EUROPEAN OMBUDSMAN
COMPLAINT ABOUT MALADMINISTRATION
PRESENTED BY WOMEN’S LINK WORLDWIDE
JUNE 21, 2016

1. Complainant

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About Women’s Link Worldwide: Women’s Link is an international human rights organization that uses the power of law to promote social change that advances the rights of women and girls, especially those facing multiple forms of discrimination.¹ We have a strong presence in Europe and Latin America, with regional offices in Madrid, Spain and Bogotá, Colombia, as well as legal projects in East Africa. As shown in the attached Articles of Incorporation (Document No. 1, escritura pública), the organization Women’s Link Worldwide is based in European Union territory, with headquarters in Madrid, Spain.

We envision a future of justice and equality where all people, regardless of gender, can fully enjoy their rights. To achieve our mission, we bring a gender perspective and an intersectional analysis to human rights law; we go beyond the courtroom and use our work in litigation and other legal processes to strengthen the human rights infrastructure, create public debate, and contribute to social movements that can transform society and guarantee women’s and girls’ rights. Our work is guided by three themes with the potential to link different aspects of women’s rights: discrimination against women and girls, sexual and reproductive rights, and gender-based violence.

¹ For more information about Women’s Link Worldwide, see: womenslinkworldwide.org/?idi=en
with an emphasis on transitional justice, international gender crimes, and human trafficking.

We have extensive experience in documenting violations of women’s and girls’ human rights. The following are examples of investigations we have undertaken: Action against Discrimination-ACODI, which documents 612 cases of discrimination in Spain;2 Asylum and Gender: Orientation Manual;3 Migrant Women’s Rights: An Invisible Reality;4 Almeria: The Story No One Tells;5 Migrant Women in Hiding: Clandestine Abortion in Morocco;6 Women in Spanish Foreign Detainment Centers: From Behind Bars;7 Trafficking and Exploitation in Colombia: Can’t See It, Can’t Talk About It;8 and Trafficking of Nigerian Women and Girls: Slavery across Borders and Prejudices.9

In addition to documenting human rights violations, our work includes public interest litigation. Women’s Link is currently litigating cases related to human trafficking for purposes of sexual exploitation before the European Court of Human Rights where the authorities failed to fulfill their obligation of acting with due diligence to protect victims of sex trafficking who they knew or should have known were being exploited in Spain.10 Other initiatives we have participated in recently include the event “Gender Perspectives on Torture and Ill-treatment Expert Consultation,” organized by the American University Washington College of the Law’s Center for Human Rights & Humanitarian Law and the UN Special Rapporteur on Torture in November 2015.

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2 Women’s Link Worldwide (2007). *Action against Discrimination-ACODI*, only in Spanish (*Acción contra la Discriminación ACODI*). Available at: es.calameo.com/read/004373773a968d7fe69f96b
5 Women’s Link Worldwide (2011). *Almeria: The Story No One Tells*, only in Spanish (*Los derechos de las mujeres migrantes. Almería: la historia que nadie cuenta*). Available at: es.calameo.com/read/004373773c1b9f25e1047
6 Women’s Link Worldwide (2011). *Migrant Women in Hiding: Clandestine Abortion in Morocco*. Available at: es.calameo.com/read/004373773e86bcb1b6df2e
7 Women’s Link Worldwide (2012). *Women in Spanish Foreign Detainment Centers: From Behind Bars*, only in Spanish (*Mujeres en los centros de internamiento de extranjeros. Realidades entre rejas*). Available at: es.calameo.com/read/00437377363c8e6b03bd0
8 Women’s Link Worldwide (2013). *Trafficking and Exploitation in Colombia: Can’t See It, Can’t Talk About It*, only in Spanish (*La trata y explotación en Colombia. No se quiere ver, no se puede hablar*). Available at: es.calameo.com/read/004373773e4e20f9b90d1d
the event, the Special Rapporteur released a *Thematic Report on Gender Perspectives on Torture* citing the expert consultation. In April 2016, at the request of the European Parliament, we presented a research paper assessing the implementation of Directive 2011/36/EU on preventing and combating trafficking in human beings and protecting its victims in Spain from a gender perspective.

2. **Against which European Union (EU) institution or body do you wish to complain?**

European Commission

3. **What is the decision or matter about which you complain? When did you become aware of it?**

Our complaint is in relation to maladministration by the European Commission for failing to fulfill its duty of care by not carrying out a human rights impact assessment with gender perspective and including the promotion and protection of children of the 18 March 2016 EU-Turkey Statement and its implementation reports. We became aware when information about the 18 March 2016 EU-Turkey Statement and the First Report on the progress made in the implementation of the EU-Turkey Statement were publicly released by European Union institutions. As noted in response to number six (6) below, Women’s Link contacted the European Commission to request that it carry out a human rights impact assessment with gender perspective and including the promotion and protection of children of the 18 March 2016 EU-Turkey Statement and its implementation reports. As of the date of this complaint, we have not received a response from the Commission.

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4. What do you consider that the EU institution or body has done wrong?

The European Commission has failed to uphold its duty of care by not carrying out a human rights impact assessment with gender perspective and including the promotion and protection of children of the 18 March 2016 EU-Turkey Statement and its implementation reports. This constitutes maladministration because it is contrary to the principles and values of the European Union; Article 21 of the Treaty on European Union; the EU Charter of Fundamental Rights; the EU Strategic Framework on Human Rights and Democracy and Action Plan on Human Rights and Democracy of 25 June 2012; the Action Plan on Human Rights and Democracy 2015-2019; the Strategy for Equality between Women and Men 2010-2015; the Strategic Engagement for Gender Equality 2016-2019; the EU Guidelines on Violence Against Women and Girls and Combating All Forms of Discrimination Against Them; the EU Guidelines for the Promotion and Protection of the Rights of the Child; the Guidelines to EU Policy Towards Third Countries on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; and public international law.

Due to this maladministration there is no mechanism in place to ensure that implementation of the 18 March 2016 EU-Turkey Statement complies with existing human rights obligations and that the particular needs for protection that women, girls, and boys have based on their age or gender are taken into account. This places a majority of the refugee and migrant population in a situation of increased vulnerability and poses a real and imminent risk to their right to life. It is important to note that over a million refugees have arrived in Europe in less than a year, fleeing conflict, violence and instability in Syria, Afghanistan, Pakistan and Iraq. According to the United Nations High Commissioner for Refugees (UNHCR), there were 1.015.078 arrivals to Europe by the Mediterranean Sea in 2015, 208.150 throughout 2016 and 2.856 dead/missing people in the Mediterranean Sea during 2016.15

Maladministration also leads to the violation of the following rights: access international protection; live free of violence and discrimination in EU territory; physical and moral integrity; not suffer torture or inhuman or degrading treatment;

private and family life; health; to sexual and reproductive health; dignity; and to live free of slavery or forced servitude. Furthermore, children’s rights and the principle of children’s best interest are not being guaranteed, particularly the rights to education; to health; to live free of violence; to family; and others.

During field missions to Greece and Turkey from April 23 to May 1, 2016 and to Greece from May 29 to June 6, 2016, Women’s Link witnessed first-hand the situation of particular vulnerability women, girls, and boys face. The field missions confirmed the ongoing rights violations and atrocious conditions the migrant population endures, documented in a myriad of reports issued by human rights organizations and extensive press coverage.16

Women’s Link has documented specific violence directed against migrant women and women who require international protection, including violations of their freedom of movement; violations of their right to an adequate standard of living; increased vulnerability to trafficking networks and to human trafficking for purposes of exploitation, particularly sexual exploitation; violence and sexual violence by traffickers; abuse and corruption by security forces and state agents, including demands for sexual favors in exchange for border crossings or protection; gang rapes; vulnerability to sexually transmitted diseases and HIV; forced abortions, pregnancies, and high-risk births; gynecological infections; public violence at the hands of authorities and local populations; and others.

These human rights violations are a daily fact of life for the women, girls and boys currently living on the borders of Europe and in European Union territory as refugees or

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Migrants are living in refugee camps as well as in make-shift camps in sub-standard conditions. The failure to carry out a human rights impact assessment with gender perspective and include the promotion and protection of children contributes to the lack of prevention of and reparations for these violations or the establishment of guarantees of non-repetition.

Below, Women’s Link details some of the human rights violations that are occurring based on the following: (A) Access to asylum and/or international protection; (B) Non-refoulement; (C) Right to information and legal counsel; (D) Freedom of movement; (E) Inhumane living conditions; (F) Sexual and other gender-based violence; (G) Sexual and reproductive health and rights; (H) Danger of human trafficking; and (I) Lack of assessment of “safe third country” from a gender perspective.

(A) Access to asylum and/or international protection

Maladministration by the European Commission for failing to fulfill its duty of care leads to the failure to implement special protections for women, girls and boys regarding access to asylum and international protection in violation of international and regional law.

Many of the thousands of persons arriving to Europe are entitled to apply for asylum and/or international protection, but this right is not being guaranteed. There is a consensus in European law, European human rights law, and international law that asylum applications made by women and children require the application of specific standards of analysis in order to guarantee this right.


international protection and the right to asylum are to be effectively guaranteed under European and international standards, a gender perspective must be applied in order to understand the experiences of persecution and other situations that are specific to women and girls.

Article 18 of the Charter of Fundamental Rights of the European Union establishes the right to asylum, while Article 21 prohibits discrimination, all of which is in accordance with the principles and values of the European Union. In the universal human rights system, prohibitions on discrimination against women are provided under the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW). The Committee on the Elimination of Discrimination against Women (CEDAW Committee) has recognized violence as a form of discrimination in General Recommendation No. 19, Violence against women.\(^{19}\) In General Recommendation No. 30 on women in conflict prevention, conflict and post-conflict situation, the CEDAW Committee, makes specific recommendations on what constitutes the internationally accepted minimum for specific protections for displaced, refugee, or migrant women including “States parties’ obligations to prevent, investigate and punish trafficking and sexual and gender-based violence.”\(^{20}\) Although the European Union has not yet ratified

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CEDAW, it has set out guidelines on how CEDAW may be implemented within the EU legal framework.\(^{21}\)

In order to achieve equal protection for refugee women, it is necessary to ensure that the procedures followed to determine refugee status take into account the person’s interests and needs, as established by the Office of the UNHCR. A gender and children’s perspective must also be applied in order to guarantee effective protection for women and children, which requires taking into account their specific experiences of persecution. This, in turn, requires personnel sensitive to gender and children’s issues, specialized training, knowledge and application of all of the Conclusions of the UNHCR Executive Committee on refugee women and international guidelines for protection of women and children refugees, and awareness of the rights established by the Convention on the Rights of the Child and the General Comments of the Committee on the Rights of the Child.

(B) Non-refoulement

Maladministration by the European Commission for failing to fulfill its duty of care results in the non-compliance of the principle of non-refoulement.

As regards to the principle of non-refoulement, under the Convention relating to the Status of Refugees it is prohibited to expel or return a refugee to the frontiers of a territory without first verifying whether the refugee’s life or freedom would be threatened by the return.\(^{22}\) Women’s Link has observed during the field mission to Greece from April 23 to May 1, 2016 and to Greece from May 29 to June 6, 2016 that the number of existing personnel in Greece is insufficient to guarantee this principle, as Greece is overwhelmed by the number of asylum applications made every day and the

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basic humanitarian needs of the migrant and refugee population. Many women and children arrive in Greece after fleeing their countries of origin due to the armed conflict and the gender-based violence associated with it. During transit as well as after arrival in the European Union, where they come in the hopes of making it to a country where they may have protection and refuge, they again suffer multiple forms of gender-based violence, as summarized and explained in this document.

In Greece, the legislature has established a 15-day time limit for resolving asylum applications, including appeals, when these come from the islands where refugees are arriving. This limit is incompatible with the need to review each case individually with a gender and children’s perspective. Furthermore, it does not provide women with enough time to contest the “safe third country” concept if their asylum applications are refused and they are removed to Turkey. Women’s Link observed that in Piraeus – an unofficial refugee camp or informal settlement in the Piraeus port controlled by Greek State-, requests for international protection may only be made via Skype and we were informed that generally the call is not answered. According to a person and organizations interviewed by Women’s Link, this situation is the same in all the Greek mainland. In order to know the Skype ID to call, people have to look at a sheet of paper indicating the hour and date on which calls should be made according to each nationality and idiom (Document No. 2). This document, to which we had access, was available in Greek, which excludes both those who do not read Greek and the many people who cannot read. Based on the UNESCO Institute for Statistics information, in 2015 68% of women in Syria were considerate illiterate before 32% of men (aged 15-65). This situation makes refugees have to find a way to access a cellular or other device with internet access in a situation that is highly precarious. All of the above constitutes a violation of the right to access international protection and other related rights.

25 UNESCO Institute for Statistics. Available at: data.uis.unesco.org/
(C) Right to information and legal counsel

Maladministration by the European Commission for failing to fulfill its duty of care leads to the violation of the right to information and legal counsel.

Sufficient translators are not currently available in Greece, and it is difficult for women to communicate and receive adequate information regarding their rights and the legal procedures they must follow (information and resolutions are provided in Greek and English). Women’s Link further noted that most people lack attorneys and access to attorneys is extremely limited in the camps. Attorneys are allowed only in the camp entrances when these are closed. Police are always present, and very little time is allowed for meetings, as it was observed in Moria camp – an official transit camp and registration point for refugees-. This lack of information does not allow women to know the specific rights and possible protection they are entitled to because of gender and the specific forms of violence they face.

(D) Freedom of movement

Maladministration by the European Commission for failing to fulfill its duty of care results in the violation of the freedom of movement.

It has been widely documented that since the agreement has gone into effect, migrants and refugees have been located in camps without freedom of movement. Many centers have closed since the issuance of the EU-Turkey Statement, to the detriment of persons who were in EU territory before March 20, 2016. Women’s Link observed that after this date, when asylum seekers enter through Mithilene (Lesbos) they are registered by the Hellenic Republic Asylum Office, EASO or FRONTEX. Then, they are detained and given a wristband with a bar code (Document No. 3) and given a letter with some information in Greek or English about their detention (Document No. 4). After this, they are immediately transferred to Moria camp.

At the Moria camp, we were informed that the freedom of movement of minors is restricted and they are under constant police surveillance (almost 150 unaccompanied boys in this situation when we were there in April 2016). Because Women’s Link’s attorney was not allowed to enter the camp, we were unable to observe the conditions within the camp. We did, however, learn from statements gathered by our attorneys and investigators that the situation is so untenable that on April 26, 2016 a group of young people started a fire in protest, a riot ensued, and the authorities’ response was to leave the center and no longer safeguard the integrity of the minors and other persons in the camp.27

(E) Inhumane living conditions

Maladministration by the European Commission for failing to fulfill its duty of care leads to inhuman living conditions.

As regards basic conditions and services in the centers and camps with refugee and migrant population, it also has been widely documented that there are sub-standard conditions.28 In the Moria camp, Women’s Link was informed of a lack of food and milk for babies and in the Pireaus; we observed lack of even the most basic health and educational services. Food is delivered by the Greek Armed Forces with expired dates at Pireaus, there is no access to hot water, women and children wear clothing that is inadequate to protect them from the weather, and children are mostly barefoot.

In relation to the toilets, showers and latrines, Women’s Link observed in Pireaus that women only have access to few separate showers. The latrines are mobile and not properly cleaned. Furthermore, they are “western” style toilets and thus not suitable for some of the users. Most women prefer to do not use them, looking for private places with fear of suffering harm and abuse from some men.


We observed that under these conditions, and in the absence of effective action by European states and the institutions of the European Union, women and children are falling ill with no access to basic hygiene and health care. All these circumstances violate the rights to health and to an adequate standard of living.

(F) Sexual and other gender-based violence

Maladministration by the European Commission for failing to fulfill its duty of care results in the lack of prevention, investigation, prosecution, punishment and redress for sexual and other gender-based violence.

In addition, the conditions of lodging, sleeping quarters, personal care, access to water and bathrooms, lighting, and general security in the camps and centers may be placing women and children at risk for sexual violence. Women’s Link, along with other international organizations, has observed and documented this risk in other displacement and refugee crises. In the present case, Women’s Link observed conditions of overcrowding in the Piraeus reception center. Similar conditions were informed at the Moria camp. Because of the lack of guarantees and protections for rights, most cases of sexual violence that do take place will be kept quiet and go unpunished, and comprehensive recovery and reparation services are unavailable.

It should be noted that there is an obligation to prevent human rights violations that are directly derived from the duty of care and this prevention must take in account a gender perspective and a protection and promotion of children to protect them from violence, gender based violence and discrimination based on gender and age.


30 Women’s Link was one of the petitioners in a case at the Inter American Commission for Human Rights that requested that precautionary measures to protect the rights of displaced persons camps in Haiti after the 2010 earthquake include specific measures aimed at protecting women from sexual violence and facilitating access to health care services, including emergency contraception. Much of the violence occurred due to the structural conditions of the camps. Inter-American Commission on Human Rights (2010). Precautionary Measures, PM 340/10 – Women and girls residing in 22 Camps for internally displaced persons in Port-au-Prince, Haiti, December 22, 2010. Available at: www.oas.org/en/iachr/decisions/precautionary.asp
(G) Sexual and reproductive health and rights

Maladministration by the European Commission for failing to fulfill its duty of care leads to the violation of sexual and reproductive health and rights.

Women’s sexual and reproductive rights are also being systematically violated, because they do not have access to appropriate health services for their needs. Many women are pregnant or accompanied by children, some of whom are very young or even still nursing.31

According to a person interviewed by Women’s Link, in Moria camp, women who have children may not choose bottled mother’s milk unless a doctor certifies that it is absolutely necessary. Therefore, many women are obligated to nurse their children even when this is not the best option for them for any number of reasons such as the lack of sufficient food for the women that leads to them not being able to produce breastmilk.

In Piraeus, Women’s Link attorneys met with a pregnant woman who was in distress because her due date was in a few days and she had no access to health services. Medical care is not available within the camp, and according to the inhabitants, an ambulance never comes when it is called. We also observed in Piraeus that pregnant women carry a document given by an international volunteer organization that shows that they are pregnant, but this document only entitles them to an extra can of sardines or dates (Document No. 5). Under these conditions, and in the absence of gynecological services, women who have high-risk pregnancies or births must go without the necessary medical care. All of this increases the stress and anxiety of the pregnant women. Likewise, there are no abortion services available to women who become pregnant as a result of rape and wish to terminate the pregnancy or whose pregnancies place their health or lives at risk.

(H) **Danger of human trafficking**

Maladministration by the European Commission for failing to fulfill its duty of care increases the risk of human trafficking.

Many refugees, particularly women and children, may be victims or fall victim to human trafficking for purposes of exploitation, but they are not being appropriately identified as victims and protected. Human trafficking for purposes of exploitation, particularly sexual exploitation, is recognized as a form of violence against women that may be considered persecution, and therefore entitles victims to international protection.

For this reason, the Nobel Women’s Initiative and the Council of Europe’s Group of Experts on Action against Trafficking in Human Beings (GRETA) have reported the particular risk of women refugees to be trafficked for sexual exploitation.\(^{32}\) GRETA stated that the current refugee crisis “is no ground for putting on hold their obligations to combat trafficking and, more specifically, the obligation to identify victims.”\(^{33}\) In addition, Europol warned that at least “10,000 unaccompanied child refugees have disappeared after arriving in Europe” and “many are feared to have fallen into the hands of organized trafficking syndicates.”\(^{34}\)

(I) **Lack of assessment of “safe third country” from a gender perspective**

Maladministration by the European Commission for failing to fulfill its duty of care leads to the lack of assessment of the concept of a “safe third country” from a gender perspective.

A country that is considered “safe” for men may not be safe for women and girls. In the case of considering Turkey as a “safe third country”, several United Nations committees have expressed concern over the situation of migrants and other persons who require international protection, as well as the human rights situation of women, girls, and

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\(^{34}\) Mark Townsend. “10,000 refugee children are missing, says Europol”, *The Guardian*, 30 January 2016. Available at: [www.theguardian.com/world/2016/jan/30/fears-for-missing-child-refugees](http://www.theguardian.com/world/2016/jan/30/fears-for-missing-child-refugees)
boys. The concluding observations of the Committee against Torture; Committee on
the Protection of the Rights of All Migrant Workers and Members of their Families;
Human Rights Committee; CEDAW Committee; and Committee on the Rights of the
Child are provided in detail below.

The Committee against Torture, in its Concluding Observations on the fourth periodic
report of Turkey, regarding refugees, asylum-seekers, and non-refoulement, said that
the State party should strengthen its domestic framework by continuing to develop a
new asylum system consistent with international standards and in accordance with
Article 3 of the Convention against Torture; consider lifting the geographical limitation
to the 1951 Refugee Convention by withdrawing its reservations; ensure that in practice
no one may be expelled, returned, or extradited to another State where are substantial
grounds for believing that he or she would run a personal, foreseeable risk of being
subjected to torture; undertake effective and impartial investigations into the shooting
incidents at the southern border; and formulate clear guidelines and related training on
the identification of torture victims among asylum-seekers.

Regarding the EU-Turkey Statement, the Committee went on to observe that it “regrets
the lack of information from the State party concerning concrete measures adopted to
accommodate returned refugees, asylum-seekers and irregular migrants under this
agreement. Furthermore, the Committee is deeply concerned at the lack of assurances
that applications for asylum and international protection will be individually reviewed
and that such individuals will be protected from refoulement and collective returns.
Readmission agreements signed by the State party with other States reinforce the

35 For example: Committee against Torture. Concluding observations on the fourth periodic report of
Turkey (Adopted by the Committee at its fifty-seventh session 18 April – 13 May 2016), Advanced
unedited Version; Committee on the Protection of the Rights of All Migrant Workers and Members of
their Families. Concluding observations on the initial report of Turkey, 31 May 2016,
CMW/C/TUR/CO/1; Human Rights Committee. Concluding observations on the initial report of Turkey
adopted by the Committee at its 106th session (15 October - 2 November 2012), 13 November 2012,
CCPR/C/TUR/CO/1; Committee on the Elimination of Discrimination against Women. Concluding
observations of the Committee on the Elimination of Discrimination against Women, Turkey, 16 August
2010, CEDAW/C/TUR/CO/6 and Committee on the Rights of the Child. Consideration of reports
submitted by States parties under article 44 of the Convention, Concluding observations: Turkey, 20 July

36 Committee against Torture. Concluding observations on the fourth periodic report of Turkey (Adopted
by the Committee at its fifty-seventh session 18 April – 13 May 2016), Advanced unedited Version,
Paragraph 24.
Committee’s concern.” The Committee therefore determined that the State party should take the measures necessary to ensure appropriate reception conditions for returned refugees, asylum-seekers, and irregular migrants; refrain from detaining asylum-seekers and irregular migrants for prolonged periods; use detention only as a measure of last resort for as short period as possible and promote alternatives to detentions; reinforce the capacity of the General Directorate of Migration Management to substantively assess all individual applications for asylum or international protection, without any discrimination based on regional origin; and guarantee access to free, qualified and independent legal aid during the entire procedure, and ensure that all returnees have the opportunity to an individual review and are protected from refoulement and collective returns.

The Committee on the Protection of the Rights of All Migrant Workers and Members of their Families, in its Concluding observations to Turkey, wrote that it is concerned at: “(a) Reports that since 2016 the State party has introduced visa requirements for Syrians arriving by air and has continued building a concrete wall to seal its land border with the Syrian Arab Republic to keep out anyone not in need of emergency medical care; (b) Allegations that the State party’s border guards have at times been using live ammunition to prevent Syrian nationals, including children, who are fleeing Islamic State in Iraq and the Levant advances, from crossing the State party’s border, and the lack of information on investigations into those allegations; (c) The continued, and increasing number of, deaths of migrants in the State party’s coastal waters since 2012, despite their decrease in March 2016 owing to the State party’s search and rescue efforts through the SAFEMED project and Operation Aegean Hope; (d) The limited information about specific mechanisms and procedures to facilitate the identification of persons in need of protection under international human rights, humanitarian and refugee law among migrants arriving in the State party and about specific measures taken to ensure that the State party’s migration procedures safeguard the rights of vulnerable groups and individuals, such as children and persons fleeing violence and conflict in their own countries; (e) The lack of arrangements for reception and for processing asylum claims, as well as the lack of assurances against refoulement, in

37 Idem, Paragraph 25.
place in the State party before migrants started being returned from Greece under the
agreement reached between the European Union and Turkey on 18 March 2016.”39

The Human Rights Committee, in its Concluding observations to Turkey, noted that
“While welcoming the large support provided by the State party to Syrian refugees
through consistent implementation of the Temporary Protection regime and assurances
of the delegation to continue to do so, and taking note of the ongoing process of legal
reform, the Committee is concerned that present law insufficiently protects refugees, in
particular as a consequence of the geographical limitation adopted by Turkey under the
1951 Refugee Convention (arts. 7, 9 and 13). The State party should ensure that all
persons applying for international protection are given access to a fair and effective
refugee determination procedure, regardless of their region of origin, and receive
appropriate and fair treatment at all stages in compliance with human rights standards.
In that perspective, the State party should also promptly enact legislation in line with the
Covenant and with the 1951 Convention.”40

It is clear that the situation of migrants and other persons who require international
protection and are in Turkey, raises grave concerns. For women in particular, the
CEDAW Committee indicated in its Concluding Observations to Turkey that “The
Committee calls upon the State party to take effective measures to eliminate
discrimination against women of ethnic and minority communities, migrant women and
women asylum-seekers, elderly women, as well as women with disabilities, both in
society at large and within their communities, particularly in the areas of education,
health, employment and political and public life.”41

In relation to child asylum-seekers and refugees, the Committee on the Rights of the
Child indicated in its Concluding observations that “The Committee reiterates its
previous concluding observations (CRC/C/15/Add.152, para. 58) and encourages the

39 Committee on the Protection of the Rights of All Migrant Workers and Members of their Families.
Concluding observations on the initial report of Turkey, 31 May 2016, CMW/C/TUR/CO/1, Paragraph 41.
40 Human Rights Committee. Concluding observations on the initial report of Turkey adopted by the
Committee at its 106th session (15 October - 2 November 2012), 13 November 2012,
CCPR/C/TUR/CO/1, Paragraph 20.
41 Committee on the Elimination of Discrimination against Women. Concluding observations of the
Committee on the Elimination of Discrimination against Women, Turkey, 16 August 2010,
CEDAW/C/TUR/CO/6, Paragraph 39.
State party to consider withdrawing the geographical limitation on the application of the 1951 Convention relating to the Status of Refugees and its 1967 Protocol in order to allow non-European child refugees to be granted refugee status. The Committee recommends that the State party conduct an assessment of the challenges experienced by asylum seeking and refugee children with regard to accessing health, education and social services, and urgently address such challenges. Also, in accordance with the Guidelines on protection and care of refugee children, issued by the Office of the United Nations High Commissioner for Refugees (UNHCR), the Committee recommends that the State party ensure that every effort is made to identify children who require special support on their arrival in the State party, and consider providing adequate psychological assistance to them. The Committee encourages the State party to seek technical assistance from UNHCR.42

In conclusion, the human rights violations observed and documented by Women’s Link and other human rights organizations demonstrate the need to treat the European refugee crisis as a humanitarian crisis and approach it with policies that are respectful of human rights and which include a gender and children’s perspective. Specifically, the implementation of the 18 March 2016 EU-Turkey Statement, designed as a response to the crisis, because of its real and direct effects on hundreds of thousands of refugees in Greece and Turkey, urgently requires a human rights impact assessment with gender perspective and including the promotion and protection of children. An impact assessment will allow for the identification of potential human rights violations that may be caused by EU policies and actions. It will also serve as a tool for ongoing monitoring to prevent or repair human rights violations and ensure non-repetition.

The fact that an impact assessment has not yet been carried out shows maladministration on the part of the European Commission. This maladministration constitutes a violation of specific provisions of European law and the duty of care. Finally, the European Commission’s duty of care is fulfilled only when the differential, particular, and adverse impact of humanitarian crises on the rights of women and girls is taken into account. This is broadly recognized in many EU policies and standards.

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5. What, in your view, should the institution or body do to put things right?

The European Commission should carry out a human rights impact assessment with gender perspective and including the promotion and protection of children of the 18 March 2016 EU-Turkey Statement and its implementation reports. By carrying out a human rights impact assessment with gender perspective and including the promotion and protection of children, it may be determined whether or not the measures taken by the European Union are guaranteeing international protection for women, girls, and boys. It will furthermore allow for the verification of any violations of the human rights of women, girls, and boys in order provide reparations and measures to ensure non-repetition.

6. Have you already contacted the EU institution or body concerned in order to obtain redress?

Yes, Women’s Link has contacted the European Commission on several occasions by different means, including online, via email, regular mail and fax. Unfortunately, we have yet to receive any response from the Commission. Below is a detailed description of the attempts Women’s Link’s attorneys have made to contact the Commission:

- On May 4, 2016, a Women’s Link attorney visited the “Contact” section of the European Commission web site at http://ec.europa.eu/contact/index_es.htm, clicked on “e-mail us your questions,” and sent the following message:

  “Request:
  Women’s Link Worldwide, an international human rights organization that uses the power of law to promote social changes that advance the rights of women and girls, particularly those facing multiple forms of discrimination, respectfully requests the European Commission to carry out a human rights impact assessment with gender perspective and including the promotion and protection of children of the 18 March 2016 EU-Turkey Statement and its implementation reports relying on article 21 of the Treaty on European Union; the EU Charter of Fundamental Rights; the EU Strategic Framework on Human Rights and Democracy and Action Plan on Human Rights and Democracy of 25 June 2012; the Action Plan on Human Rights and Democracy 2015-2019; the Strategy for
Equality between Women and Men 2010-2015; the Strategic Engagement for Gender Equality 2016-2019; EU Guidelines on Violence Against Women and Girls and Combating All Forms of Discrimination Against Them; EU Guidelines for the Promotion and Protection of the Rights of the Child; Guidelines to EU Policy Towards Third Countries on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and public international law.”

- On May 5, 2016, we received the following response, which did not come from the European Commission, and which, in our view, did not respond to our request:

Dear Carmen Miguel Juan:
Thank you for contacting EUROPE DIRECT Contact Centre. We kindly inform you that Europe Direct Contact Centre (EDCC) is an information service that provides factual information and answers to questions in tight connection with EU matters – its institutions and functioning. The EDCC is unable to comment on present policies or future developments regarding the EU-Turkey cooperation, outside of the already publicly available information. However, we can provide you with some information on the topic of fundamental rights. Fundamental rights are guaranteed nationally by the constitutions of individual countries and at EU level by the EU Charter (adopted in 2000 and binding on EU countries since 2009). The Charter is consistent with the European Convention on Human Rights (ECHR), which has been ratified by all EU countries. The Fundamental Rights Agency (FRA) identifies and analyses major trends in this field. The main task of the Agency is to collect and disseminate objective, reliable and comparable data on the situation of fundamental rights in all EU countries within the scope of EU law:
http://ec.europa.eu/justice/fundamental-rights/agency/index_en.htm
We hope you find this information useful.

As of the date of this complaint, we have received no further response (Document No. 6).
On May 4, 2016, we sent a letter by email requesting that the European Commission carry out a human rights impact assessment with gender perspective and include the promotion and protection of children of the 18 March 2016 EU-Turkey Statement and its implementation reports. We sent the email to the European Commission officials Alexander Italianer (alexander.italianer@ec.europa.eu) and Silvana Albanese (silvana.albanese@ec.europa.eu). As of the date of this complaint, we have received no response (Document No. 7).

In the aforementioned email to European Commission officials, we wrote:

European Commission
Secretariat-General
B-1049 Brussels
BELGIUM

Dear Sir and Madam,

Please find attached a letter of Women’s Link Worldwide, an international human rights organization that uses the power of law to promote social changes that advance the rights of women and girls, particularly those facing multiple forms of discrimination, requesting the European Commission to carry out a human rights impact assessment with gender perspective and including the promotion and protection of children of the 18 March 2016 EU-Turkey Statement and its implementation reports.

We also sent it by email (our case number is 101000036963), fax and we are sending a hard copy by post today.

Thank you,

As of the date of this complaint, we have received no response (Document No. 8).
• On May 4, 2016, we sent a letter with the same request to the Commission by post. As of the date of this complaint, we have received no response (Document No. 9).

• On May 5, 2016, we faxed the letter to the European Commission. As of the date of this complaint, we have received no response (Document No. 10).

7. If the complaint concerns work relationships with the EU institutions and bodies: have you used all the possibilities for internal administrative requests and complaints provided for in the Staff Regulations? If so, have the time limits for replies by the institutions already expired?

The complaint does not concern work relationships with EU institutions and bodies.

8. Has the object of your complaint already been settled by a court or is it pending before a court?

No, the object of our complaint has not already been settled by a court nor is it pending before a court.

9. Please select one of the following two options after having read the information in the box below:

Please treat my complaint publicly.

Women’s Link respectfully requests that Women’s Link Worldwide’s address and the Document No. 1 – Copy of the Articles of Incorporation (escritura pública) of the organization be kept private.

10. Do you agree that your complaint may be passed on to another institution or body (European or national), if the European Ombudsman decides that he is not entitled to deal with it? Yes.
11. Annexed Documents

**Document No. 1** - Copy of the Articles of Incorporation of the organization Women’s Link Worldwide (*escritura pública*).

**Document No. 2** - Photograph of the document with information in Greek to call via Skype to request international protection.

**Document No. 3** - Photograph of a person with the bar code.

**Document No. 4** - Copy of the letter with some information in Greek and English about refugee detention.

**Document No. 5** - Photograph of the document given by an international volunteer organization that shows that the recipient of the document is pregnant.

**Document No. 6** – Request sent visiting the “Contact” section of the European Commission web site at [http://ec.europa.eu/contact/index_es.htm](http://ec.europa.eu/contact/index_es.htm), clicking on “e-mail us your questions,” and the response (Europe Direct– 101000036963), which is not from the European Commission and does not address our request.

**Document No. 7** – Letter attached by email to European Commission officials requesting the European Commission to carry out a human rights impact assessment with gender perspective and including the promotion and protection of children of the 18 March 2016 EU-Turkey Statement and its implementation reports.

**Document No. 8** - Email sent to European Commission addresses [alexander.italianer@ec.europa.eu](mailto:alexander.italianer@ec.europa.eu) and [silvana.albanese@ec.europa.eu](mailto:silvana.albanese@ec.europa.eu) requesting the European Commission to carry out a human rights impact assessment with gender perspective and include the promotion and protection of children of the 18 March 2016 EU-Turkey Statement and its implementation reports.

**Document No. 9** - Copy of the letter sent by post to European Commission, Secretariat-General, bearing a postmark by the Spanish postal service, mailed May 4, 2016, and mailing receipt.