



Protecting women and girls in the asylum procedure

The information presented in this fact sheet is extracted from the [Asylum Report 2024](#) and covers developments in 2023 and early 2024. Direct link to the section: <https://euaa.europa.eu/asylum-report-2024/42-protecting-women-and-girls>

Women and girls throughout the world may be subjected to intense forms of cultural, structural and direct violence. Gender-based violence may include – but is by no means limited to – sexual abuse and exploitation, rape, female genital mutilation/cutting (FGM/C), human trafficking, harassment and domestic violence, as well as social stigmatisation and marginalisation, and related psychosocial consequences.

Such traumatic experiences need to be taken into consideration while trying to understand and assess a person's need for protection. Likewise, these realities need to be included in the development of protection solutions to properly cater to the needs of survivors of gender-based violence. It is fundamental that gender considerations are integrated into the asylum procedure, even when a specific asylum claim is not clearly gender-related per se.





Key developments extracted from the Asylum Report 2024

The Istanbul Convention on preventing and combating violence against women entered into force in respect of the EU on 1 October 2023, including the provisions relating to asylum and *non-refoulement*.¹

In addition, in January 2024 the Court of Justice of the European Union (CJEU) [clarified](#) that women may be considered as belonging to a particular social group, and they may qualify for refugee status if they are exposed to physical or mental violence, including sexual and domestic violence, in their home country on the account of their gender. If the conditions for refugee status are not met, they may qualify for subsidiary protection when there is a real risk of being killed or subjected to acts of violence inflicted by a member of their family or community due to the alleged transgression of cultural, religious or traditional norms. The court underlined the need to interpret the recast Qualifications Directive (QD) in line with the Istanbul Convention.

In the context of a preliminary ruling pending before the CJEU, UNHCR submitted a statement on the relevance of westernised/non-conforming behaviours, especially for women and girl applicants for international protection. UNHCR highlighted that individuals who, while exercising their human rights are seen as not adhering to prevailing cultural or religious norms (or who have adopted a 'western' lifestyle), can be considered members of a particular social group, in that they share a protected characteristic and are perceived as being different by the surrounding society. In the statement, UNHCR also reiterated that national authorities should apply the best interests of the child in asylum procedures with the aim of adopting the necessary procedural safeguards and providing a child-sensitive interpretation of the refugee definition.²



Efforts by EU+ countries throughout 2023 focused on the prevention of violence against women and girls and support for female victims of violence. Comprehensive mappings still revealed many gaps in asylum and reception systems, which risked the safety of women and girls. These gaps and their detrimental impact were also captured and adjudicated by courts.

To address existing and emerging training needs, the European Union Agency for Asylum (EUAA) developed a new training module on gender-based violence.


Recommendations on further improving the experience of female applicants in asylum and reception systems were presented in the concluding observations of the Committee on the Elimination of All Forms of Discrimination against Women (CEDAW) for Germany,³ Iceland,⁴ Slovakia⁵ and Spain.⁶

Developments in EU+ countries

1. Institutional changes





-  The Agency for the Welfare of Asylum Seekers (AWAS) in Malta created the role of Gender-Specific Welfare Officer at the Initial Reception Centre. This officer primarily assists women, especially single and expecting mothers, by providing tailored healthcare and support services. AWAS also continued to use a Special Needs Vulnerability Assessment tool that includes information on the referred individual's medical, psychological and social well-being. It also assesses indicators of vulnerability related to their background and experiences, including female genital mutilation/cutting (FGM/C) and sexual and gender-based violence.
-  In Ireland, the government approved the creation of a statutory agency to tackle and reduce domestic, sexual and gender-based violence. The agency will be tasked with overseeing accommodation and support to victims, including applicant and beneficiary of international protection victims.⁷

2. Legislative changes

-  Legislative amendments in Italy included all women in the definition of vulnerable applicants in terms of reception conditions, who must be exempted from accelerated and border procedures.^{8, 9}

3. Policy and practical developments

Gender-based violence

-  Austrian authorities launched an information campaign to combat violence against women. Posters and multilingual brochures on different forms of violence and ways to seek help were made available for female beneficiaries of international protection and displaced women from Ukraine in 21 locations of the Federal Office for Immigration and Asylum (BFA), the Federal Administrative Court in Vienna, Graz, Linz and Innsbruck, and the nine integration centres of the Austrian Integration Fund.¹⁰
-  The Council of Refugee Women in Bulgaria, with support from UNHCR, published the results of a survey gender-based violence among refugees. The study underlined that the concepts of gender-based violence and consent should be at the core of enhanced awareness-raising activities.¹¹
-  The Belgian Nansen presented a practical guide and a tool on international protection and gender-based violence to support legal practitioners.¹²
-  The Finnish Supreme Administrative Court [held](#) that an internal flight alternative was not available to a mother and a child from Russia, originally from Chechnya, who were victims of domestic violence.

Female genital mutilation/cutting (FGM/C)

- The Refugee Appeals Board in Denmark [decided](#) to grant a residence permit to a family in which the daughter would have been at risk of FGM/C if returned to Somalia. This indicated a change in the Board's approach following [criticism](#) by the UN Committee on the Rights of the Child (UN CRC) in 2022.
- The French National Court of Asylum (CNDA) examined several applications due to a fear of FGM/C and concluded that non-mutilated girls, teenagers and women in [Sierra Leone](#), [Sudan](#), and women and girls of the Mossi community exposed to FGM/C in [Burkina Faso](#) constitute particular social groups.

Women in the reception system

- Following up on a 2022 collaboration in the implementation of the protocol on the prevention and response to violence against women, in 2023 the Spanish Secretary of State for Migration and UNHCR announced the extension of their collaboration to develop a standard operating procedure for the prevention of and response to violence against women in humanitarian reception centres and temporary reception centres (CETI) in Ceuta and Melilla.¹³ The procedures were developed by authorities working together with UNHCR, NGOs managing first-line reception centres for sea and land arrivals, the two CETI in Ceuta and Melilla and the EUAA.¹⁴
- The ECtHR [concluded](#) that reception conditions in Italy for a girl victim of forced marriage and sexual abuse amounted to inhuman treatment. Despite disclosing to the authorities that she went through sexual abuse, reiterating this to the psychologist and the mediator, and her representative having made five requests for a transfer to a suitable centre, she was still accommodated in a centre without separation between adults and minors and was again sexually abused for 8 months.
- Considering the reception conditions on the Greek islands for pregnant women who arrived in 2019 and 2020, the ECtHR [found](#) that the applicants were subjected to ill treatment in violation of the ECHR, Article 3.
- The ECtHR [found](#) Hungary in violation of the ECHR when not taking into consideration the mental state of an applicant. The woman, who was accompanied by a minor child, was at risk of committing suicide while being illegally detained in the Tompa transit zone in insufficient living conditions for a mother and her minor child. Despite her condition, the mother had not received medical care. The court noted that the government had not explained why she was not examined by a psychologist in a local hospital if there was no psychologist available in the transit zone and they did not provide records of medical consultations to prove that they were not aware of the medical issues raised by the applicant.
- The European Network of Migrant Women comprehensively summarised the challenges faced by female applicants in asylum and reception, underlining the need to improve information provision and raise awareness of rights and existing support systems.¹⁵ The organisation also highlighted the need for establishing female-only spaces, both in reception and during activities related to the asylum procedure (such as identification

and registration) to ensure dignity and safety, which must be accessible without a waiting period and for free.¹⁶

Female applicants from Afghanistan

- Several EU+ countries had updated their guidelines on Afghan women and girls in 2022, while others, such as Denmark (following a change in the legal practice of the Refugee Appeals Board) and Switzerland (as a matter of policy) decided in 2023 that women and girls from Afghanistan can be generally granted asylum on the basis of their gender as they are victims of discriminatory legislation. Nonetheless, an individual examination of an applicant's case still takes place in these countries, without an automatic application of the policy.
- In Norway, a new instruction to the UDI from the Ministry of Justice and Emergency Preparedness in May 2023 provided further guidance for the processing of applications for women and girls from Afghanistan. It stressed the need for an individual assessment of cases, while continuing to monitor developments in Afghanistan to assess if changes in practice are needed. The instruction also noted that in the current situation women and girls from Afghanistan can be recognised as belonging to a 'special social group'.¹⁷
- In the "Factsheet concerning the State Secretariat for Migration (SEM) policy change for female Afghan asylum seekers" of December 2023, UNHCR noted that short-term increases in asylum requests from Afghan women were mainly for subsequent applications from applicants who were already in Switzerland and the number of positive decisions had not significantly changed after the SEM policy change in July 2023.¹⁸
- The Finnish Immigration Service announced at the beginning of 2023 that it changed its guidelines on applications submitted by Afghans in December 2022, and all Afghan women and girls were granted refugee status, based on COI on their deteriorating rights.¹⁹
- In France, the UNIV'R pilot project was extended in 2023 to include Afghan refugee women and non-French speaking refugees. The project, launched together with UNHCR and the Agence universitaire de la Francophonie (AUF), aims to provide higher education to refugees students who are under the protection of UNHCR in a third country.
- On gender-based persecution of Afghan women and girls, the CJEU [ruled](#) in January 2024 that women, as a whole, may be regarded as a particular social group within the meaning of the recast QD and they may qualify for refugee protection if, in their country of origin, they are exposed to physical or mental violence due to their gender. The court also added that if the conditions for providing refugee status are not met, "women may qualify for subsidiary protection, including when there is a real risk of being killed or subjected to acts of violence inflicted by a member of their family or community due to the alleged transgression of cultural, religious or traditional norms".

Female applicants from Iran

- The Council for Alien Law Litigation (CALL) in Belgium [sent back](#) the case of an Iranian woman to the Commissioner General for Refugees and Stateless Persons (CGRS) for re-examination. Due to the changing political, social and security situation for women in the country following the death of Mahsa Amini and subsequent protests since autumn 2022, CALL concluded that the applicant would be at risk.
- In Cyprus, the International Protection Administrative Court (IPAC) [granted](#) refugee protection *sur place* to an Iranian woman based on her growing political engagement and opposition to the Iranian government.
- The UN Committee on the Elimination of Discrimination against Women [found](#) a violation of the Convention when Switzerland failed to conduct a thorough risk assessment prior to considering a return for an Iranian woman who was a victim of domestic violence by her father and brother. The committee underlined that the Swiss authorities incorrectly rejected the claim on the lack of protection by Iranian authorities, basing themselves only on the fact that the woman never requested protection, not considering other elements of the case.

Statelessness

- In March 2023, UNHCR issued its annual background note on gender equality, nationality laws and statelessness. The note presented law reforms and initiatives at the regional level to promote gender equality in nationality matters and provided an overview of nationality laws which do not grant women equality with men in conferring nationality to their children.²⁰

Gender-related considerations in the asylum procedure

- Two relevant judgments were pronounced in Austria and Belgium on the possibility to have a same-sex interpreter, interviewer or judge to ensure a fair trial in appeal procedures. In a case in which a female applicant alleged the risk of being subjected to a forced marriage in Syria, the Federal Constitutional Court of Austria [ruled](#) that a judgment pronounced on appeal by a male judge could violate the applicant's right to a fair trial, if the applicant claimed a violation of sexual self-determination before the Federal Office for Immigration and Asylum (BFA). This was irrespective of whether the statements of the applicant were credible.
- The Council of State in Belgium [ruled](#) that the possibility for an applicant to have a personal interview with the authority led by a person of the same sex and assisted by a same-sex interpreter, as provided by Article 15 of the recast APD, does not apply to appeal procedures. These guarantees would apply on appeal only if the applicant was not given this opportunity before the determining authority.
- The European Network of Migrant Women recommended that countries should ensure to provide information directly to female members of asylum-seeking families about their rights and freedoms within the EU. The organisation mentioned that frequently information is given to the male head of the household.²¹ Furthermore, the organisation noted that many non-EU languages do not have a literal equivalent for some terms or

concepts, so the quality of translations should be reviewed carefully. Poor translations of information material can exclude migrant women from being aware of their legal rights and health services that are available.

Resettlement

- In 2023, females and males were resettled in equal numbers.¹ Women and girls were most prominent among resettled Afghans (57%), as well as among Congolese (DR), South Sudanese and Somalis (52% each).²
- The shares of females and minors in the total number of resettled persons in 2023 suggest that mainly families were resettled.
- In 2023, Sweden prioritised women, girls and vulnerable groups, including LGBTIQ people, for its remaining quota to resettle 500 refugees.²²

Integration

- The European Network for Migrant Women reported that certifying language knowledge was a challenge for some Afghan women living in Italy. Private language courses may not hold the same level of recognition as certificates obtained from public institutions.²³

Temporary protection

- The demographic composition of displaced persons from Ukraine posed additional challenges for their integration into host societies. Almost one-half of temporary protection beneficiaries in the EU are adult women, while children account for almost one-third.²⁴ The burden associated with care responsibilities and the unavailability of appropriate childcare were indicated as potential restrictions to Ukrainian women's prospects to take up employment in host countries.²⁵
- While examining the case of an elderly woman from Odesa Oblast in Ukraine, the CNDA in France [concluded](#) that the situation of indiscriminate violence prevailed, but its intensity did not reach the level where the woman's mere presence would entail a real risk of serious harm. However, taking into account the woman's great vulnerability due to her old age, medical conditions and the absence of family members in Odesa, the court concluded that she would be at a real risk of serious harm and granted subsidiary protection.

¹ For 8% of cases, the sex of the resettled person was unknown.

² Only citizenships with at least 100 resettled persons were considered.

4. Case law related to victims of trafficking

National courts reviewed several trafficking cases involving women, mostly from the African continent. Considering COI, the courts noted that a return to the country of origin would pose a significant risk for the victims.

- The Constitutional Court in Austria **annulled** a lower court decision and held that a mother of two children, a victim of trafficking for the purpose of sexual exploitation, would be at risk of being re-trafficked if returned to Nigeria.
- In France, the CNDA **granted** subsidiary protection to a former victim from the Democratic Republic of the Congo who was trafficked by a Nigeria-based transnational sexual exploitation network.
- The Court of Appeal of Palermo in Italy **upheld** the appeal of a Nigerian woman and ruled that the applicant would be at risk of stigmatisation and re-trafficking if returned. Consequently, the victim was granted refugee status and the right to remain in Italy.
- In Czechia, the Regional Court in Ostrava **assessed** the case of a Nigerian woman whose asylum application was rejected twice. The asylum authority had considered that the woman became a victim of trafficking during her journey to Europe and could therefore safely return and get assistance in her home country. However, the regional court referred to relevant COI and international law to conclude that the woman had already fallen victim to trafficking in her country of origin, Nigeria, and not during her journey to Europe, and she could be at risk of being re-trafficked and persecuted if returned.

To search for more developments by topic, country or year, consult the [EUAA National Asylum Developments Database](#).

To read more case law related to asylum, consult the [EUAA Case Law Database](#).

For more information, please contact: asylum.report@euaa.europa.eu

Sources

Please see [Sources on Asylum 2024](#) for the full list of over 1,300 references which were consulted for the Asylum Report 2024.

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