Parliamentary Assembly
Assemblée parlementaire
https://pace.coe.int

COUNCIL OF EUROPE
CONSEIL DE L'EUROPE

**Doc. 14297**
25 April 2017

# Protecting refugee women from gender-based violence

**Committee Opinion**[1]
Committee on Migration, Refugees and Displaced Persons
Rapporteur: Ms Petra De SUTTER, Belgium, Socialist Group

## A. Conclusions of the committee

1. The Committee on Migration, Refugees and Displaced Persons welcomes the report on "Protecting refugee women from gender-based violence", which has been prepared by Ms Gisela Wurm (Austria, SOC) and approved by the Committee on Equality and Non-Discrimination.

2. Strongly supporting the general findings of this report, the committee on Migration, Refugees and Displaced Person proposes amendments to the draft resolution, in particular in order to recall existing standards and commitments by member States.

## B. Proposed amendments to the draft resolution

*Amendment A (to the draft resolution)*

In the title, after the word "women", add the words "and girls".

*Explanatory note:*

Female refugees under the age of 18 are often victims of gender-based violence including sexual assault, trafficking and child marriage, both in their home country as well as while fleeing. They deserve special attention as child refugees and unaccompanied minors. This should be reflected in the title.

*Amendment B (to the draft resolution)*

At the end of paragraph 5.1, add the following words:

> *"and the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse (CETS No. 201);"*

*Explanatory note:*

When protecting women against gender-based sexual violence, girls must not be forgotten. Reference should be made to the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse (CETS No. 201).

---

1. Reference to committee: Doc. 13890, Reference 4161 of 27 November 2015. Reporting committee: Committee on Equality and Non-Discrimination. See Doc. 14284. Opinion approved by the committee on 25 April 2017.

*Amendment C (to the draft resolution)*

After paragraph 5.2.6, insert the following paragraph:

> *"in accordance with the UNHCR's Comprehensive Protection Framework on Access to Justice for Sexual and Gender-Based Violence Victims and Survivors, provide for regular visits by mobile courts or court officers to these facilities and document such visits, in order to ensure that sexual assaults are investigated and prosecuted;"*

*Explanatory note:*

In its Comprehensive Protection Framework,[2] the UNHCR recommended the establishment of "mobile courts" which could visit reception and transit facilities for refugees, in order to ensure that sexual assaults are investigated and prosecuted, because these refugees would otherwise not have adequate access to the courts.

*Amendment D (to the draft resolution)*

After paragraph 5.2.7, add the following paragraph:

> *"ensure the same access to affordable and adequate health services for all women and girls as for the general population, regardless of the definitions used (migrant, immigrant, refugee or asylum seeker);"*

*Explanatory note:*

The latest Health Evidence Network (HEN) report of the World Health Organization (WHO) (2016) demonstrates that variations of definitions used for different groups of migrants in different areas affect access to health care. Legal status emerged as one of the most significant factors in determining whether migrants were able to access affordable and adequate health services.

*Amendment E (to the draft resolution)*

After paragraph 5.2.7, add the following paragraph:

> *"ensure that girls are free to decide for themselves, that their voluntary and informed consent is always obtained, and that they do not require the authorisation of a spouse, parent/guardian or hospital authority to access sexual and reproductive health services;"*

*Explanatory note:*

Human rights bodies have called on countries to eliminate the barriers people face in accessing health services, such as high fees for services, the requirement for authorisation by a spouse, parent/guardian or hospital authority, distance from health care facilities, and the absence of convenient and affordable public transport.

[General recommendation No. 24 (20th session): Article 12 of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) — women and health. In: Report of the Committee on the Elimination of Discrimination against Women, Fifty-fourth session of the General Assembly, Supplement No. 38 (Chapter I). New York (NY): United Nations; 1999 (A/54/38/Rev.1))[3]]

*Amendment F (to the draft resolution)*

At the end of paragraph 5.3.1, add the following words:

> *"and aim at full protection, including refugee status;"*

*Explanatory note:*

The European Union provides refugee status for women and girls where there is well-founded fear of violence, but research by Nora Markard (2006) has shown that some member States only give them one year's subsidiary protection.

---

2. www.ohchr.org/Documents/HRBodies/CEDAW/AccesstoJustice/UNHCR_Annex.pdf.
3. www.un.org/womenwatch/daw/cedaw/reports/21report.pdf.

*Amendment G (to the draft resolution)*

At the end of paragraph 5.4.1, add the following words:

*"and implement new safe legal pathways, to ensure a safer transit for women and girls;"*

*Explanatory note:*

Legal pathways for migration should be created outside Europe, not far from detention centres. These pathways must be "safer procedures" than the current "hotspots".

## C. Explanatory memorandum by Ms Petra De Sutter, rapporteur for opinion

1. According to statistics by Eurostat, more than 300 000 female refugees applied for asylum in European Union member States each month in 2016.[4] These alarmingly high numbers reflect the desperate situation of women and girls who are often fleeing from sexual and gender-based violence, but who also frequently experience such violence while fleeing.[5]

2. The United Nations High Commissioner for Human Rights has described the sexual and gender-based violence inflicted upon women and girls by the so-called Islamic State in Iraq and the Levant (ISIL) and associated terrorist groups.[6] The United Nations Children's Emergency Fund (UNICEF) found that Syrian refugee girls had increasingly been forced into marriage in Jordan.[7] Amnesty International has reported that Syrian female refugees fleeing to Turkey also experienced sexual and gender-based violence, including child marriage and trafficking.[8]

3. Confronted with such atrocities, Europe has to stand united in its resolve to protect refugee women and girls from gender-based violence. The report by Ms Gisela Wurm on behalf of the Committee on Equality and Non-Discrimination therefore makes an important and timely contribution.

4. The Committee on Migration, Refugees and Displaced Persons has addressed related aspects in its reports leading to Resolution 2128 (2016) on violence against migrants and Resolution 1765 (2010) on gender-related claims for asylum. As the suffering of refugee women and girls continues, increased attention must be paid to this appalling situation and member States must be reminded of their moral and legal obligations.

5. Recommendation Rec(2003)5 of the Committee of Ministers on measures of detention of asylum seekers[9] stipulates that traumatised asylum seekers should be screened at the outset of their detention and be provided with medical treatment and psychological counselling.

6. In 2003, the Office of the United Nations High Commissioner for Refugees (UNHCR) produced comprehensive Guidelines for Prevention and Response to Sexual and Gender-Based Violence against Refugees, Returnees and Internally Displaced Persons.[10] Article 6 of the United Nations Convention on the Elimination of All Forms of Discrimination against Women[11] requires that "States Parties shall take all appropriate measures, including legislation, to suppress all forms of traffic in women and exploitation of prostitution of women". This obligation is particularly important in order to combat the widespread phenomenon of gender-based sexual violence against, and trafficking of, refugee women. In addition, United Nations Security Council Resolution 1325 on women and peace and security[12] calls for special measures to protect women and girls from gender-based violence, particularly from rape and other forms of sexual abuse.

---

4. http://appsso.eurostat.ec.europa.eu/nui/submitViewTableAction.do.
5. https://www.theguardian.com/world/2017/feb/12/dunkirk-child-refugees-risk-sexual-violence.
6. https://documents-dds-ny.un.org/doc/UNDOC/GEN/G15/066/10/PDF/G1506610.pdf?OpenElement.
7. https://www.unicef.org/mena/UNICEFJordan_EarlyMarriageStudy2014(1).pdf.
8. https://www.amnesty.org/en/latest/news/2016/01/female-refugees-face-physical-assault-exploitation-and-sexual-harassment-on-their-journey-through-europe/ and https://www.womensrefugeecommission.org/images/zdocs/EU-Turkey-Refugee-Agreement-Failing.pdf
9. www.refworld.org/docid/3f8d65e54.html.
10. www.unhcr.org/3f696bcc4.pdf.
11. www.ohchr.org/Documents/ProfessionalInterest/cedaw.pdf.
12. https://documents-dds-ny.un.org/doc/UNDOC/GEN/N00/720/18/PDF/N0072018.pdf?OpenElement.

7. International standards and guidelines exist. It is therefore not necessary to search for new standards, but to apply effectively the existing ones. In order to do so, it is important to recall them and assist member States in their implementation. The amendments proposed herein serve this purpose and aim to complement the excellent report by Ms Wurm.