



**GREEN PAPER ON AN EU APPROACH  
TO MANAGING ECONOMIC MIGRATION**

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**CONTRIBUTION FROM THE EUROPEAN WOMEN'S LOBBY**

EWL welcomes the initiative of the European Commission to launch a consultation on managing economic migration. While it is clear that one of the main drivers of this debate is the challenge posed to sustainable economic development by the large reduction in the working age population in the majority of EU member states, EWL believes that we can only advance the economic needs and interests of the EU and of migrant workers through a recognition of individual human rights, our shared responsibilities and our common values.

EWL maintains<sup>1</sup> that the gender perspective in EU policies on immigration is absent; this means that the discrimination faced by immigrant women and their specific situation is not being addressed. **By maintaining a 'gender neutral' approach to immigration, women's human rights and the experiences and needs of women are being ignored in the current debates and policies around immigration.** As a consequence, the traditional and patriarchal gendered roles are usually reinforced, and immigrant women are often located within the traditional family roles.

A gender aware approach to immigration policy introduces a shift from the predominant view of female immigrants as simply the wives and children of male immigrants to incorporating an understanding of women's human rights and of the unique experiences of women immigrants themselves.

### **1. General remarks**

The Green Paper mainly deals with the 'technical' aspects of migration with a strong economic focus (it refers to the demand and supply of migrants for the EU). EWL is very concerned that the overall document does not include any reflection or analysis of the impact the proposed procedures would have on immigrants, as individual women and men, family members and/or potential parents. Such reflection must include a proper gender impact assessment, ensuring that women's rights and needs are taken care of at all stages of the migration process. More generally the full respect of immigrants' fundamental rights should be one of the main horizontal criteria to be looked at when reflecting on migration policies.

Along the same lines, EWL considers that the language used in the paper when referring to migrants is very inappropriate: migrants are seen as 'goods', rather than human beings: the text mentions "stock of manpower" (p.6), "Volumes of admission of persons" (p. 5), "proof of shortage" of migrants (p.8).

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<sup>1</sup> EWL Position paper 'Integrating a gender perspective into the EU immigration policy framework', 02/2004

## 2. Developing an EU approach to labour migration integrating a gender perspective

### 2.1 Degree of EU harmonisation

Concerning the degree of EU harmonisation, EWL recommends the adoption of a **horizontal approach** covering the conditions of entry and residence of *any* third country national exercising employed, self-employed or other economic activities. This approach, by opposition to the 2 other ones proposed in the green paper, is the only which does not introduce discrimination between migrants, in particular between low skilled migrants and 'specially' or highly skilled migrants.

Although there is a lack of statistics in this area, it is well known that cultural and political mechanisms relegate immigrant women to the family or to certain sectors of **low waged and low skill labour**. Women are also greatly dependent on work in the informal and unregulated labour sectors. This means that women are working without rights and protection and sometimes their work is not even recognised.

The other approaches proposed in the paper – such as the sectoral one or the common fast-track procedures – would unavoidably introduce arbitrary decisions and a differentiated classification of rights to the detriment of immigrants – in particular immigrant women - in the most precarious situations.

EWL recommends the adoption by the EU of an horizontal approach aiming at treating all immigrants equally, whatever their skills; this approach should include a careful analysis of the specific needs and concerns of women.

### 2.2 Admission procedures

As explained above, EWL regrets the absence of considerations of migrant's fundamental rights and basic needs, notably when it comes to the proposed admission procedures for paid employment and self-employment (items 2.2.1, 2.2.2 and 2.3). The debate around this matter should include, not only a gender-impact assessment, but also more long-term considerations, aiming at the full social and economic integration of immigrants in the host country and a proper legal status.

In this context, EWL reiterates<sup>2</sup> that the legal system of entry mechanism:

- should be based on **immigrant needs** and must not be limited to a unique and restrictive ways of entry and staying. Those mechanisms must present a continuum enabling immigrants to improve their status in the EU and shall allow a shift from one purpose of staying to another.
- Should guarantee that **coherent policies and measures ensure the equal legal status** of immigrants, regardless of the entry mechanisms through which people enter into the EU and of their legal situation. This legal status must entitle them to core rights such as economic, human rights, social and civil rights as well as eligibility to welfare provisions.

EWL would like to stress here that policies aiming at regulating the entry of immigrants in the EU must take into consideration the phenomenon of **trafficking and sexual exploitation of immigrant women**. Even if the EU has openly expressed its commitment to combat trafficking in human beings, the structural causes and potential remedies have not been tackled.

### 2.3 Admission procedures for self-employment

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<sup>2</sup> EWL Position paper 'Integrating a gender perspective into the EU immigration policy framework'

Once again, EWL reiterates that the debate around the admission procedures for self-employed immigrants includes a gender equality perspective in the framework of the respect of fundamental rights of immigrants and their families.

#### 2.4 Work and residence permit(s): the problem of dependent legal status

Many women immigrating to the EU have joined their husbands/partners under the provision of family reunion. Their legal position and residence permit is therefore totally dependent on their husband's status and because of this they have only derived rights. They are not entitled to hold a work permit. This leads to precarious situation in situations of domestic violence for example or in case of separation, divorce or the death of their husband where they may be expelled with little opportunity of obtaining individual rights. The immigration policy of EU Member States is often based on the stereotypical assumption that migrant women are not autonomous individuals, but "appendages" of their husbands or fathers and for this reason their own legal identity is not considered a priority.

EWL urges the EU and Member States to grant **independent legal status** - which also covers work permit - to immigrant women, including those who travel with their partners/husbands workers.

#### 2.5 Possibility of changing employer/sector

EWL is concerned that a debate is open on the holder of the work permit, whether it should be the employer or the employee. As it is pointed out in the green paper: *'if the permit holder is the employer, the worker could be exposed to the risk of being unduly controlled, or even "owned" by his/her future EU employer'* (p.10). This situation is particularly true for immigrant women who as the 'property' of their employers could very quickly find themselves 'imprisoned' in a situation of violence and sexual abuses against them.

Furthermore, EWL insists that immigrants should benefit from the same rights than nationals in terms of **professional mobility**: they should be able to change for example from education to work, and from investment into skills and training to higher skilled work or different type of work. Recognition of skills obtained in the country of origin is a prerequisite for the integration of migrant workers into labour market.

#### 2.6 Rights of immigrant women

States have the obligation of to ensure protection of fundamental human rights of all persons in their territories, regardless of their status or the length of their stay in the host country.

EWL recalls that the **UN International Convention on the Protection of the Rights of All migrants Workers and Members of Their Families** (18/12/90) seeks to establish minimum standards of protection in legal, political, economic, civil, social and cultural rights for migrant workers and members of their families, while enabling States that desire so to provide additional protection in specific areas. It seeks to play a role in preventing and eliminating the exploitation of all migrant workers and members of their families throughout the entire migration process.

Although this Convention is not – regrettably enough - gender-sensitive, it represents the most comprehensive international instrument to date on migrant workers. However, not a single EU Member States has ratified the Convention, or accede to it yet.

EWL therefore urges EU Member States to ratify the International Convention on the Protection of the Rights of All migrants Workers and Members of Their Families, or accede directly to it.

#### 2.7 Accompanying measures: integration, return and cooperation with third countries

##### *2.7.1 Integration*

EWL stresses that all immigrant women, including highly skilled and qualified ones, do experience gender discriminations not only in terms of their integration in the host country, but throughout the whole migration process.

EWL agrees that a successful EU policy on economic migration “*must be accompanied by strong policies to integrate migrants admitted*”. However, although immigration has been included in recent EU documents on social and employment issues, the measures to promote the integration of immigrants remain weak, limited to “*third country nationals legally residing in the territory of the European Union*” and do not include a gender perspective.

This means, on the one hand, that the situation of immigrant women has not been taken into consideration and, on the other, that the few benefits and rights derived from the EU policies on integration and immigration won't be applied to undocumented women and men.

The number of **undocumented immigrant women** and men is growing in Europe. As a result, a large number of immigrant women and men are living and working within the European Union without any protection, with very limited access to rights and services, with no opportunity to work outside the unregulated labour market on the so-called “three D” jobs: dirty, degrading and dangerous. The EU has openly expressed its commitment to combat undeclared work, however the EU policies and measures to combat undeclared work do not address the issue of undocumented immigrant and therefore do not propose any solution to this situation. In addition, many States are informally tolerating irregular immigration while they officially reinforce controls against “illegal” immigrant workers. *The effects are, on the one hand, a continued supply of cheap labour, while on the other hand, “illegal” migrants unable to organize in the workplace to defend their dignity and decent work conditions, stigmatised and isolated as well from allies and support.*<sup>3</sup>

Furthermore, EWL regrets that the Green Paper does not take into consideration the **alarming rise of racist and xenophobic hostility against immigrants**. A comprehensive policy aiming at the integration of immigrants in the host countries must be based on the respect of fundamental human rights and include measures fighting racism and xenophobia.

EWL recommends therefore the development of a comprehensive policy ensuring the protection and integration of all immigrant women in the host country, and in particular aiming at:

- Supporting to all immigrant women so that they can defend their rights and fight against any discrimination that they experience within their own families and communities;
- Giving access to immigrant women to the labour market and to the lifelong learning and training opportunities;
- Fighting against political and cultural mechanisms that in each stage of the immigration process relegate immigrant women to certain economic sectors/jobs (mainly care and domestic services) and to the unregulated labour market;
- Regularising all immigrants present on EU territories by granting them an independent legal status, individual rights and access to social welfare provisions;
- Combating undeclared work and addressing the issue of undocumented immigrants by providing the right to find a job in the regular labour market and addressing the specific needs and situation of immigrant women;
- Promoting the full participation and integration of immigrant women in social, cultural and civil life and recognising their contribution to the host society;
- Fighting against the alarming rise in racist and xenophobic hostility against immigrants;

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<sup>3</sup> Patri A. Taran (ILO) : “Globalisation, Migration and Exploitation: Irregular Migrants and Fundamental Rights at Work”. Paper presented at the *International Conference on Undocumented Migrant workers “How far do we want to go?”*, organized by PICUM on 6 May 2003 at European Parliament, Brussels.

- Celebrating multiculturalism in Europe and defending the respect of cultures, religious and cultural customs, although these can never be used to justify any violation of Women's fundamental human rights.

#### *2.7.2 Return and cooperation with Third Countries*

EWL agrees that “a successful EU policy on economic migration requires that migration flows are managed in cooperation with the countries of origin and transit, taking into account their reality and needs”. Immigrants' rights and needs must also be taken into consideration in that regard. This involves the right for immigrants to return to their country if they wish as well as the development of a proper cooperation policy with the country of origin.

### **3. Conclusion**

EWL would like to recall the many opportunities that migration offers to the immigrants and his/her family, to the countries that receive new workforce and also, notably in the form of remittance payments, to their countries of origin. But migration also involves complex challenges, such as the increase of unemployment or “brain drains” in one region or sector, for which the full impact is not yet well understood. A careful management of migration is therefore essential. We must be vigilant that the migration policy is based on the common values of respect of “human dignity, freedom, democracy, equality and the rule of law”<sup>4</sup> and fully respects the human rights of individual immigrants - women and men - and their families.

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<sup>4</sup> Article I-2 of the Treaty establishing a Constitution for Europe