in human beings, gender equality and intercultural issues for the relevant authorities and staff.

- ☐ Such training should ensure all relevant staff can:
 - promptly identify victims;
 - conduct risk assessments;
 - inform victims of their rights;
 - refer victims to relevant authorities;
 - understand and overcome barriers to disclosure by victims of incidents of violence against women and trafficking in human beings.
- ☐ Ensure mechanisms are available and easily accessible and allow incidents of violence against women and trafficking in human beings to be reported to staff and by staff.
- ☐ Put in place age- and gender-sensitive telephone helplines.
- ☐ Set up cross-agency referral procedures. Timely referral to appropriate agencies for medical and psychological treatment facilitates reporting.
- ☐ Ensure that individual risk assessment and risk management is in place to protect against further violence or exploitation. This should take account of the heightened vulnerability of migrant women and girls owing to their insecure legal status.



State of emergency and crisis management



In situations of crisis management, including public health, humanitarian and climate change-related crises, member states should take into account the increased risk of violence against women, trafficking in human beings, exploitation, poverty and homelessness for migrant, refugee and asylum-seeking women and girls.

Conflict-related sexual violence is one of the worst atrocities of war. It is also one of history's greatest silences and continues to be chronically underreported. It is often systematic and inflicted to instil fear, to humiliate and to displace populations.



Checklist for the protection of women and girls during a crisis or state of emergency

- ☐ Take into consideration the situation and needs of migrant, refugee and asylum-seeking women and girls in crisis management and recovery measures.
- ☐ Qualify the following as "essential" rights and services during a state of emergency or crisis:
 - health;
 - shelter;
 - food security;
 - economic empowerment;
 - access to justice;
 - access to specialist support services for women victims of violence.
- ☐ Ensure all 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.
- ☐ Ensure civil society organisations that uphold the rights of migrant, refugee and asylum-seeking women and girls are consulted in these situations.



Chapter 3 ARRIVAL



Pre-arrival information and procedures

The existence of lawful migration routes and gender- and age-sensitive visa-issuing procedures facilitates the arrival of migrant women and girls. For example, a woman applying for a visa in relation with the status of her spouse may benefit from knowing what her lawful migration options are in case of domestic violence. Lawful migration options can also reduce irregular migration.

Checklist for age- and gender-sensitive immigration procedures

- ☐ Ensure immigration procedures such as the visa application and interview process take into account women's and girls' specific situations, characteristics, needs and vulnerabilities.
- ☐ Provide accessible information before travel about the conditions enabling the legal entry and stay in the territory.

Transit and reception facilities

The concept of "reception" has changed over the years. Today, it is generally defined as the conditions pertaining immediately upon arrival to a port or land border while migrants are having their applications processed, or closely following arrival. This could include situations of arrival by boat, while in camps, in reception centres or in other facilities designed to accommodate asylum seekers, victims of trafficking or migrants held at a border.

The screening process in reception facilities should:

- ▶ facilitate at the earliest possible opportunity the identification of victims of violence against women and trafficking in human beings;
- ▶ ensure that women's protection claims are processed promptly and efficiently. This should be done in a safe, confidential and victim-centred manner;
- ▶ ensure the provision of relevant support services to victims of violence against women and trafficking in human beings.

Checklist for the protection of women and girls in transit and reception facilities

For all transit and reception facilities:

- ☐ Ensure that arrangements, including screening arrangements at borders, are age- and gender-sensitive.
- ☐ Procedures should be in place to ensure that special needs and safety concerns are met when determining residential placements and access to services, for example in case of pregnancy, disability or specific health needs.
- ☐ Victims of violence against women and trafficking in human beings should be accommodated in specialised facilities.
- ☐ Ensure there is sufficient staff, preferably women, trained in human rights, gender equality and combating violence against women in these facilities. Women staff members may include lawyers, social workers, intercultural mediators, interpreters, police officers and guards.
- ☐ Provide access to a complaint and reporting system concerning violence or other violations of rights. Complaints must be investigated and referred to the police where relevant. Access to legal aid should be provided where appropriate (see "[Access to justice](#)", page 25).
- ☐ Facilitate the referral of women and girls to NGOs and, in particular, those providing victim support services where necessary.
- ☐ Subject all facilities to regular independent monitoring to ensure compliance with protection standards. This includes facilities run by private contractors.
- ☐ Where women or girls are deprived of liberty, ensure the centres also comply with all the provisions in respect of detention (see "[Detention](#)", page 58).
- ☐ Ensure facilities are located in areas where women and girls are safe and can access relevant services and information, including regarding:
 - health, including sexual and reproductive health;
 - social and legal assistance;
 - education;
 - essential shopping facilities.

Characteristics of the facilities:

- ☐ Adequate and safe living spaces should be made available to women and girls in transit and reception facilities.
- ☐ Separate and safe sleeping and sanitary areas should be made available to 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;
 - clean, well-lit shower and toilet facilities;
 - basic sanitary kits and hygiene products, free of charge and on a regular basis;
 - essential infant nutrition and clothing, as needed.



Asylum



Asylum law and practice long failed to include gender-specific forms of persecution and to address women's and men's different experiences of persecution. An example of this gap is the risk of female genital mutilation or early/forced marriages for women and girls. Developments in international and national human rights law, case law and policy, including a gender-sensitive interpretation of the 1951 Geneva Convention on Refugees, have led to an increasing recognition of gender-based violence as a ground for seeking asylum, under the category "membership of a particular social group" of the Convention. This essential recognition must be accompanied by the implementation of age- and gender-sensitive standards, practices and procedures to enable women to disclose their experiences and receive appropriate levels of protection.

The recommendation sets out a series of measures inspired by existing standards, designed to help states ensure that equality is embedded in the asylum process, to keep asylum-seeking women and girls safe and to protect their human rights.



Checklist to improve the asylum process for women and girls

- ☐ Ensure that women and girls can access asylum and protection information and procedures at designated locations at the borders and in the territory of member states.
- ☐ Ensure that women and girls have the possibility to lodge an asylum claim independently from their spouse, parents or partner. Women and girls should be made aware of this right at the earliest possible opportunity.
- ☐ Ensure that the legal framework enables a gender-sensitive interpretation of the 1951 Refugee Convention, including:
 - a gender-sensitive interpretation of the five enumerated grounds for asylum: race, religion, nationality, membership of a particular social group and political opinion;
 - the recognition of gender-based violence and trafficking in women and girl, as a possible form of persecution.

- ☐ Develop comprehensive gender-sensitive guidelines for all stages of the asylum process in relation to:
 - reception and support services;
 - screening;
 - the determination of “safe” countries for the purpose of accelerated or suspensive procedures;
 - detention;
 - status determination;
 - adjudication and returns.
- ☐ Train all relevant staff in respect of the above guidelines on gender-sensitive asylum processes, including:
 - staff involved with asylum seekers and refugees from start to finish, including at borders and in transit, accommodation, reception or detention centres;
 - administrative decision makers;
 - lawyers;
 - the judiciary, in particular officials working in tribunals deciding on asylum claims.
- ☐ Make women asylum officers and interpreters available. Asylum-seeking women should be informed when this possibility exists. Ideally this should be done at an early stage and the woman or girl should be able to choose the sex of her interpreter and interviewer.
- ☐ Ensure women can request an interview separate from men of the same family and in the absence of children. The same principles should be applied to underage married girls with appropriate adjustments for age. This would require:
 - a confidential procedure to inform them of the possibility;
 - a guarantee of confidentiality appropriately communicated.
- ☐ In processing and determining asylum claims, law or policy should ensure that regard is given to:
 - the applicant’s own personal circumstances and to an individual assessment of risk;
 - relevant country of origin information, including in relation to gender equality and women’s rights. This could encompass issues related to 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 in their country of origin.

- ☐ If the decision on a woman’s or girl’s refugee status is negative, provide an effective opportunity to request complementary or subsidiary protection.

See “Access to justice”, page 25 and “Artificial intelligence (AI), automated decision making and data protection”, page 26.

Cross-border measures



Resettlement and relocation programmes often represent the safest way for asylum seekers and refugees to come to Europe. These programmes were created to address the refugee situation in Europe in 2015. Relocation programmes propose to relocate people in clear need of international protection from one member state to another, while resettlement programmes have a more global view and include third countries.

Safe, legal pathways to migration, if they are made available in adequate numbers, can contribute to a reduction in the risk of violence against women and girls and trafficking in human beings, thus ensuring safer transit for them.



Checklist to improve access to resettlement programmes

- ☐ Consider the promotion of legal migration pathways to ensure safe transit for women and girls.
- ☐ Consider participation in resettlement programmes and provide complementary pathways for admission to the territory.
- ☐ Consider funding specific assistance and humanitarian resettlement programmes for women who are victims or at risk of violence against women or trafficking in human beings, including for the purpose of sexual exploitation.
- ☐ 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. These could range from the use of Interpol and Europol, mutual recognition of protection measures, formalised exchanges of information between relevant state agencies or protocols relating to the use of new technologies.



Chapter 4 RESIDENCE AND INTEGRATION



Residence and integration

For integration and residence policies to be successful, they must take into account the demographics of migration. Whereas women used to represent a low proportion of the inflow of migrants and often arrived in Europe through family reunion, they now migrate independently and in larger numbers. Women have different needs and situations, including due to their caring roles, levels of qualification and exposure to specific forms of violence and discrimination. Integration policies and measures should therefore be gender-sensitive.

This would help to tackle the vulnerabilities of women throughout the migration process while at the same time empowering them as individuals and as key actors for integration. Moreover, because of the role women often play within their families and communities, investing in the integration of migrant and refugee women contributes to the inclusion and integration of future generations, and to the development of peaceful, inclusive and cohesive societies based on shared values and respect for diversity.

The following socio-economic measures are designed to help achieve these outcomes and ensure full respect for fundamental rights while recognising states' prerogative to implement national measures where relevant.

Health services



Migrant, refugee and asylum-seeking women often have particular health needs and difficulty accessing the care they need, notably with regard to their sexual and reproductive health and rights.

Special care and assistance should be provided during motherhood and childhood. Most maternal deaths are preventable provided women have access to healthcare. Migrant, refugee and asylum-seeking women and girls, particularly those who are undocumented, may be reluctant to seek healthcare, which can increase the risk of death and transmission of infectious disease. In addition to ensuring their access to fundamental human rights, accessible healthcare provision, including for those who are undocumented, can also be an important public health measure.



Checklist regarding access to health services

- ☐ Ensure healthcare provision takes into account the situation and personal characteristics of migrant women and girls.
- ☐ Provide essential healthcare services, including primary care, urgent and immediate care, palliative care and treatment or assistance necessary for public health reasons to all migrant, refugee and asylum-seeking women and girls.
- ☐ Provide migrant, refugee and asylum-seeking women and girls who are legally present in the 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. States should also seek to provide such services to migrant women and girls in an irregular situation.
- ☐ Women and girls should be able to access essential healthcare without obtaining the authorisation of the immigration authority or permission from any person other than the woman concerned. Treatment of minor girls may be subject to the consent of a parent or an independent guardian, always considering the best interests of the child.
- ☐ Ensure that women give prior, free and informed consent to any medical intervention (taking into account language, economic and cultural barriers or disabilities), except when otherwise required by law.

Social services, social security and housing



Checklist regarding access to social services, social security and accommodation

- ☐ 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, ensure that their needs are a primary consideration.
- ☐ Ensure that the migration status is not used to discriminate against migrant, refugee and asylum-seeking women lawfully present in the country, with regard to access to housing and social assistance schemes.

Integration and participation



Some of the measures below are designed to ensure the inclusion of children born in the territory and to reduce the incidence of statelessness. Other measures in this section aim at the successful integration and empowerment of migrant, refugee and asylum-seeking women and girls within the receiving community. Indeed, gender stereotypes and inequalities, notably in relation to women's participation in political decision making, can be even more serious for migrant and refugee women. Measures are proposed to facilitate democratic participation for those who are eligible, in line with gender equality principles.

Awareness-raising campaigns directed at the receiving community that explain the benefits of migration and the contribution that migrant, refugee and asylum-seeking women and girls make to society serve to increase social cohesion and reduce the risk of tensions.



Checklist to improve integration and participation

- ☐ Ensure that any child born in the territory is entitled to have their birth registered immediately after birth and is granted a pathway to a nationality.
- ☐ 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.
- ☐ 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.
- ☐ Set up and support public and private coaching, mentoring and other support programmes aimed at migrant and refugee women and girls. These should promote positive role models and promising practices of integration.
- ☐ Highlight the contribution that migrant and refugee women and girls make to society, the economy and culture in host communities.

Education



Education is an essential factor in the development of children and in the integration process of migrant, refugee and asylum-seeking women and girls, especially considering that girls' access to education in some countries of origin may be more limited than for boys. Children have a fundamental right to education, and this should be respected in the context of integration, migration and asylum policies.

Beyond compulsory education, continuing education, the recognition of qualifications and access to language and other courses can act as emancipation and protective factors for women and girls.



Checklist to improve access to education

- ☐ Ensure that migrant, refugee and asylum-seeking girls have access to compulsory education equal to that of nationals and take measures to reach those who may have been prevented from accessing education in their country of origin.
- ☐ Ensure the provision of education or day care, preferably within mainstream educational structures.
- ☐ Where appropriate, enable access to any available further or higher education, vocational training, lifelong learning, retraining and rehabilitation facilities provided by competent services.
- ☐ Take steps to facilitate the recognition and validation of existing vocational and academic qualifications and work experience of migrant and refugee women and girls.
- ☐ 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.
- ☐ Provide literacy, numeracy and digital skills courses to migrant women and girls in accordance with their needs as soon as possible after arrival in the receiving country.



Employment and economic empowerment



The right to work in decent working conditions plays a major role for the economic independence and integration of migrant, refugee and asylum-seeking women and girls. A lack of financial means can act as a barrier to accessing justice because of the inability to pay for help, court fees, childcare or transport and can also be a risk factor for women facing violence and trafficking.

The employment and economic empowerment of women also has positive effects on the well-being and future outcomes for their children. However, migrant, refugee and asylum-seeking women often face multiple forms of discrimination when seeking employment and economic autonomy, which the following measures aim to address.



Checklist to improve employment prospects and conditions and to prevent discrimination

- ☐ Review and monitor whether, to what extent and on what grounds discrimination exists in the job market.
- ☐ Take steps to promote access to employment for migrant and refugee women lawfully present in the country, from an early stage in the migration process.
- ☐ Review national legislation, policy and practice to ensure that they comply with the obligations regarding the right to work and self-employment for refugee women and girls set out by the 1951 Refugee Convention. Articles 17-19 of the Refugee Convention govern the right to wage-earning employment, self-employment and recognition of diplomas in the liberal professions.
- ☐ Consider removing the barriers to work faced by undocumented migrant women and girls after they have been present in the territory for a certain length of time.
- ☐ Take measures to regulate and improve working conditions and eliminate all forms of labour exploitation and discrimination. This should include forms of discrimination that are multiple and intersecting (see “[Non-discrimination](#)”, page 18).
- ☐ Implement relevant national and international standards directed at protecting migrant, refugee and asylum-seeking women and girls who are [domestic workers](#) from discrimination, exploitation and violence.

- ☐ Support access to the labour market through self-employment and entrepreneurship by providing the same opportunities as for nationals for vocational training, lifelong learning, microcredit schemes, start-up loans and business development. Ensure equal opportunities in relation to volunteering, internships, apprenticeships and job placement programmes.
- ☐ Facilitate the access to the labour market by taking steps to ensure access to work-life balance measures on an equal footing with national workers, including:
 - care leave arrangements;
 - flexible working conditions where possible;
 - ensuring effective access to and enjoyment of childcare facilities.
- ☐ Provide access to financial services and basic financial literacy training to migrant, refugee and asylum-seeking women. This should enable them to use savings and credit options and to better control and manage their income, and should thereby empower them.



Residence permits



Security of residence and, in particular, autonomous residence permits, are important for women, particularly if experiencing violence. This is recognised in the [Istanbul Convention](#) regarding women in “particularly difficult circumstances” (Article 59), in [Recommendation Rec\(2000\)15 concerning the security of residence of long-term migrants](#), and in the case law of the European Court of Human Rights. Separate provision is made in Article 14 of the [Anti-Trafficking Convention](#) for a residence permit to be granted to victims where personal circumstances so require, or on the basis of co-operation with criminal investigations or proceedings.

Security of residence also plays an essential role in overcoming other gender-related obstacles that migrant women might face. Such obstacles can include, for example, financial requirements that are difficult to meet due to precarious economic situations or documentary requirements that refugee women and girls cannot comply with.



Checklist to improve security of residence and enable appropriate access to lawful residence status

- ☐ Ensure the law entitles social, economic and labour-related rights and benefits in an autonomous capacity to women and girls who are granted a residence permit on the basis of a family relationship.
- ☐ Take measures to ensure that migrant, refugee and asylum-seeking women and girls whose residence status depends on that of their spouse or partner as recognised by internal law, are granted, upon application, an autonomous residence permit, in the event of the dissolution of the marriage or the relationship, and of particularly difficult circumstances. Provide information and conduct awareness-raising campaigns to ensure that migrant, refugee and asylum-seeking women and girls are made aware of this entitlement.
- ☐ Ensure a system is in place to enable victims of violence against women or trafficking in human beings to obtain a renewable residence permit. This is required:
 - where the competent authority considers that their stay is necessary owing to their personal situation;
 - where the competent authority considers that their stay is necessary for the purpose of their co-operation in an investigation or criminal proceedings.

- ☐ Ensure that the evidentiary criteria and threshold for the granting of residence permits are realistic and sensitive to the individual situation and that statutory agencies' personnel are trained to this effect.
- ☐ Take measures to facilitate the possibility for victims of forced marriage to regain residence status in the country where they habitually reside if it was lost as a consequence of being brought into another country for the purpose of the marriage. This could include providing consular assistance in the state where the victim was taken, in order to enable her return to the state of habitual residence. Such measures should also apply, as appropriate, to those who may have lost their nationality.
- ☐ Review the conditions under which migrant and refugee women and girls present in a country for a long time, including stateless women and girls, are able to obtain security of residence on an independent basis. Security of residence should be particularly ensured for victims of violence against women whose children are nationals of the receiving country, including when they lose custody of their children during separation or family law proceedings.
- ☐ Take measures to provide pathways to naturalisation and ensure that migrant and refugee women and girls do not face gender-related obstacles in this regard.

Family reunion



Family reunion can provide migrant and refugee women and girls a secure pathway to safety and offer some protection against violence against women and exploitation in the receiving country.

States should therefore ensure the right to family reunion for migrant, refugee and asylum-seeking women and girls in accordance with the obligations under the European Convention on Human Rights and relevant international law that recognises the family as a fundamental unit of society that requires protection.

Family reunion

Family reunion is the right of non-nationals to enter into and reside in a country where their family members reside lawfully or of which they have the nationality, in order to preserve the family unit. This right is not absolute and can be limited in accordance with national law and international standards.

Particular considerations relate to the right of a refugee to family reunion and the right of a family living in a country not to be separated through the expulsion of one of the family members.



Checklist to respect the right to family reunion

- ☐ Ensure the law provides for family reunion for migrant, refugee and asylum-seeking women and girls.
- ☐ Take steps to ensure 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.
- ☐ 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. Where this is possible, ensure that the conditions under which an asylum-seeker can apply for such a transfer are clearly set out and accessible.
- ☐ Consider providing legal pathways to respect the family life of migrant women and girls lawfully residing in the territory, in particular by providing their immediate and dependent family members with the possibility to migrate with them or to join them in the receiving country.

Detention



Administrative detention under immigration legislation should only ever be used as a matter of last resort. Unaccompanied or separated girls should not, as a general rule, be detained. Women and girls can be particularly vulnerable to harm in detention and specific measures may be required to protect them.

States should implement an age- and gender-sensitive approach in all matters relating to deprivation of liberty that takes into account the individual situation and personal characteristics of migrant, refugee and asylum-seeking women and girls. States should provide them with appropriate services.



Checklist to ensure the respect of human rights in the context of detention

- ☐ Provide the following to migrant, refugee and asylum-seeking women and girls who are deprived of their liberty:
 - information about their rights and, as appropriate, about legal aid and legal advice (see [“Access to information”](#), page 24);
 - access to law-enforcement measures and to effective reporting and complaints mechanisms, including referral to and investigation of those complaints by the police and, where relevant, access to legal aid;
 - access to healthcare services, telephone helplines and appropriate trauma support and counselling facilities in places of detention;
 - the presence of female staff among border, migration and other police or custody officials, as well as among social workers and whenever possible interpreters. These staff members should be adequately trained;
 - 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;
 - the opportunity to remain in meaningful contact with the outside world, including visits, regular access to a telephone or to their mobile phones or internet facilities.
- ☐ Subject places of deprivation of liberty, including administrative detention facilities, to regular independent monitoring.

- ☐ If administrative detention is used under immigration legislation, which should only be a measure of last resort:
 - families should not be separated;
 - 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.
- ☐ 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 or trafficking in human beings, pregnant and nursing women, elderly women and women with disabilities.
- ☐ Ensure that living conditions in immigration detention centres reflect at least those listed in the section [“Transit and reception facilities”](#), page 40.
- ☐ 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.
- ☐ Ensure appropriate activities are offered and, in principle, those detained should have free access to outdoor exercise throughout the day.



Chapitre 5 RETURNS



Returns



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*.

Article 3 of the European Convention on Human Rights and Article 61 of the Istanbul Convention provide protection against refoulement. Article 16 of the Anti-trafficking Convention makes provision for the safe return of victims of trafficking, including specific provisions about children.

Non-refoulement (Article 61 of the Istanbul Convention)

1. Parties shall take the necessary legislative or other measures to respect the principle of non-refoulement in accordance with existing obligations under international law.
2. Parties shall take the necessary legislative or other measures to ensure that victims of violence against women who are in need of protection, regardless of their status or residence, shall not be returned under any circumstances to any country where their life would be at risk or where they might be subjected to torture or inhuman or degrading treatment or punishment.



Checklist to respect the non-refoulement provisions and ensure that the rights of women and girls are respected in the return process

- ☐ 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. This includes those acts which disproportionately affect women and girls or are directed at them because they are women or girls.
- ☐ Give due regard 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.
- ☐ Ensure the best interests of the child are a primary consideration in relation to the returns of girls.
- ☐ Put in place safe, confidential and victim-centred processes that minimise the risk of refoulement in recognition of the particular difficulties that victims of violence against women and trafficking in human beings face in fully disclosing the grounds for their international protection (see “Asylum”, page 43).
- ☐ 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 or trafficking in human beings.
- ☐ Suspend expulsion measures for migrant women and girls where the decision is based on their status as dependent on a spouse, a partner as recognised by internal law, a parent or other family member, in order to enable them to apply for an independent residence permit.
- ☐ Ensure that the appropriate authorities can assess whether returns should be accompanied by sustainable reintegration and assistance measures in the member states of return.
- ☐ Take the necessary measures to allow for the recognition of any diplomas or qualifications obtained abroad by a woman or girl being returned to the receiving state.

Relevant international and Council of Europe standards and instruments

United Nations

The [United Nations 1951 Refugee Convention](#) provides the internationally recognised definition of a refugee and outlines the legal protection, rights and assistance a refugee is entitled to receive.

The United Nations High Commissioner for Refugees (UNHCR) [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](#) (2002) are intended to provide legal interpretative guidance for governments, legal practitioners, decision makers and the judiciary, as well as UNHCR staff carrying out refugee status determination in the field.

Council of Europe conventions

The [European Convention on Human Rights](#) prohibits discrimination on the grounds of sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status (Article 14) and prohibition of torture (Article 3).

The [Convention on Preventing and Combating Violence against Women and Domestic Violence](#) (Istanbul Convention, 2011) includes specific measures for the protection of migrant, refugee and asylum-seeking women.

The [Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse](#) (Lanzarote Convention, 2007) aims to prevent and combat sexual exploitation and sexual abuse of children and to protect the rights of child victims without any discrimination, in particular on the ground of sex.

The [Convention on Action against Trafficking in Human Beings](#) (2005) requires states Parties to take a gender equality approach in the fight against human trafficking (Article 1, paragraph 1, Article 5, paragraph 3, Article 6, paragraph d, and Article 17). Victims of trafficking must have access to fair and efficient asylum procedures, as well as the opportunity to access a number of rights in terms of assistance, protection and compensation (Articles 10 to 16).

Many provisions of the [European Social Charter](#) (revised) (1996) are of relevance, in particular the right to housing (Article 31, paragraph 2), the right to health protection (Articles 7, 8, 11 and 19, paragraph 2), the right to education (Articles 9, 10, 15, 17 and 19, paragraphs 11-12), the right to protection of the family and right to family reunification (Articles 16, 17 and 19, paragraph 6) and the right to protection of maternity (Article 8).

Council of Europe recommendations and policy instruments

[Recommendation CM/Rec\(2022\)17 on protecting the rights of migrant, refugee and asylum-seeking women and girls.](#)

[Recommendation CM/Rec\(2022\)22 on human rights principles and guidelines on age assessment in the context of migration.](#)

[Recommendation CM/Rec\(2019\)1 of the Committee of Ministers on preventing and combating sexism.](#)

[Recommendation CM/Rec\(2019\)11 of the Committee of Ministers on effective guardianship for unaccompanied and separated children in the context of migration.](#)

[Council of Europe Gender Equality Strategy 2024-2029.](#)

[Council of Europe Handbook on the protection of children against sexual exploitation and sexual abuse in crisis and emergency situations \(2022\).](#)

[Council of Europe paper, Gender-based asylum claims and non-refoulement: Articles 60 and 61 of the Istanbul Convention \(2019\).](#)

[Council of Europe leaflet, Istanbul Convention – Crimes committed in the name of so-called “honour” \(2019\).](#)

[Special Report of the Council of Europe Lanzarote Committee, Protecting children affected by the refugee crisis from sexual exploitation and sexual abuse \(2017\).](#)



Notes

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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.

COUNCIL OF EUROPE



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