Women’s Link files complaint against the European Commission for violations of women’s and children’s rights under the EU-Turkey Agreement

Women’s Link Worldwide has filed a complaint with the European Ombudsman against the European Commission for placing vulnerable persons at risk of suffering violations of their fundamental rights.

The complaint details violations of refugee women’s rights to dignity, to live free of violence, to seek international protection, including asylum, to access to healthcare services, including sexual and reproductive health, and to freedom of movement.

Madrid, July 5, 2016 – The organization Women’s Link filed a complaint with the European Ombudsman in which it denounced the European Commission’s failure to protect the human rights of migrants and refugees attempting to enter EU territory or already within EU territory, specifically women and children.

The complaint argues that the European Commission violated the EU’s legal framework, as well as its principles and values, by failing to carry out an analysis of the impact of the EU-Turkey Agreement on women and children. The failure to carry out such an analysis is resulting in the systematic violation of the rights of the most vulnerable groups, as documented by Women’s Link on two recent missions to Greece and Turkey.

“With this treaty, the European Commission, and Europe as a whole, are failing to uphold their most fundamental duties in defense of human rights. They are turning a blind eye while we are facing Europe’s worst refugee crisis since World War II. To consider Turkey a “safe third country” without first assessing the consequences of expelling women and children to Turkey is a recipe for disaster that will lead to violations of their rights. There can be no “safe third country” determination unless assessments are made on a case-by-case basis, which is not happening here,” said Women’s Link President Viviana Waisman.

This is the first time a complaint has been filed with the European Ombudsman including a differential analysis of the consequences of the Agreement on refugee women and children. The complaint states that if the Commission had carried out an analysis of the human rights impact of its policies and actions, particularly the EU-Turkey Agreement, it could have prevented the grim situation that thousands of refugees are facing in European territory, particularly women and children.

It goes on to argue that the European Commission has not taken into account the right to dignity of migrants and refugee seekers, nor has it taken measures to ensure this right. Women’s Link has observed the deplorable lodging, food, hygiene, lighting, and security conditions that people in the detention centers and informal settlements, particularly women and children, must deal with. Access to health care is minimal, pregnant women are not receiving adequate care, and there is no medical assistance available for newborns and infants, who are exposed to multiple diseases.

These conditions place women and children at risk of sexual assault and other forms of violence at the hands of the authorities and local population and make them more vulnerable to human trafficking networks and trafficking for purposes of sexual exploitation.
Asylum procedures are not being carried out with due diligence, and the lack of personnel, translators, and attorneys, as well as the short time limit imposed for asylum applications and appeals, do not allow applications to be processed in an individualized manner, applying gender perspective and children’s rights perspective.

“It is unacceptable for the Commission to continue acting as if these persons were not their responsibility. This complaint against the European Commission is a wake-up call for them to place people above economic and political interests and apply all the treaties and guidelines on human rights, women’s rights, and children’s rights that the European Union has adopted,” concluded Waisman.

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Main arguments in the complaint

The complaint was filed with the European Ombudsman because it is the institution charged with investigating claims of maladministration by European Union institutions and bodies.

It argues maladministration by the European Commission for its failure to perform a human rights impact assessment with gender perspective, including the protection of children, of the 18 March 2016 EU-Turkey Agreement.

The violations of rights cited in the complaint include the following:

Inhuman living conditions
- Deplorable lodging, food, sleeping, hygiene, cleanliness, lighting, and security conditions in the refugee detention centers and informal settlements.
- The impact of these living conditions on women and children, which places them at risk of violence and sexual violence and makes them more vulnerable to human trafficking networks and trafficking for purposes of sexual exploitation.
- Lack of access to basic health care services, including reproductive health care such as prenatal care and labor and delivery care.
- Lack of food and milk for babies and pregnant women.
- Lack of basic sanitary conditions, including access to water, toilets, and sleeping arrangements that offer sufficient protection against the elements, resulting in an increase in common and preventable diseases that become serious.
- Lack of access to basic education for children as well as recreational areas suited to their needs and ages.
- Lack of minimal security conditions. For instance, in the Port of Piraeus, Athens, there are very few latrines and water faucets, and they are located far away in dangerous areas where the women are afraid to go alone. Many women prefer not to go to the latrines at all, looking instead for other places around the port.

Lack of access to health care services, including reproductive and sexual health:
- Pregnant women are not receiving adequate medical treatment. Health care for newborn babies and other children is not available either.
- Pregnant women carry a document with their name and how many weeks pregnant they are. This document entitles them to an occasional extra can of sardines or a few dates.
- Women have no access to gynecological services, so pregnancies and childbirth place their lives and health at risk.
- Abortion services for women or girls who become pregnant as a result of rape or whose pregnancies place their life at risk, too, are inexistent.

Lack of access to asylum procedures and international protection:
- There are not enough translators or attorneys to process all the asylum applications. Personnel and officials are not trained in gender issues and children’s rights and therefore cannot take these issues into account during asylum interviews.
- In the Port of Piraeus, requests for international protection may only be made via a Skype number which is almost never answered. In order to call the number, a telephone with internet connection is required, or the requester must find a place with internet access.
- In Greece, a 15-day time limit has been established for resolving asylum applications, including appeals. This limit does not allow each case to be reviewed in an individualized manner, applying a gender perspective and a children’s rights 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.

Principle of "non-refoulement" and Turkey as a “safe third country”:
- A country that is considered safe for men may not be safe for women and girls.
- Several UN committees have expressed concern over the human rights situation in Turkey, particularly as regards violations of women’s and children’s human rights. The European Commission has not taken these concerns into account in signing the Agreement.

What are we asking for in the complaint?
- We are asking the European Commission to carry out a human rights impact assessment of the Agreement with gender perspective and including the promotion and protection of children.
- By carrying out such an assessment, it may be determined if the measures taken by the European Union are guaranteeing international protection for women and children.
- It will furthermore allow for the verification of potential violations of the human rights of women and children in order to take reparation measures and measures to ensure non-repetition.
Women and children refugees in Europe
Statistics, testimonials, and violations of rights

According to figures from the UN Refugee Agency (UNHCR), over a million people have arrived in Greece since early 2015, most of them refugees from Syria, Iraq, and Afghanistan.

Eighty-five percent of the refugees and asylum seekers who have reached Europe have landed in Greece.

Currently, 60% of total arrivals to Greece by sea are women and children, while in 2015, 70% of arrivals were men. This means more women and children are risking their lives and facing situations of vulnerability both during the migration process and after reaching Europe.

As of January 2016, 38% of migrants arriving in Greece were children.

Voices of women

- Somod (not her real name), a 50-year-old Syrian woman, widow and mother of six, is staying at the Port of Piraeus in Greece. “I don’t sleep at night. I sit in a chair outside, watching the tents where my sons and daughters-in-law sleep, making sure nobody goes in and hurts them. This is not a safe place. The Afghans, who are on the other side of the port highway, get drunk and come into our area to look for trouble and go into the women’s tents. I’m responsible for my whole family.” Interview by Women’s Link Worldwide during its investigation.

- Reem, a 20-year-old Syrian woman traveling with her 15-year-old cousin, says “I never got the chance to sleep in settlements. I was too scared that anyone would touch me. The tents were all mixed and I witnessed violence. I felt safer when we were moving, especially on the bus, which was the only place I could shut my eyes and sleep. In the camps we are so prone to being touched, and women can’t really complain and they don’t want to cause any issues which might disrupt their journey.” Amnesty International (2016). Female refugees face physical assault, exploitation and sexual harassment on their journey through Europe.

- A 36-year-old Syrian woman at Vathi in Samos with two small children said, “I would like to have a man escort us to the bathroom, but there is no one. My biggest concern is the long distance to the bathroom and fear for my safety.” A 27-year-old Afghan widow with three children said, “The situation is very bad in the women’s showers. The showers don’t have curtains but you don’t have another choice. If other women are with me I feel comfortable.” Human Rights Watch (May 2016). Greece: Refugee ‘Hotspots’ Unsafe, Unsanitary.
“Many women and girls travelling on their own are entirely exposed, deprived of their family or community to protect them,” said Vincent Cochetel, Director of UNHCR’s Bureau for Europe. “And even those traveling with family are often vulnerable to abuse. Often they are not reporting crimes and thus not receiving the support they need. Some women have even told us they have married out of desperation.” UNHCR (2016). *Refugee women on the move in Europe are at risk, says UN.*