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Protecting migrant women in the labour market

Opinion¹

Committee on Equal Opportunities for Women and Men

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A. Conclusions of the committee

1. The Committee on Equal Opportunities for Women and Men congratulates the rapporteur of the Committee on Migration, Refugees and Population, Ms Pernille Frahm, on her excellent and comprehensive report and supports the proposed draft resolution and draft recommendation.
2. The committee regrets that the gender neutrality of current migration policies results in discrimination against women migrants. The specific situation and needs of migrant women require that migration law and policy take into account the gender perspective. Positive action is necessary to protect migrant women, who are particularly at risk of exploitation in the labour market and subjected to different forms of discrimination and violence.
3. The committee wishes to propose some amendments to the draft resolution and draft recommendation, to further emphasise some gender-related aspects of the subject.

B. Proposed amendments to the draft resolution and to the draft recommendation

- In the draft resolution:

Amendment A (to the draft resolution)

In the draft resolution, after paragraph 7.1.3, insert the following sub-paragraph:

“ensure that a balanced proportion of women and men benefit from circular migration programmes;”.

Amendment B (to the draft resolution)

In the draft resolution, paragraph 7.4, before the word “combat” insert the words “prevent and”.

Amendment C (to the draft resolution)

In the draft resolution, after paragraph 7.4.1, insert the following sub-paragraph:

“setting up systems to monitor the situation of migrant women in the labour market as regards minimum wages, working conditions and the application of health and safety regulations;”.

- In the draft recommendation:

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Amendment D (to the draft recommendation)

In the draft recommendation, replace paragraph 3.2 with the following sub-paragraph:

“urge Council of Europe member states to sign and ratify the Council of Europe Convention to prevent and combat violence against women and domestic violence as soon as possible and to ensure that it is applied to all women without discrimination, whether their residence status is legal or not;”.

Amendment E (to the draft recommendation)

In the draft recommendation, after paragraph 3.4, insert the following sub-paragraph:

“encourage member states to develop activities to prevent and combat discrimination against migrant women and girls and promote their active participation in political, public and economic life, including in labour unions and other associations protecting and promoting labour rights;”.

C. Explanatory memorandum by Ms Circene, rapporteur for opinion

1. Current profile and misconceptions on migrant women

1. The profile of migrant women has evolved over the years. As indicated in Ms Frahm’s comprehensive report, today women do not migrate solely as accompanying spouses. They increasingly migrate independently and represent a growing share of the overall migratory flow.
2. This new trend in women’s migration is not appropriately taken into account in the elaboration and implementation of immigration and/or labour policies in Council of Europe member states. Migrant women in the labour market suffer therefore double discrimination: in relation to the population of the host country, as migrants, and within the category of migrants, as women.
3. In countries of destination outside Europe, particularly in the United States which has by far the world’s largest immigration flow, migrant women have outnumbered men for several decades, the turning point being the 1930s.² The gender composition of immigration flows to Europe is following a similar path. Women represent a growing share of the migration flux.
4. The growing presence of women in migration flows has not affected the social perception of the phenomenon: migrants are still generally assumed to be predominantly male, while women are believed to accompany their spouses, to migrate later to reunite the family, or to create a family by joining migrant men from the same country of origin.
5. Reality is different: women migrate because they are motivated by poverty, climate change or the need to escape the discrimination to which they are subjected on the labour market at home. More and more of them take the decision to migrate autonomously, without any pressure from their spouses or family members.
6. Moreover, the proportion of remittances that are sent by women towards their countries of origin is growing. This means that migrant women make a conspicuous contribution to the economy of the countries of residence, but also of origin. As the primary recipients of the remittances are close relatives, migrant women acquire an increasingly prominent position within their families of origin. This happens even in countries where gender roles are such that women would not normally be expected to contribute financially to the family’s wealth.
7. I particularly welcome Ms Frahm’s remarks on the need to recognise migrant women’s skills and qualification and improve regulation of self-employment. As pointed out in the report, a large number of migrant women are far from being unskilled. “Brain waste” should be reduced both by helping skilled women to find jobs matching their qualifications, and by creating a favourable environment for self-employment and business creation.

2. Pedraza S., “Women and Migration: the Social Consequences of Gender”, Annual Review of Sociology, 1991.

2. To respond to mixed migration flows, gender-sensitive migration and labour policies are necessary

8. Since migration to Europe was at first men-driven and because of the misconception mentioned, the situation of migrant women has been largely neglected by European policy makers and legislators for a long time. This must change.

9. The process of migrating is experienced differently by women and men. In addition, depending on the geographic area of origin and destination, the type of work and its organisation, migration can be sex-selective, involving a higher number of women or men. In other words, migration is never gender-neutral.

10. Migration laws and policies should be gender-sensitive, in order to take into account the particular characteristics of women within the migration flux, as well as migrant women's role in the development process.

3. Undocumented migrant women

11. Undocumented migrant women face significant legal and practical barriers to access social services and seek protection, for example from trade unions, through women's shelters or from non-governmental organisations. They are therefore at higher risk of violence and exploitation. When victims of gender-based and domestic violence, undocumented migrant women often avoid reporting violence to the competent authorities for fear of being deported.

12. I agree with the Committee on Migration, Refugees and Population that the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence should apply to all migrant women, irrespective of their legal status or absence of status.

13. The Committee on Equal Opportunities for Women and Men fully supports this approach, which was endorsed in the Assembly's opinion on the draft convention.³ Unfortunately the Committee of Ministers has not included an explicit reference to migrant women without legal residence status in the convention.

14. I share Ms Frahm's concern for the respect of human rights of undocumented women. However, we should not lose sight of the challenges faced by migrant women who have a legal entitlement to reside and work in host countries.

4. Migrant female domestic workers

15. Migrant female domestic workers are reported to be exploited both in sending and receiving countries.⁴ Moreover, their work is undervalued. As the preamble of the International Labour Organization's (ILO) future convention on decent work for domestic workers states: "domestic work continues to be undervalued and invisible and is mostly carried out by women and girls, many of whom are migrants or members of historically disadvantaged communities and therefore particularly vulnerable to discrimination in respect of conditions of employment and of work, and to other abuses of human rights".

16. Domestic migrant workers who are employed illegally are in constant fear of being discovered by the authorities. They are at the mercy of their employers and they have absolutely no bargaining power over their working conditions. Even those who work legally are not necessarily recognised as workers with a full range of labour rights.

17. Promoting the representation and defence of domestic workers' rights and interests is difficult because of the isolated nature of their work and other barriers of a cultural nature. Nevertheless, attempts to create domestic workers' organisations or to open existing trade unions to them have been made in Europe and elsewhere. Unfortunately, migrant women's participation in workers' organisations is still largely insufficient. Measures should be taken to promote their active participation and representation within labour unions.

5. Trafficking in human beings and prostitution

18. Ms Frahm's remarks on the need to set up appropriate channels for legal migration of women are very pertinent: recognised studies show that limiting regular migration encourages irregular migration and trafficking in human beings.

3. Assembly Opinion 280 (2011).

4. International Labour Office, "Women in Trade Unions – Organizing the unorganized", Geneva.

19. Women and girls are particularly exposed to the latter, representing 80% of transnational victims globally.⁵ The great majority of them are trafficked for the purposes of sexual exploitation.

20. In recent years, a number of European countries have decided to legalise and regulate prostitution. This step was taken also with a view to improving the working conditions, health and security of prostitutes, and reduce their exploitation and the abuse they are subjected to.

21. In addition to being rather controversial, these measures have met with mixed results: the objectives only partially reached, with legal prostitution acting as a magnet for human trafficking. Women continue to be recruited with false allurements for a legal job, they are forced to work as prostitutes, their identity documents are illegally confiscated, and so on.

22. The Assembly must continue to promote the widest possible signature and ratification of the Council of Europe Convention on Action against Trafficking in Human Beings

6. Circular migration

23. A number of European countries have introduced schemes for circular migration, in order to recruit migrant workers from countries of origin with which there are special relations because of historical and cultural links or geographic proximity. Under these schemes, migrant workers receive short-term contracts for a given period of time every year and go back to their country of origin at the end of each contract.

24. Circular migration is used to meet the needs of sectors characterised by labour-intensive seasonal work, especially agriculture. The proportion of women amongst circular migrant workers is on the rise, particularly in countries such as Spain and Italy.

25. Circular migration should be encouraged, as a way to provide a response to migration pressure while helping close a labour gap and meet the host country's economic needs. However, it should be closely monitored, in order to avoid migrant workers' exploitation and total dependence on their employers for the renewal of their contracts.

5. United States Department of State, "Trafficking in Persons Report", 2010.