



## **UNHCR's Contribution to the European Commission's Consultation on a proposed European Union Strategy to combat violence against women**

UNHCR welcomes the consultation by the European Commission on a proposed future European Union Strategy on combating violence against women, as well as the initiative to develop a strategy on this prevalent form of violence.

The following contribution of the Office of the United Nations High Commissioner for Refugees (hereinafter "UNHCR") is made in the context of UNHCR's supervisory responsibility which is set out under its Statute,<sup>1</sup> Article 35 of the 1951 Convention relating to the Status of Refugees (hereinafter "the 1951 Convention"), and Article II of its 1967 Protocol.<sup>2</sup> This contribution is therefore limited to violence against women and girls who are refugees, asylum seekers, stateless, and those otherwise potentially in need of international protection. Acknowledging the work already undertaken in the external dimension as well as the separate frameworks for violence against women in conflict and post-conflict situations, this contribution will limit itself to the sole internal dimension.

- **UNHCR's mandate and violence against women**

While much focus has been given to women's experiences of violence, less has been done on asylum seeking and refugee women and girls. Forced displacement weakens existing community and family protection mechanisms, and exposes refugee women and girls to the risk of a range of human rights violations, including violence. Likewise, stateless women victims of violence may find themselves in heightened vulnerability when facing violence.

Away from their support networks, and often in crisis situations, women forced to move are even more vulnerable to violence by smugglers, traffickers, detention facility personnel, border guards, police officers, asylum officials, and reception centre staff. These often hold the future of these women and girls in their hands. Likewise, when accommodated in detention facilities or reception centres with limited privacy and close proximity to strangers, these women and girls are at heightened risk of being violated by others accommodated in the same facilities. In addition, and noting that much of the violence and discrimination experienced by refugee and stateless women, like other women, takes place in their homes, refugee and stateless women and girls whose legal status depends on that of their spouses or fathers/guardians also find themselves in greater vulnerability when facing violence in the family, including domestic violence, female genital mutilation, forced marriages or crimes of 'honour'.

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<sup>1</sup> Statute of the Office of the United Nations High Commissioner for Refugees, General Assembly Resolution 428 (V) of 14 December 1950: <http://www.unhcr.org/3b66c39e1.html>

<sup>2</sup> 1951 Convention and 1967 Protocol Relating to the Status of Refugees, <http://www.unhcr.org/3b66c2aa10.html>.

In their flight, refugee women and girls often have to rely on smugglers, who are frequently closely related to traffickers, with both preying on the vulnerabilities of people seeking international protection. In addition trafficked women may also be unable to return to their countries of origin for fear of further human rights violations. They may fear re-victimization at the hands of traffickers, risk being re-trafficked, or being stigmatized for their participation in sex work, albeit involuntary, which may amount to persecution. According to the latest UNODC report on organized crime, women and girls represent two thirds of victims of trafficking globally, and most of these victims (84%) in West and Central Europe are trafficked for the purpose of sexual exploitation.<sup>3</sup>

**Recommendation:** UNHCR calls upon the EC to reaffirm in the strategy the commitment to not return to situations of persecution, armed conflict and other serious human rights violations women and girls victims of violence. This would be in line with Article 19 of the EU Charter, which re-affirms the principle of *non-refoulement* i.e. ensuring that no-one is sent back to persecution, including in the context of removal, expulsion or extradition.

- **Definition of violence against women and girls**

The UN General Assembly has provided a broad and gender-based definition of violence against women and girls encompassing all forms of violence.<sup>4</sup> Likewise, the Council of Europe is currently engaged in the drafting of a Convention on preventing and combating violence against women and domestic violence, which provides a similar definition.<sup>5</sup>

**Recommendation:** For the purpose of coherence and coordination with other regional and international institutions, in particular the United Nations and the Council of Europe, UNHCR advocates for an alignment of definitions at the European level, and encourages the use in the EU strategy of a broad and gender-based definition of violence against women and girls along the lines of the definition provided by the UN and the CoE.

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<sup>3</sup> UNODC, The Globalization of Crime, A Transnational Organized Crime Threat Assessment, Chapter 2 Trafficking in persons to Europe for sexual Exploitation, June 2010:  
[http://www.unodc.org/documents/data-and-analysis/tocta/TOCTA\\_Report\\_2010\\_low\\_res.pdf](http://www.unodc.org/documents/data-and-analysis/tocta/TOCTA_Report_2010_low_res.pdf)

<sup>4</sup> UNGA, Declaration on the Elimination of Violence against Women, 85<sup>th</sup> Plenary Meeting, 20 December 1993, Geneva (Resolution 48/104) and reiterated in the Beijing Declaration and Platform for Action adopted at the 16th plenary meeting, on 15 September 1995: "The term "violence against women" means any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or private life. Accordingly, violence against women encompasses but is not limited to the following: (a) Physical, sexual and psychological violence occurring in the family, including battering, sexual abuse of female children in the household, dowry-related violence, marital rape, female genital mutilation and other traditional practices harmful to women, non-spousal violence and violence related to exploitation; (b) Physical, sexual and psychological violence occurring within the general community, including rape, sexual abuse, sexual harassment and intimidation at work, in educational institutions and elsewhere, trafficking in women and forced prostitution; (c) Physical, sexual and psychological violence perpetrated or condoned by the State, wherever it occurs [...] Acts of violence against women also include forced sterilization and forced abortion, coercive/forced use of contraceptives, female infanticide and prenatal sex selection."

<sup>5</sup> Council of Europe, Ad Hoc Committee on Preventing and Combating Violence Against Women and Domestic Violence (CAHVIO), Second Draft Convention on preventing and combating violence against women and domestic violence, 18 May 2010, Article 2: " "violence against women" is understood as a form of discrimination against women and a violation of human rights and shall mean all acts of gender-based violence that result in, or are likely to result in, physical, sexual, psychological, or economic harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life".

UNHCR also highlights the need to make it clear that the future strategy covers not only adult women but also girls below 18 years of age. This would reflect standards for protection of children under the Convention on the Rights of the Child.

**Recommendation:** UNHCR thus proposes that all mentions of "violence against women" be extended to "women and girls", including in the title of the future EU strategy.

In line with the Council of the European Union Conclusion on the Eradication of Violence Against Women, UNHCR strongly encourages the European Commission to "pay due attention to the special circumstances of girls, and of women in vulnerable situations"<sup>6</sup> when developing the future EU Strategy on combating violence against women. The future strategy should also provide a definition of vulnerability in the context of violence against women to ensure a harmonized approach across the EU vis-à-vis this group of women and girls.

**Recommendation:** UNHCR encourages the Commission to provide in the strategy a broad and gender-based definition of the concept of vulnerability as it pertains to violence against women, including refugee women and girls in line with the Beijing Declaration and Platform for Action.<sup>7</sup>

**Recommendation:** The strategy should address the specific needs of vulnerable women and girls, including those seeking asylum within the Union, refugees and stateless persons, in terms of proposed legislation, policy, service provision, funding, and evaluation and monitoring.

## 1. Challenges

- **Legal basis**

One of the main challenges to a new EU strategy on violence against women and girls will be the definition of its legal basis. Currently, legal competence at the EU level rests with several distinct frameworks including public health for the Daphne programme to prevent and combat violence against children, young people and women, and to protect victims and groups at risk; criminal law for sexual exploitation and trafficking; and equality - the Roadmap on Equality between men and women lists violence against women as one of its six priorities.

The current Charter of Fundamental Rights of the European Union was proclaimed in Strasbourg on 12 December 2007 by the European Parliament, the Council and the Commission (OJ C 303, 14.12.2007, p. 1). Its text repeats and adapts the Charter proclaimed on 7 December 2000, and replaces it with effect from 1 December 2009, the date of entry

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<sup>6</sup> Council of the European Union, Council Conclusion on the Eradication of Violence Against Women in the European Union, 300<sup>th</sup> Employment and Social Policy Council meeting, Brussels, 8 March 2010.

<sup>7</sup> Beijing Declaration and Platform for Action adopted at the 16th plenary meeting, on 15 September 1995: "116. Some groups of women, such as women belonging to minority groups, indigenous women, refugee women, women migrants, including women migrant workers, women in poverty living in rural or remote communities, destitute women, women in institutions or in detention, female children, women with disabilities, elderly women, displaced women, repatriated women, women living in poverty and women in situations of armed conflict, foreign occupation, wars of aggression, civil wars, terrorism, including hostage-taking, are also particularly vulnerable to violence".

into force of the Treaty of Lisbon. By virtue of the first subparagraph of Article 6(1)<sup>8</sup> of the Treaty on the European Union, the Charter proclaimed in 2007 has the same legal value as the Treaties. Therefore, the Charter has become a source of EU primary law upon which secondary legislation should be built.

Potential legislation on violence against women can thus find its legal basis in Article 1 on human dignity, Article 2 on the right to life, Article 3 on the right to the integrity of the person, and Article 4 on the prohibition of torture and inhuman or degrading treatment or punishment, in the Charter of Fundamental Rights of the European Union.

Violence against women and girls is a human rights violation, and the EU Charter provides a legal basis for a human rights based approach to the strategy. Violence against women also results from the historical unequal relations between men and women, and violence against women and girls is an obstacle to the achievement of equality.<sup>9</sup> As such, a human rights based approach strengthened by a gender equality dimension would constitute a powerful EU framework to combat violence against women and protect victims.

Such a human rights based approach would be in line with the declaration on Article 8 of the Treaty on the Functioning of the European Union linking the combat against all kinds of domestic violence with efforts to eliminate inequalities between men and women.<sup>10</sup> Opting for such a framework would also support the efforts of coherence with the Council of Europe which, in its Article 3 of the draft Convention on preventing and combating violence against women and domestic violence, frames the right to be free from violence in both the public and the private spheres as a fundamental right, and recognizes that the enjoyment of this right is interconnected with the need to secure equality between men and women.

**Recommendation:** UNHCR strongly encourages the EC to fully consider alternative frameworks for its strategy and future policy developments. UNHCR would welcome the use of a human rights based approach with a gender equality perspective as overarching guiding principles of the EU Strategy.

- **EU and Member State competence**

In the absence of a legislative framework at the EU level, the future strategy will need to address the fact that the competence for violence against women in many areas currently rests with EU Member States.

**Recommendation:** UNHCR recommends that the strategy include the development of binding EU legislative instruments to combat violence against women and girls, and protect

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<sup>8</sup> Article 6 TEU: “The Union recognizes the rights, freedoms and principles set out in the Charter of Fundamental Rights of the European Union of 7 December 2000, as adapted at Strasbourg, on 12 December 2007, which shall have the same legal value as the Treaties.”

<sup>9</sup> UNGA, Declaration on the Elimination of Violence against Women A/RES/48/104, 85th plenary meeting, 20 December 1993: “Affirming that violence against women constitutes a violation of the rights and fundamental freedoms of women and impairs or nullifies their enjoyment of those rights and freedoms, and concerned about the long-standing failure to protect and promote those rights and freedoms in the case of violence against women (...)”.

<sup>10</sup> Declaration 19 on Article 8 of the Treaty on the Functioning of the European Union annexed to the Final Act of the Intergovernmental Conference which adopted the Treaty of Lisbon, signed on 13 December 2007: “The Conference agrees that, in its general efforts to eliminate inequalities between women and men, the Union will aim in its different policies to combat all kinds of domestic violence. The Member States should take all necessary measures to prevent and punish these criminal acts and to support and protect the victims.”

victims. Such instruments would in turn support the harmonization of national policies and legal frameworks in this field.

- **Holistic and human rights based approach**

The future strategy to combat violence against women and girls should stem from a holistic approach encompassing Prevention of violence, Protection of and support for victims, and Prosecution of perpetrators (the “3 Ps”). This holistic course of action requires a human rights based approach, which places the rights of victims at the centre, builds on the respect and promotion of human rights and takes into account the additional challenges for vulnerable groups, such as refugee and stateless women and girls.

**Recommendation:** UNHCR encourages the EC to adopt a holistic and human rights based approach as the basis of the future strategy.

- **Data on violence against women and girls**

The need to collect better quality data on all forms of violence against women is regularly stressed by all stakeholders, as is the lack of comparable data at the EU level. This constitutes a challenge to strategy and policy development, which both require consistent data over time as well as comparable statistics across all EU Member States.

**Recommendation:** UNHCR would recommend that the future EU strategy include the establishment of mechanisms for the systematic and harmonized data collection by Member States based on the definition of violence against women and girls provided by the future text, including data on girls and women in vulnerable situations.

- **Mainstreaming and coordination**

A major challenge for the future EU strategy also rests with the fact that violence against women and girls touches upon a variety of fields from advocacy and outreach, crisis support services, health and child protection services, the criminal justice and the civil legal systems, the asylum system, all the way to the enlargement of the European Union and the external dimension of development and cooperation. Mainstreaming in this context will require the EU to adopt a cross-sectional approach and repeatedly raise and address the issue of violence against women in all areas where this violence manifests itself. It will also require a level of coordination within the EC beyond existing service and responsibility divisions.

**Recommendation:** UNHCR recommends that the EC consider adopting an inter-service coordination mechanism requiring the participation of all relevant EC elements, including DG Home Affairs as regards migration and asylum.

## **2. Content of an EU strategy to combat violence against women**

### **2.1. General and specific objectives of the strategy**

The overarching objective of the future strategy should be the eradication of all forms of violence against women, including for those in vulnerable situations such as asylum-seeking, refugee, stateless and internally displaced women and girls, and the protection of women and girls victims of violence.

Through a holistic human rights and gender based approach supported by strong coordination, the future EU strategy should seek to achieve the following specific objectives:

- Strengthen the role of the EU in combating all forms of violence against women and girls, in particular against the most vulnerable amongst these.

- Improve the asylum system, including detention, reception conditions, asylum procedures, and examination of asylum applications taking into account the specific needs of women and girls (potential) victims of violence.
- Launch an EU-wide multi-year campaign to raise awareness on all forms of violence against women and girls, and educate the public and those officials who come into contact with victims of violence.
- Ensure that victims of violence against women and girls whose legal status depends on the residence entitlement or other legal status within the EU of the spouse or father/guardian are granted at least an independent temporary residence permit allowing them to have access to protection and support facilities.
- Ensure that EU Member States with refugee resettlement programmes make use of the criteria for vulnerable women and girls, and systematically include women and girls victims of violence in their annual resettlement quotas.
- Improve targeting of funds to build the capacity of refugee women associations working on violence against women and girls.
- Prioritize civil society participation, in particular enable the voice of asylum-seeking, refugee and stateless women and girls to be heard.
- Improve data collection on violence against women and girls and establish a mechanism for the monitoring of the strategy.
- Place violence issues, in particular against stateless and internally displaced women and girls, systematically on the agenda of EU enlargement discussions and support these countries in combating violence against women and girls and protecting victims.

## 2.2. Thematic priorities

In UNHCR's view, the future strategy should also address issues related to violence against women and girls in the asylum system, including detention, reception conditions, asylum procedures, and examination of asylum applications taking into account the specific needs of women and girls (potential) victims of violence. UNHCR would also welcome a specific focus on refugee women and girls (potential) victims of violence when considering issues pertaining to integration of minority groups.

In 2009, worldwide, women and girls represented, on average, 49% of persons of concern to UNHCR. Forty one per cent of refugees and asylum seekers were children below 18 years of age. In the EU, according to Eurostat, 30% of all applications for asylum were lodged by female applicants. In some caseloads, this proportion rises to about half (e.g. Russian Federation and Democratic Republic of the Congo).

The UK non-governmental *Charter of Rights of Women Seeking Asylum* campaign recently published a briefing<sup>11</sup> comparing the treatment of women victims of crime in the criminal justice system with that of women in the asylum determination system, and women in prison with women in immigration detention. The examples provided in the briefing show a marked disparity in how women asylum seekers are treated compared with women settled in the UK:

- A woman who has gone to the police because she has been raped or experienced domestic violence in the UK can expect to be dealt with by female staff sensitive to her particular

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<sup>11</sup> Women's Asylum Charter, Every Single Woman, A Comparison of standards for women in the asylum system with standards for women in the criminal justice, prison and maternity systems in the UK, Extended Briefing, December 2009:  
<http://www.asylumaid.org.uk/data/files/publications/117/Everysinglewomancampaignbriefing.pdf>

needs. A woman who has claimed asylum because she was raped or had experienced domestic violence in her home country can only expect limited understanding of her needs.

- Tinsley House detention centre has the capacity to hold 116 men and five women. The single women have separate bedrooms but share other facilities with the men. With such a disproportionate number of females to males, women feel intimidated, scared and isolated. In comparison, there are no male prisons which take female residents.

**Data on asylum claims and violence against women:** It is estimated that between 10% and 35% of those seeking refuge in European countries have suffered torture before reaching a safe haven.<sup>12</sup> EU Member States unfortunately do not gather data on the types of claims received, making it impossible to evaluate the number of gender based claims. However, the impression among Member States is that gender based asylum claims are on the increase. According to a recent report by Human Rights Watch, many asylum claims by women involve fear of violence, often at the hands of non-state actors (trafficking for sexual and labour exploitation, forced marriage, forced sterilization, domestic violence, female genital mutilation, threat of “honour” killings and rape). Organizations working with asylum-seeking women in the UK estimate that more than half of these are victims of violence.<sup>13</sup>

**Gender based asylum claims and violence against women:** Asylum claims by women are often complex claims involving gender related dimensions and considerations of state failures to provide protection. For some time, UNHCR has advocated for the consideration of asylum claims in a gender sensitive manner, and stressed the importance of interpreting the refugee definition in the 1951 Convention with an awareness that gender can influence or dictate the type of persecution or harm suffered, and the reasons for these.<sup>14</sup> UNHCR has also published guidance in dealing with claims based on fear of female genital mutilation,<sup>15</sup> which establishes that a girl or woman seeking asylum because she has been compelled to undergo, or is likely to be subjected to FGM, can qualify for refugee status under the 1951 Convention, and so could a parent in connection with the exposure of his/her daughter to the risk of FGM. As discussed above, some victims or potential victims of trafficking may fall within the definition of a refugee contained in Article 1A(2) of the 1951 Convention or within the wider definition of persons eligible for subsidiary protection as per Article 15 of the EU Qualification Directive,<sup>16</sup> and may therefore be entitled to international protection. UNHCR’s *Guidelines on victims of trafficking and persons at risk of being trafficked*<sup>17</sup> provide guidance

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<sup>12</sup> Health Service Executive, National Intercultural Health Strategy 2007 – 2012, p.42:

[http://ec.europa.eu/ewsi/UDRW/images/items/doc/4361\\_819620109.pdf](http://ec.europa.eu/ewsi/UDRW/images/items/doc/4361_819620109.pdf)

<sup>13</sup> Human Rights Watch, Fast-Tracked Unfairness, Detention and Denial of Women Asylum Seekers in the UK, February 2010: <http://www.hrw.org/node/88671>.

<sup>14</sup> UNHCR, Guidelines on International Protection: The application of Article 1A(2) of the 1951 Convention and/or 1967 Protocol relating to the Status of Refugees to victims of trafficking and persons at risk of being trafficked, 7 April 2006: <http://www.unhcr.org/443b626b2.html>, and UNHCR, Guidelines on International Protection No 2: “Membership of a particular social group” within the context of Article 1A(2) of the 1951 Convention and/or its 1967 Protocol relating to the Status of Refugees, 7 May 2002: <http://www.unhcr.org/refworld/docid/3d36f23f4.html>

<sup>15</sup> UNHCR, Guidance Note on Refugee Claims relating to Female Genital Mutilation, May 2009: <http://www.unhcr.org/refworld/docid/4a0c28492.html>

<sup>16</sup> Council Directive 2004/83/EC of 29 April 2004 on minimum standards for the qualification and status of third country nationals or stateless persons as refugees or as persons who need international protection and the content of the protection granted (hereinafter the “EU Qualification Directive”).

<sup>17</sup> UNHCR Guidelines on International Protection No.7: “The application of Article 1A(2) of the 1951 Convention and/or 1967 Protocol relating to the Status of Refugees to Victims of Trafficking and Persons At Risk of Being Trafficked”, 7 April 2006. <http://www.unhcr.org/443b626b2.html>.

on the adjudication of asylum applications presented by victims or potential victims of trafficking.

**Processing asylum claims by women and girls fearing violence:** UNHCR has repeatedly drawn attention to the importance of processing individual claims by women, and not simply treating them as a subsidiary to the claims of their spouses or fathers/guardians. Women seeking asylum with family members should be interviewed separately to ensure they have an opportunity to fully present their own cases. Their legal status should therefore, every time possible, not be dependent on that of their spouses or fathers/guardians.

A recent study on the implementation of the Asylum Procedures Directive carried out by UNHCR in 12 selected EU Member States<sup>18</sup> shows that most Member States in the research do not require interviewers to hold a specific qualification in refugee and/or human rights law or to have relevant experience upon recruitment. The report recommends that all States develop and deliver a compulsory specialized training programme, which includes *inter alia* age, gender, cultural, educational and trauma sensitivity in interviewing and questioning techniques. The same finding and recommendation applies to interpreters.

UNHCR also found that in no Member State of focus in the research is the provision of a same-sex interviewer and interpreter mandatory. This is so even for applications which raise issues of sexual violence. UNHCR observed a significant number of interviews in which the interviewer and/or interpreter were not gender appropriate, including for cases where female applicants cited experience of sexual violence; as well as inappropriate questioning and tone used by a male interviewer regarding claims of sexual violence.

**Detention of asylum seeking women and complex gender based claims:** In their publication on the Detained Fast Track (DFT) procedure in the UK,<sup>19</sup> Human Rights Watch report that over 2,000 asylum-seeking women have been detained since May 2005. Despite the fact that gender related claims can be particularly complex, especially when they involve violence by private individuals and the state's failure to provide adequate protection, these women have seen their claims examined under accelerated procedures. Asylum seeking women victims of violence are even more so disadvantaged by the "quick" procedure as they are expected to tell immediately the asylum authorities of any violence, including sexual violence, they have gone through. Delays in mentioning such elements often lead case owners to conclude that the information is not credible. The research also uncovered that country of origin information (COI) reports are not available for many of the countries from which women in the DFT procedure come. COI is also often lacking in the area of violence suffered by women and girls. Though the UK is one of the few Member States with comprehensive gender guidelines, the HRW research found that the UK Border Agency fails to follow its own gender guidelines.

The Jesuit Refugee Service has also recently published a comprehensive report on the impact of detention on vulnerable asylum seekers.<sup>20</sup> The research is based on interviews

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<sup>18</sup> UNHCR, *Improving Asylum Procedures: Comparative Analysis and Recommendations for Law and Practice. Key Findings and Recommendations*, March 2010: <http://www.unhcr.org/4ba9d99d9.html>, and UNHCR, *Key Gender Related Findings and Recommendations*, March 2010: <http://www.unhcr.org/4be01d0a9.html>

<sup>19</sup> HRW, February 2010, *op. cit.*

<sup>20</sup> Jesuit Refugee Service, *Detention of Vulnerable Asylum Seekers and Irregular Migrants in the European Union*, The DEVAS project. June 2010: <http://www.detention-in->



with 685 detained asylum seekers and irregular migrants in 21 EU Member States. The report portrays the impact caused by detention on those with special needs such as pre-existing traumatic histories and medical problems, but also highlights the common negative effects of detention. In often overcrowded facilities, detained asylum seeking women frequently reported being victims of both physical and verbal abuse. The report also shows that medical specialist such as psychologists or gynaecologists are largely unavailable.

**Asylum reception facilities and violence against women and girls:** In a participatory assessment using Age, Gender and Diversity mainstreaming methodology<sup>21</sup> in Ireland in 2006, UNHCR found that in addition to crowdedness, poor sanitation, lack of privacy and isolation also identified by asylum-seeking men, the women who participated in the assessment had additional protection concerns and worries. In particular, single women often felt exposed to attempts of exploitation in different ways. At the centres, some women complained about being sexually harassed by single men and felt unable to address this. Other women raised concern that Irish men were aware that they were financially vulnerable and would target them outside the centre and solicit them for sexual favours. On a more positive note, in a similar annual exercise carried out in Hungary, the 2008 Age, Gender and Diversity Mainstreaming Report found that in stark contrast to previous years, the study had not hear complaints about violence in the visited facilities, and there had been no more reports about unsuitable behaviour of guards or other facility staff.<sup>22</sup>

**Integration of women and girls victims of violence:** Data on violence against refugee women and girls residing in EU Member States is lacking. Indications however exist to show that they too fall prey of all forms of violence and are particularly vulnerable to violence in the private sphere. Women and girls are also expected to be particularly affected by the current economic and financial crisis and an increased risk of societal and domestic violence. Female genital mutilation (FGM) is now prevalent in a few EU Member States since migrant and refugee women and girls from countries that traditionally practice FGM have settled in Europe. Women and girls in these communities come under tremendous pressure to conform to social norms and expected behaviour. However, because the legal stay of refugee women and girls often depends on the international protection status of spouses or fathers/guardians, these women and girls often find themselves in situations where they refrain from reporting on the (threat of) violence against them, be it domestic violence, incest, forced marriages, FGM, or “honour” killings. These circumstances, compounded by lack of awareness of entitlements or of existing services and procedures, and barriers related to language and cultural differences, also create significant hurdles to accessing assistance and support services.

**Recommendation:** Given the above circumstances and the particular vulnerability of women and girls asylum seekers, refugees and stateless who are victims of violence, UNHCR strongly urges the EC to address issues related to violence against women and girls in the asylum system, including detention, reception conditions, asylum procedures, and examination of asylum applications, and pay special attention to the specific needs of refugee women and

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[europe.org/images/stories/DEVAS/jrs-europe\\_becoming%20vulnerable%20in%20detention\\_june%202010\\_public\\_28jun10.pdf](http://europe.org/images/stories/DEVAS/jrs-europe_becoming%20vulnerable%20in%20detention_june%202010_public_28jun10.pdf)

<sup>21</sup> UNHCR, Handbook for the Protection of Women and Girls, January 2008, Chapter 1.3 Promoting gender equality to protect women and girls: <http://www.unhcr.org/refworld/docid/47cfc2962.html>

<sup>22</sup> UNHCR, AGDM 2008 Report, Being a Refugee, How Refugees and Asylum Seekers Experience Life in Central Europe, Regional Representation for Central Europe, July 2009: [http://unhcr-centraleurope.org/images/stories/news/docs/08\\_Reception%20conditions/8\\_1\\_AGDM%20report%202008\\_REG/UNHCR-AGDM\\_report\\_2008-ENG.pdf](http://unhcr-centraleurope.org/images/stories/news/docs/08_Reception%20conditions/8_1_AGDM%20report%202008_REG/UNHCR-AGDM_report_2008-ENG.pdf)

girls (potential) victims of violence when considering issues pertaining to integration of minority groups.

### **2.3. Specific actions which could be included in the strategy**

To be effective, the future strategy must be complemented by specific actions to support general policies and declarations. These initiatives should address the specific situation of asylum seeking, refugee and stateless women and girls victims of violence.

The following specific actions would support some of the main specific objectives outlined above:

- To strengthen the role of the EU in combating all forms of violence against women and girls, the future strategy could:
  - o Ensure high-level political commitment and follow up for its implementation.
  - o In the Roadmap for Equality 2010-2015, strengthen the priority on violence against women.
  - o Spearhead the development of holistic and human-rights based binding EU legislative instruments to combat violence against women and girls. Such instruments would include protection from being returned to situations of persecution, armed conflict and other serious human rights violations for women and girls victims of violence. Based on these future instruments and the EP commissioned study on the feasibility of standardizing national legislation on violence against women and girls, the EC could support the harmonization of national policies and legal frameworks in this field.
  - o Support Member States in adopting and implementing multi-sectoral national action plans to combat violence against women and girls and protect victims, including tailored interventions for the most vulnerable groups.
  - o Strengthen cooperation with partner regional and relevant international organizations.
  
- To address and improve issues related to violence against women and girls in the asylum system, UNHCR urges the EC
  - o To support through the future strategy more gender sensitive asylum procedures and reception conditions, including in detention, and a gender sensitive interpretation of qualification for international protection. The recent “package” of legislative recast proposals on asylum provides a context for such actions and upcoming discussions between the European institutions will offer a good momentum. Likewise, the establishment of the European Asylum Support Office will provide a forum to implement the recommended changes.
  - o To lead and support, in close cooperation with the EASO, the development of a common EU gender guidelines and gender-sensitive procedures for applicants for international protection, which address the specific needs of women and girls victims of violence and seeking international protection.
  - o To support the improvement of reception, including detention, facilities and develop minimum reception standards addressing the specific needs of asylum-seeking women and girls victims of violence, as well as the development of information packages, in languages refugees can understand, on the relevant support services and legal assistance available

to asylum-seeking women victims of violence. The planning process for this action could involve the participation of asylum-seeking women and girls.

- To Launch an EU-wide multi-year campaign to raise awareness on all forms of violence against women and girls, and educate the public and those officials who come into contact with victims of violence. This campaign could include
  - o The development of an EU-wide training framework on violence against women and on the needs of victims for officials and professionals who come in contact with victims. The future strategy could ensure that a specific module is dedicated to violence as it specifically affects asylum-seeking, refugee and stateless women and girls in the asylum system.
  - o Information and education packages tailored to refugee communities in languages refugees can understand and in a culturally and sensitive manner.
  
- To ensure that victims of violence against women and girls whose legal status depends on the legal residence status in the EU of the spouses or fathers/guardians are granted at least an independent temporary residence permit allowing them to have access to protection and support facilities, the future strategy could
  - o Support the development of human rights based binding EU legislation supporting the protection of women and girls victims of violence in the private and public spheres.
  - o Discussions around the evaluation and the review of the residence permit Directive for victims of trafficking<sup>23</sup> could provide a context for such legislation for trafficked women and girls.
  - o A similar instrument could be developed to protect women and girls victims of other forms of violence.
  
- To ensure that EU Member States with refugee resettlement programmes make use of the criteria for vulnerable women and systematically include women victims of violence in their annual resettlement quotas, the EC could through the future strategy
  - o Encourage Member States to adopt such quotas, and support them in implementing integration strategies tailored to the specific needs of these vulnerable resettled refugees.
  
- To improve the targeting of funds to build the capacity of refugee women associations working on violence against women and girls, the strategy could
  - o Target some of the Daphne programme and any other funding under this strategy to support capacity building of refugee women associations working on violence against women and girls, in order to ensure that this vulnerable group has a voice of its own.
  - o Track and disseminate the proportion of funding invested in supporting capacity building of refugee women associations working on violence against women and girls
  - o Support the exchange of good and promising practices among Member States, NGOs, relevant international organizations, women and girls victims of violence, including on how to best protect, assist and support the most vulnerable amongst victims.

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<sup>23</sup> Council Directive 2004/81/EC of 29 April 2004 on the residence permit issued to third-country nationals who are victims of trafficking in human beings or who have been the subject of an action to facilitate illegal immigration, who cooperate with the competent authorities:  
<http://www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain?docid=4156e71d4>.

- Prioritize funding to enhance awareness of and access to basic services – including shelter and legal aid – women and girls who are asylum seekers, refugees, and stateless or those otherwise in need of international protection, regardless of their legal status in the country of asylum.
- To prioritize civil society participation, in particular to enable the voice of asylum-seeking, refugee and stateless women and girls to be heard, the strategy could
  - Systematically involve women’s associations in consultations on the implementation of the strategy, including on the improvement of reception conditions for women seeking asylum, the exchange of good and promising practices, the design of specific funding, and the awareness raising and education campaign.
  - Organize annual consultative meetings of stakeholders to review progress on the implementation of the strategy, map gaps and challenges, and discuss possible actions.
- To improve data collection on violence against women and girls and establish a mechanism for the monitoring of the strategy, the strategy could
  - Build on the existing work on establishing a system for comparable statistics to improve data collection on all forms of violence against women and access to assistance and support services.
  - Establish an EU Coordinator for violence against women to provide the overall strategic policy orientation in this field, improve coordination and coherence between EU institutions and EU agencies as well as with Member States and international actors, and report on trends and implementation.
  - Establish an EU Observatory on violence against women with adequate funding to build the knowledge base at the level of the EU or ensure that violence against women is fully incorporated into the terms of reference of the European Institute for Gender Equality with sufficient funding to carry out this additional focus.
- Place violence issues, in particular against stateless and internally displaced women and girls, systematically on the agenda of EU enlargement discussions and support these countries in combating violence against women and girls.

### **3. Evaluation and monitoring**

UNHCR recommends the adoption of an efficient and transparent monitoring mechanism at national and EU levels, involving publicly available annual reports with the opportunity for experts and the civil society to contribute to the process.

UNHCR  
Bureau for Europe  
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**Annex: Key UNHCR Documents on Gender Based Asylum Claims**

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*, 7 May 2002:

<http://www.unhcr.org/refworld/docid/3d36f1c64.html>

UNHCR, *Guidelines on International Protection No 2: "Membership of a particular social group" within the context of Article 1A(2) of the 1951 Convention and/or its 1967 Protocol relating to the Status of Refugees*, 7 May 2002:

<http://www.unhcr.org/refworld/docid/3d36f23f4.html>

UNHCR, *Guidelines on International Protection: The application of Article 1A(2) of the 1951 Convention and/or 1967 Protocol relating to the Status of Refugees to victims of trafficking and persons at risk of being trafficked*, 7 April 2006:

<http://www.unhcr.org/443b626b2.html>

UNHCR, *Guidance Note on Refugee Claims relating to Female Genital Mutilation*, May 2009:

<http://www.unhcr.org/refworld/docid/4a0c28492.html>

UNHCR, *Note on Refugee Claims Based on Coercive Family Planning Laws or Policies*, August 2005:

<http://www.unhcr.org/refworld/docid/4301a9184.html>

UNHCR, *Guidance Note on Refugee Claims Relating to Sexual Orientation and Gender Identity*, 21 November 2008:

<http://www.unhcr.org/refworld/docid/48abd5660.html>

UNHCR, *Sexual and Gender-Based Violence Against Refugees, Returnees and Internally Displaced Persons: Guidelines for Prevention and Response*, May 2003:

<http://www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain?docid=3edcd0661&page=search>

UNHCR Evaluation and Policy Analysis Unit, *Comparative analysis of gender-related persecution in national asylum legislation and practice in Europe*, 1 May 2004:

<http://www.irseurope.org/accompanydetainees/docs/Crawley%20Report%20on%20EU%20Gender%20and%20Asylum.pdf>

Alice Edwards, *Refugee protection in international law: age and gender dimensions in international refugee law*, 1 January 2003:

<http://www.unhcr.org/419c74784.html>

Katja Luopajarvi, *Gender-related Persecution as Basis for Refugee Status: Comparative Perspectives*, Institute for Human Rights Åbo Akademi University, December 2003:

[http://web.abo.fi/institut/imr/norfa/Katja\\_Genderrelated\\_persecution.pdf](http://web.abo.fi/institut/imr/norfa/Katja_Genderrelated_persecution.pdf)