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4.2. Protecting women and girls

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The Istanbul Convention entered into force in respect of the EU on 1 October 2023, including the provisions relating to asylum and *non-refoulement*.1001 At the country level, efforts focused on the prevention of violence against women and girls and support for female victims of violence. Comprehensive mappings still revealed many of gaps in asylum and reception systems, risking the safety of women and girls. These gaps and their detrimental impact were also captured and adjudicated by courts.

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.1002 The legal practice on Afghan women was also updated in Denmark at the beginning of 2023. The Refugee Appeals Board changed its practice so that Afghan women and girls are granted asylum based solely on their gender as a starting point. Following this change, the Refugee Appeals Board granted international protection to an Afghan woman and her daughter who were previously denied the status. Swiss authorities also changed their approach, following the ruling of the Federal Administrative Court *(see Section 3.4.5)*.

Austrian authorities launched an information campaign to fight 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 BFA locations, the Federal Administrative Court in Vienna, Graz, Linz and Innsbruck, and the nine integration centres of the Austrian Integration Fund.1003

The Maltese AWAS 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.1004

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.1005 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. 1006

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.1007

The 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 QD in line with the Istanbul Convention.

UNHCR submitted a statement in the context of a preliminary ruling pending before the CJEU on the relevance of westernised/non-conforming behaviours (especially for women and girl applicants), membership of a particular social group and assessing the best interests of the child in the asylum procedure.1008

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.

The Belgian CALL sent back a case to the CGRS for re-examination. It involved an Iranian woman who would be at risk since the changed political, social and security situation for women in the country following the protests since autumn 2022 prompted by the death of Mahsa Amini. The UN Committee on the Elimination of Discrimination against Women found violations of the Convention for an Iranian women, victim of domestic violence by her father and brother, who fled the country in 2015 and arrived to Switzerland in 2016, where her application for international protection was rejected. 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.

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.

The Danish Refugee Council noted a change in the approach in the Refugee Appeals Board's reasoning following criticism from the UN Committee on the Rights of the Child (UN CRC) in 2022. The Refugee Appeals Board 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.

The French CNDA examined several applications due to a fear of FGM/C and concluded the existence of a particular social group of 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.

For an elderly woman from Odesa Oblast, the court 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.

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 European Network of Migrant Women comprehensively summarised the challenges faced by female applicants during the asylum procedure and in reception. The organisation 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.1009

At the country level, 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.1010 The Belgian Nansen presented a practical guide and a tool on international protection and gender-based violence to support legal practitioners.1011 The Swedish Refugee Law Centre mapped the challenges of women throughout the asylum procedure in Sweden and made recommendations for improvements, noting also good examples from the case studies.1012

Recommendations on further improving asylum and reception systems came from the concluding observations of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) for Germany,1013 Iceland,1014 Slovakia1015 and Spain.1016

- 1001Council Decision (EU) 2023/1076 of 1 June 2023 on the conclusion, on behalf of the European Union, of the Council of Europe Convention on preventing and combating

violence against women and domestic violence with regard to matters related to judicial cooperation in criminal matters, asylum and *non-refoulement*, June 1, 2023. https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32023D1076

Council Decision (EU) 2023/1075 of 1 June 2023 on the conclusion, on behalf of the European Union, of the Council of Europe Convention on preventing and combating violence against women and domestic violence with regard to institutions and public administration of the Union, June 1, 2024.

- 1002Finnish Immigration Service | Maahanmuuttovirasto Migrationsverket. (2023, February 15). *Refugee status to Afghan women and girls*.

- 1003Federal Office for Immigration and Asylum | Bundesamt für Fremdenwesen und Asyl. (2023, December 4). *Gegen Gewalt an Frauen: ÖIF, BVwG und BFA informieren Zuwanderinnen über Unterstützungsangebote [Against violence against women: ÖIF, BVwG and BFA inform immigrants about support offers]* . https://www.bfa.gv.at/news.aspx?id=337A67425A5942496759773D
- 1004Department of Justice | An Roinn Dlí agus Cirt. (2023, March 6). *Dedicated State agency to oversee and support dramatic increase in refuge accommodation under new legislation from Minister Harris* [Press release].

- 1005Ministry of Inclusion, Social Security and Migrations | Ministerio de Inclusión, Seguridad Social y Migraciones. (2023, April 18). *Inclusión y ACNUR extienden el protocolo de actuación sobre violencia de género a los centros de atención humanitaria [Inclusion and UNHCR extend the action protocol on gender violence to humanitarian care centers]* [Press release].

- 1006United Nations High Commissioner for Refugees. *Proyecto SEMilla2023 [SEMilla2023 Project]*.

- 1007Decreto-Legge 5 ottobre 2023, n. 133 convertito con modificazioni dalla L. 1 dicembre 2023, n. 176 [Decree-Law of 5 October 2023 No 133 coverted with amendments by Law 1 Dece,ber 2023 no 176], 5 October 2023.

- 1008United Nations High Commissioner for Refugees (2023, June 21). The Office of the United Nations High Comissioner for Refugees Statement on Membership of Particular Social Group and the Best Interests of the Child in Asylum Procedures Issued in the context of the preliminary ruling reference to the Court of Justice of the European Union in the case of K., L. v. Staatssecretaris van Justitie en Veiligheid (C-646/21). *Refworld - UNHCR's Global Law and Policy Database* . https://www.refworld.org/jurisprudence/amicus/unhcr/2023/en/124273
- 1009European Network of Migrant Women. (2023). Input to the Asylum Report 2024.

- 1010Council of Refugee Women in Bulgaria. (2023, February 21). *Refugee women and gender based violence*.

- 1011Ghent University | Université de Gand. (September 2023). *Guide Pratique pour les avoicates. Procédures de Protection Internationale Liées au Genre. Violences sexuelles ou basées sur le genre, orientation sexuelle et identité de genre [Practical Guide for Lawyers. Gender-Related International Protection Procedures. Sexual or gender-based violence, sexual orientation and gender identity].*

- 1012Swedish Refuge Law Center | Asylrättscentrum. (March 2023). *Kvinnor i asylprocess: vikten av ett genusperspektiv [Women in the asylum process: the importance of a gender perspective]*.

- 1013United Nations Office of the High Commissioner for Human Rights. (2023, May 26). *CEDAW/C/DEU/CO/9, Concluding observations on the ninth periodic report of Germany.*

- 1014United Nations Office of the High Commissioner for Human Rights. (2023, May 26). *CEDAW/C/ISL/CO/9, Concluding observations on the ninth periodic report of Iceland* . https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW%
- 1015United Nations Office of the High Commissioner for Human Rights. (2023, May 26). *CEDAW/C/SVK/CO/7, Concluding observations on the seventh periodic report of Slovakia*. https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW%2
- 1016United Nations Office of the High Commissioner for Human Rights. (2023, May 26). *Concluding observations on the ninth periodic report of Spain* . https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW%

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