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EMPOWERING MIGRANT WOMEN LIVING IN THE EUROPEAN UNION

Report of a workshop organised by Solidar and the European Women's Lobby
in the framework of the Social Platform Conference 'Building Social Policy on
Fundamental Rights', Brussels, 12 October 2005

social**platform**

Introduction

The workshop **Empowering migrant women living in the European Union** was organised by the European Women's Lobby and Solidar, and was part of a conference "Building Social Policies on Fundamental Rights" organised by the Social Platform in Brussels on the 12th October 2005.

The aim of the workshop was to raise the awareness of the specific situation of migrant women, in particular by emphasising the obstacles and challenges migrant women face in Europe. Why is a gender-specific approach to migration policies important? What aspects does such an approach need to take into account? And how is a gender sensitive approach to migration best put in place?

In order to get a holistic picture of the situation of migrant women in Europe, the workshop combined the perspective of experts on European level migration policies with the practical experience of 2 Solidar member organisations who provide services for migrant and refugee women in EU member states. Only when we are able to combat the specific discriminations migrant women face can we ensure that fundamental rights of all migrants are respected and guaranteed. Social services are an important element in combating these discriminations and are therefore an integral part of the fight to guarantee fundamental rights for all.

The following report presents the expert inputs to the workshop, as well as draws some conclusions for the future of migration policy in the European Union.

solidar is a European network of social and economic justice non governmental organisations (NGOs) working in development and humanitarian aid, social policy, social service provision and life-long learning.

solidar member organisations cooperate closely with organisations of migrants in providing social and educational service for migrants in Europe. At the same time Solidar members work in development and humanitarian aid activities. The combination of this EU internal perspective and global development activities allows a holistic approach to the issues of migration.

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The **European Women's Lobby (EWL)** is a Non Governmental Organisation bringing together women's NGOs from 25 of the Member States of the European Union and accession countries, as well as from 20 European-wide and international organisations.

EWL's mission is to work together to achieve equality between women and men, to eliminate all forms of discrimination against women, to ensure respect for women's human rights and to eradicate violence against women.

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PART 1: The situation of migrant women in the European Union

Integrating women's rights and needs into migration policies at European level,
Clarisse Delorme, Policy Coordinator at the European Women's Lobby

1. The political and legal background relating to immigration

In 1999, the Amsterdam Treaty granted the EU competence in the area of immigration, establishing an area of freedom, security and justice. On this basis the European Council meeting in Tampere adopted an initial work programme in 1999, which was followed by The Hague Programme (November 2004). The Hague programme defines the objectives to be achieved with a view to establishing a common immigration and asylum policy for the period 2005-2010.

The objectives defined by the European Union Member States in the Hague Programme are in line with the restrictive national immigration policies of the Member States in recent years: in particular, most striking are the concept "zero migration" in relation to unskilled workers and the voluntary return or deportation of immigrants who are in the country illegally.

European legislation very often ignores the situation of immigrant women. How is it that women are excluded from the debate and from policies in relation to immigration?

- There is a **lack of a real policy covering gender and ethnic background**, as issues of gender and ethnic backgrounds are covered by separate policies rather than integrated approaches. . This problem of double discrimination has however been raised within several international bodies (Council of Europe, UN, IOM, etc.). These organisations all recognise that the experience of immigration and integration in the host country can be different for men and women.
- The **image of immigrant women** in Europe is still the image of the submissive woman, corresponding to the patriarchal system which restricts women to their traditional family roles. This image in society influences the measures adopted relating to immigrant women, which are based more on protection than on independence.

2. The path of immigrant women

2.1 Why do women immigrate?

The decisions for women to immigrate are usually based on issues closely related to gender, insofar as these issues are only related to women and have a direct impact on their lives: for example the feminisation of poverty, sexual violence in armed conflict situations or political and cultural structures which violate women's human rights. The same applies for women who are victims of trafficking or are used for the purposes of sexual exploitation.

2.2 Conditions for entering the EU: What is the status of immigrant women?

Regardless of the way in which immigrant women enter the European Union, they face discrimination both as women and as immigrants, which restricts their independence. Some examples:

>> Family reunification: lack of an independent legal status

Council Directive 2003/86/EC of 22/09/2003 on the right to family reunification. The objective of this directive is to define the conditions whereby family reunification is granted to third country nationals who are living legally in one of the Member States.

The absence of the automatic recognition of an independent residence and work permit for the spouse (being in the large majority women) who is joining the sponsor within the context of family reunification keeps them in a situation of dependence reliant on the status of their husbands.

>> Economic migration

As far as economic migration is concerned, legislation has not yet been harmonised at European level. In January 2005, the Commission initiated a debate on this issue in its **Green paper on an EU approach to managing economic migration.** The green paper mainly deals with the « technical » aspects of immigration from an economic point of view. It does not include any comment or analysis on the impact that the proposed procedures would have on the immigrants, as individual men and women, members of a family and/or future parents.

>>> The specific case of the trafficking of women for the purpose of sexual exploitation

Two important texts have been adopted at European level:

- **Council framework decision of 19th July 2002 on the fight against the trafficking of human beings.**
- **Council Directive 2004/81/CE of 29th April 2004 on the residence permit issues 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:** This draft directive aims to grant temporary residence permit to victims of trafficking in human beings if they assist the competent authorities and if they give evidence against the traffickers. The EWL has criticised this directive, calling for stronger support for the victims: they should be granted a **residence and work permit in the host countries without any conditions attached.**

Although the EU has openly declared its commitment to the fight against the trafficking of human beings on several occasions, the structural causes of trafficking have not been tackled: The **male demand to buy a woman's body** is a determining factor which increases

trafficking of women and children. Amongst other things, the closing of borders and **restrictive immigration policies** contribute to the perpetuation of trafficking of women.

2.3 Living in the EU

The integration of third-country nationals is an important debate throughout the EU. The majority of Member States are undergoing an increase in immigration and are developing so-called integration policies with results that are satisfactory to varying degrees. In general, women immigrants, like European women, face discriminations in all aspects of life: employment, education, media, health, etc. But this discrimination is doubled for women immigrants due to discrimination based on their ethnic background that calls for a specific approach.

>>> Employment

One of the main solutions for the integration of immigrants in the European Union is gaining **steady employment** accompanied by access to social protection and health care. Immigrant women face **specific difficulties on the labour market** which can be attributed to several **reasons**: a lack of information on the education system, lack of training or language problems, a lack of access to affordable childcare, discriminations.

Furthermore, the practice of certain **religious traditions** which are based on a **conservative and patriarchal organisation of the family** – where the women's role is that of wife and mother – is also a barrier to women's independence and to their full participation in society and the labour market.

>>> European responses

Council Directive of 29th June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin: This text does not mention the situation of women facing multiple discrimination.

The Council Directive 2003/109/EC of 25 November 2003 concerning the status of third-country nationals who are long-term residents who have been legally resident for five year. This directive aims to integrate these third-country national in the Member States by granting them the same economic and social rights as nationals. Although it refers to the general principle of non-discrimination based, amongst others, on gender, there is no recognition of an independent legal status in favour of the spouse.

A common framework for the Commission establishing a common agenda for the integration of third-country nationals in the EU (COM(2005)389 final), September 2005 : This communication is the Commission's first response to the invitation of the European Council to establish a European framework for integration. It includes concrete proposals at national level and a series of EU supporting programmes, and foresees that the proposed actions should incorporate a gender perspective. However, the document does not propose any specific action in favour of immigrant women apart from the need to promote employment of immigrant women.

3. Recommendations for a gender aware European Immigration Policy¹

3.1. A gender analysis should be included in the policies and actions at every stage in the immigration process: cooperation/development, trans-national cooperation, integration in the host country.

3.2. The following basic principles should be respected:

- The European immigration policy must be based on human rights and not solely on Europe's economic or demographic needs.
- The individualisation of rights and services are an essential tool in guaranteeing the equal position of immigrant women and men. It is essential that at each stage of the immigration process, immigrants can avail of their own rights.

3.3 A legal system should be established which guarantees:

- a legal status for all immigrants, which is equivalent to that of EU citizens, regardless of the manner by which they entered the EU and irrespective of their legal situation. This legal status must grant them basic human rights.
- a legal system and the instruments for integration which are based on the needs of immigrants and should not be restricted to unique rules for entry and residence. It is important that these mechanisms are of a continuous nature so that immigrants are able to improve their status within the EU, in particular through a flexible approach which would allow them to alter their reason for residency. The recognition of qualifications obtained in their country of origin is a prerequisite for the integration of immigrant workers in the labour force.

3.4 The gender dimension should be mainstreamed into European policies – in particular by:

- guaranteeing specific support for immigrant women so that they can defend their rights and combat all kinds of discrimination facing them within their families and communities.
- guaranteeing the participation of immigrant NGOs and in particular NGOs of women immigrants in the development, monitoring and evaluation of European immigration measures.
- developing policies that target in order to combat the double discrimination based on gender and ethnic origin and promoting the access of immigrant women to the labour market, to life-long learning and to training possibilities.
- ensuring that religious and cultural traditions are not used to justify the violation of women's basic human rights.

3.5 European legislation in the fight against trafficking should be strengthened:

- European strategies aiming to prevent trafficking of women must condemn the foremost causes and consequences of trafficking, and strengthen the tools for supporting the

¹ Based on the EWL position "Integrating a gender perspective into EU Immigration Policy", May 2004

victims of trafficking, specifically by granting a residence and work permit in the host country without condition.

Main reference works:

European Women's Lobby (2001) Strengthening Women's Rights in a Multicultural Europe, Contribution to the World Conference against Racism, Racial Discrimination, Xenophobia and associated Intolerance, Brussels, September 2001; EWL position paper "The Integration of a Gender Perspective in the European Immigration Policy", Brussels, May 2004; European Women's Lobby (2004) Beijing +10. 1995-2005 : Review of the implementation of the Beijing Platform for Action by the European Union, EWL report, Brussels, November 2004; Isabelle Carles, 'L'Union européenne et les femmes immigrées, Genre et origine ethnique : une réelle prise en compte des discriminations multiples ?' September 2005

Discriminations experienced by migrant women in the EU – The specific case of undocumented migrant women as domestic workers

Maria Miguel Sierra, independent Consultant and member of 'La voix des femmes' ASBL

Some facts and figures:

The United Nations Population Division estimates that there are approximately 175 million migrant workers throughout the world with 30 million of these in Europe.

Sex-aggregated estimates confirm that there are as many women as men (in 2000, women accounted for 52.4 % of the total number of migrants in Europe).

Increasingly, women are emigrating independently in order to join the labour force in the host countries, and no longer as a dependent of their migrant husbands.

The migration of female labour is characterised by the fact that it is concentrated in a small number of professions which are associated with the traditional division of roles according to sex, such as the domestic sector, entertainment, assistants in the hospitality sectors, cleaning women, shop assistants and manual workers.

Despite the fact that migration has a specificity linked to gender, the policies and regulations relating to immigration do not consider this aspect. The sending and host countries are not worried about establishing the necessary tools to promote and protect human rights and the dignity of the female migrant workers. In general, the policies that already exist tend to reproduce and perpetuate social, cultural and economic inequality between men and women.

Discrimination, exploitation and abuse

Migrant workers are more prone to discrimination, exploitation and abuse at different levels:

As women: Women still do not benefit from the same rights and opportunities as men.

As foreigners: Migrant women, like migrant men, do not benefit from the same rights or the same level of protection as nationals in the host country. However, migrant women are more vulnerable as they usually work in sectors that are unprotected by social legislation. Furthermore, the tightening of immigration policies, the attitudes of some politicians and the media, the fear which is incited by the economic situation provoke an increase in xenophobia and racism in host populations. Finally, there is a general perception of the migrant woman in a traditional role detached from public life, looking after her family.

As dependents: Women are faced with discrimination and restrictions in the host country in relation to entry, residency, the right to work, access to social welfare, etc. This is the situation most particularly for women who emigrate as dependents of male migrants. Their rights are dependent on those of their husbands.

In some countries, immigration laws of host countries do not allow migrant women to change employer or require the visa to be sponsored by an employer. This **rule of a single**

employer places the worker under the control of his or her employer. So as not to lose her residency entitlement in the host country, the migrant woman can be forced to undergo many kinds of abuse.

The rule of **European preference** requires Member States when considering a request to enter the EU to check if the job cannot be filled through someone from national, EU nationals or through non EU nationals who are already permanently resident and legally in the EU. Migrant women are thus accepted into host countries to take up jobs that local people did not want to do.

As illegal immigrants: Women are particularly vulnerable to exploitation and abuse. Without a legal status, they have no legal means if their rights are being violated. They are too scared to make a complaint or to ask the authorities to help them from fear that they will be deported from the country. Although it is often carried out in extremely difficult conditions, undeclared work is often the only way that these women can provide for their families who have stayed in their home country, to reimburse their debts which they have accumulated to pay for their trip to Europe or to survive in the host country.

Domestic work: a growing sector

The demand for domestic workers is growing as a result of changes in economics and society such as the increase of the number of households where both parents are working full time, lone parent families and the ongoing needs linked to the ageing population. It has become essential to employ female migrant workers so as to allow the women who employ them to be active in the workplace and society.

In light of the increase in demand for domestic workers in developed countries, there is an increase in the number of women migrating. While some countries have taken steps to facilitate the migration of women domestic workers, immigration laws which are generally very limited favour the illegal entry of these women which in turn leads to illegal residency and undeclared work.

Finding herself in a particularly precarious situation, the undocumented domestic worker is open to all kinds of abuse: long working days, being paid less than the minimum wage, no leave or holidays, losing her job if she becomes ill or pregnant. The lack of work contracts and the recognition of domestic work in the labour rights in many countries gives the employer the right to decide the working conditions on his or her own initiative.

Physical, psychological and/or sexual abuse are also commonplace;
Psychological abuse is usually verbal humiliation or threats of firing.

Women are often employed on their own and to work for individuals. This fact makes them all the more invisible, lonely and they have increased difficulty in getting organised to defend themselves. They are not informed about their rights, do not speak the language of the country where they work, they are more at risk of falling into the vicious circle of a violent marriage, of accepting to have children in order to obtain residency or citizenship by this

means, or to work in prostitution in order to survive and to provide for those who are dependent on their success here.

Although it is the responsibility of the consulates to help the nationals of their country, they do not always provide efficient protection.

Some ideas and recommendations

- An immigration policy should be developed which takes into consideration the gender dimension, which recognises the **benefits of immigration** and which establishes tools to restrict the negative impact.
- Migratory policies should be developed which take into consideration the **existence of emerging needs in particular in the domestic sector, care of children and elderly people** and providing care in the home.
- Migrant workers should be granted a **residency and work permit** to enable them to work as a domestic worker for an individual household. This permit should allow them to change employer or to move into a different sector of employment.
- **Domestic work should be subject to regulation** which guarantees that the worker can avail of the full range of social rights and social protection.
- All migrant workers regardless of status should be entitled to **basic human rights** such as the right to health care, housing, education and professional training, fair working conditions and their physical and moral integrity, the right to live in a family, the right to legal assistance.
- **Specific services** which aim to facilitate the enable migrant women to gain employment should be developed: language courses, training leading to qualifications, childcare, etc.
- Initiatives started by migrant women and the **networking** of organisations of migrant women should be supported.

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PART 2: Examples of social services supporting migrant women in the host country

Women of One World: Helping migrant women for a better living Anita Seelaus, Volkshilfe Oberösterreich, Austria

Anita Seelaus from Volkshilfe Upper Austria presented the work of the psychosocial help-centre for women-refugees Women of One World. The centre was established in 1995, offering help services for Bosnian female asylum-seekers and refugees. In 1996 the spectrum of the project was widened to include women asylum seekers and refugees from all over the world. Furthermore, services were now also provided for women immigrants.

Due to retrenchments in 2004, the organisation had to limit its services again to female asylum seekers and refugees.

How is the project financed?

The project Women of One World is financed by the Austrian Ministry of the interior, the local government and the municipality. The work for women immigrants was undertaken between 1995 and 2003 without any additional financial support from the authorities. The authorities called upon Volkshilfe to widen their target group but provided no finances for this additional work.

What is on offer?

The services provided by Volkshilfe Upper Austria's women asylum seekers and refugee centre include:

- help in family, educational and cultural matters
- support in social and women's issues
- intern cooperation with psychological personnel or legal advisors
- assistance with problems of everyday life
- German language courses (babysitting provided)
- consulting and support of children having problems at school
- information evenings on women's issues

All services are offered in the client's mother-tongue if required!

Nearly all problems can be solved – an example of the work

Ms. A is a refugee from Iraq and only speaks Kurdish. She is married to an Iraqi man, and they both live in Austria as well. Ms. A is pregnant from another man who lives in Germany. She wants to divorce from her husband. Ms. A does not have a job; she consequently has no income and no place to stay. Temporarily, she is staying with a family of five persons, who themselves live in a small flat with two rooms. She does not have any social security because

her husband does not want to co-insure her. Subsequently she cannot go and have the medical checkups – which in Austria are obligatory when you are pregnant.

The first information from the social security system was that her husband's permission was necessary to co-insure Ms. A. After long negotiations, which Ms. A could not have done on her own because of the lacking knowledge about the Austrian system and the fact that she did not speak German, we managed to co-insure her on her husband's social security. In a second step, we helped her organising her medical check-ups. Furthermore, we managed to apply for social welfare for her, which in the beginning was denied because her husband was supposed to come up for her, which he did not do. We helped her file for divorce. Finally we found Ms A a place in a women shelter. In Austria, these shelters are usually not open to women who do not speak German. The shelters claim that women who do not speak German do not understand the rules of the shelter and cannot interact with the other women. They are there fore potential 'disturbing factors'. Only the fact that we promised to help Ms. A with understanding the rules of the shelter and integrating with the other women, made it possible to her to join.

Accessible services for all

The overall objective of the Women of One World project is to ensure that all women, disregarding their status, origin, language skills and other abilities have access to services and that their fundamental rights are ensured. The example of the women's shelter shows, how very often mainstream services are still not open and accessible for everybody. If all mainstream services were organised in a non-discriminatory way, the range of services the project would offer to meet the very specific needs to women asylum seekers and refugees could be smaller.

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The Work of BLinN: broadening the future options of women victims of trafficking

Sandra Claassen, BlinN, The Netherlands

Sandra Claassen from the programme Bonded Labour in the Netherlands (BlinN), a joint initiative of the Dutch organisations Humanitas and Novib, presented the support activities for trafficked women in the Netherlands. Every year approximately 3500 women are victims of trafficking for the purpose of prostitution. Only 5 – 10 % press charges against their traffickers and enter the existing protection programmes. As the definition of trafficking has only recently changed in the Netherlands, including also trafficking for other sectors, the actual victims are 99% women, mainly coming from Central and Eastern Europe and Western Africa. Most of them are between 18 – 30 years old, and they have very diverse backgrounds concerning education, family situation, etc.

Obstacles for social and labour inclusion

For victims of trafficking to be able to continue their lives, they need a broad range of real life options and future opportunities. Therefore, it is important that they have access to all basic human rights, such as juridical protection, social services, education and employment possibilities. In practice however, they are confronted with a lot of obstacles to their social and labour inclusion.

A. National and local legislation

The basic barrier of most national legislations is that trafficked women are perceived only as witnesses in the legal procedures against the traffickers or as illegal migrants. In this way, protection of the affected women is reduced to their juridical role as witnesses and not as victims of a crime, whose human rights are violated. In most EU countries, possibilities to obtain a residence permit are limited: they are only granted if the women report to the police and if their information is valuable enough to start a police investigation.

In some countries, authorities do not offer possibilities to access education, or they don't have a uniform policy at the local level. Very often, NGOs are the ones that offer educational and vocational training possibilities to the women, sometimes independent of their status

Not in all EU countries it is allowed for victims of trafficking to enter the formal labour market with their temporary residence permit. In the Netherlands it was only recently allowed by law. The fact that victims of trafficking have only a temporary residence permit hampers their inclusion into the labour market

B. Stigmatisation

The media, political debate and police actions such as raids against illegal migrants are negatively influencing public opinion about migrant women victims of trafficking: they are more and more seen as illegal criminals. Triple discrimination of victims of trafficking: as female, migrant, and former prostitute

C. Background of the target group

There is a lack of perspectives in the home country, because of limited socio-economic conditions, gender discrimination, stigmatisation and possible retaliations. In the country of destination there are cultural and language barriers

BLinN aims to support victims of trafficking in human beings in order to improve their future prospects, on the basis of their individual needs, interests and skills.

In the programme, we carry out the following activities:

- Buddy contacts: in which each woman of the target group is linked to a Dutch volunteer to do nice things together
- Support groups: peer groups for trauma counselling and psychosocial support
- Intermediation for education and training
- Intermediation for job insertion
- Preparation and support for return to home country
- Support in alien detention centres
- Research and lobby at the national and international level

Important aspects for policy makers

- **Inclusion of a rights based approach into the international and national legislation on trafficking in human beings**
- Promotion of the active involvement of trafficked women themselves in the elaboration and implementation of policies and interventions
- Adoption of an empowerment approach in all interventions, in order to achieve the independence, self determination and personal development of the victims of trafficking
- Improvement of a cooperation structure between the private and the public sector, also involving educational institutions, enterprises and employment agencies

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PART 3: Conclusions: For a more gender sensitive migration policy in the EU

Taking into account the diversity of migrant women in services and policies

Migrant women do not constitute an autonomous group. Their reasons for migrating, their legal status (or not) in the host country (economic migrant, undocumented migrant domestic workers, migrant women joining their partners under family reunification, students etc), their cultural and social backgrounds are diverse. Different needs and interests result from this diversity, and should be taken into consideration in policies and social services provided.

1. Representation and participation of migrant women in civil society

Supporting migrant women's organisations and networks

Migrant women's NGOs/ networks are essential for the recognition of the economic, social and cultural contribution of migrant women to the host countries. Through exchange of experiences and knowledge, migrant women NGOs can identify common needs and challenges and promote their own rights and interests. Specific programmes focused on migrant women's organizations and networks should therefore be developed and funding made available in order to guarantee participation of migrant women in the development, monitoring and evaluation of immigration policies at national and European level.

Due to their precarious situation, undocumented migrant women, often working in the domestic fields, are even more exposed to isolation and discriminations. Strong solidarity networking is essential as an empowerment measure and should therefore be supported.

2. Supporting the representation and involvement of migrant women in all organisations.

The specific needs and interests of migrant women should be taken into consideration in the work of all NGOs, in particular those acting in the immigration and/or social fields. Participation and representation of migrant women should be encouraged.

3. Antidiscrimination and social inclusion

All migrants – also undocumented – must have the right to access to social services

Ensure that access to services to all is a reality (services meet needs of people)

Social services are **a core element of all European social systems**. They contribute to the development of social cohesion, and to the implementation of fundamental rights of individual users. It is important that social services are accessible to everybody. Social services are also a key element in supporting migrant women in the host country to

overcome discriminatory practices as well as administrative and legal obstacles to their integration in the host country. Strong mechanisms should be developed to ensure the accessibility of social services for migrant women, taking into account their special situation.

Developing care structures (children and other dependent persons)

The availability and accessibility of caring services are an absolute pull factor to the empowerment of migrant women, encouraging their participation in the labour market and therefore their individual economic security.

4. Making EU migration policies gender sensitive

Developing a human rights approach to migration policies

European immigration policy must be based on human rights and not solely on Europe's economic or demographic needs. This involves the development of a **legal system** and an approach to integration based on the **needs of immigrants**, not restricted to rules for entry and residence. It is important that these mechanisms are flexible enough so that immigrants are able to improve their status within the EU for example by accessing to training and higher qualified jobs.

The recognition of qualifications obtained in their country of origin is a prerequisite for the integration of immigrant workers in the labour force.

Ensuring that migration policies take the needs and situation of women into account

The individualisation of rights and services are an essential tool in guaranteeing the equal position of immigrant women and men. It is vital that at each stage of the immigration process, immigrants can avail of their own rights.
