



Association Of Citizens To Combat Human Trafficking
And All Forms Of Gender-Based Violence
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UN CEDAW COMMITTEE GENERAL RECOMMENDATION ON TRAFFICKING IN WOMEN AND GIRLS IN THE CONTEXT OF GLOBAL MIGRATION

Comments of NGO ATINA, Belgrade, Republic of Serbia

This document contains comments on the Draft of the General Recommendation (GR), in the following form: (a) reference to the Draft GR point, provision or section and suggested change or addition; (b) each comment is followed by an explanation why the change or addition is necessary.

1. In the point 20. d. in the title *Obligation to identify women and girls subjected to multiple forms and compounded discrimination as rights bearers*, to be added ...subjected to **SINGLE OR** multiple forms...
Explanation: It is necessary to cover all forms of discrimination against women and girls, regardless of their number and frequency, since the single ones might also lead to trafficking.
2. In the point 18 the 1st line *The Committee has acknowledged that identical or neutral treatment of women and men might constitute discrimination against women*, to be added ...that identical or neutral treatment **AND NOT GENDER SENSITIVE TREATMENT** of women and men...
Explanation: It is important to stress that the lack of gender sensitive treatment might lead to discrimination against women, as `neutral treatment` might in practice appear to be male-dominated or subjected to gender stereotypes.
3. In the point 20 the 1st line *Trafficking in women is rooted in gender-based discrimination, gender-based structural inequality and the feminisation of poverty*, to be added ...is rooted in **GENDER-BASED STEREOTYPES**, gender-based discrimination...
Explanation: Gender-based stereotypes often precede or cause gender-based discrimination and trafficking in women, thus have to be indispensably mentioned in this sequence in order to draw equal attention as other already listed roots of gender inequality and violence against women.
4. In the point 22 in the 9th line *...Additional push factors include persisting norms and stereotypes regarding male domination, the need to assert male control or power and enforce gender roles, male sexual entitlement, coercion and control*, to be added ...male sexual entitlement, **RELATIVISATION OF VIOLENCE AGAINST WOMEN, PERCEPTION OF IT AS A NORM OR `NORMALITY`**, coercion and control...
Explanation: It is important to stress that many refugee and migrant women, being permanently exposed to gender-based violence, have high tolerance for pain and violence. Due to this, they neither recognize all forms of violence, nor report it. Every violence which is neglected or “justified”, constitutes a push factor for future violence.

5. In the point 23 in the 2nd line *The patriarchal norms and values, sometimes formalised in legislation, including family laws, facilitate trafficking for child/early and forced marriage*, to be added ...including family laws, **OR EVEN LEGALLY PUNISHABLE BUT STILL PRACTICED DUE TO UNWRITTEN CUSTOM LAWS**, facilitate trafficking...
Explanation: It is important to point out that child/early marriages are being practiced in some states parties despite their legal prohibitions and sanctions, in accordance with `communal tradition` The fact that this practice, due to its legal prohibitions, might remain unrecorded and undiscovered, poses even more danger, for girls in particular.
6. In the point 25 f), after the section i) add new section **ii) A STRATEGIC RESPONSE TO ADDRESS CHALLENGES IN IDENTIFYING VICTIMS OF HUMAN TRAFFICKING AMONG REFUGEES AND MIGRANTS;**
Explanation: According to Serbia`s experience, formal identification of human trafficking (HT) victims among refugees and migrants remains low for years, despite a much higher number of cases in preliminary identification. It seems that the institution authorized to conduct identification of HT victims faces particular challenges when assessing potential HT victims among refugees and migrants, such as mistrust of migrants in institutions, because their status is not regulated; cultural barriers and difficulties in communication; most migrants want to leave Serbia as soon as possible and do not want to stay in it; they are afraid that this will jeopardize their departure, slow it down and they are also not aware of their rights to have the right to reflection and the right to a residence permit as (potential) victims of trafficking. In the point 25 f), after the section iii) add new section **iv) IMPROVED MEASURES TO EARLY DETECTION OF HUMAN TRAFFICKING VICTIMS;**
Explanation: It is of great importance to improve knowledge and skills of the relevant professionals (police, social services, civil society organizations, educational institutions...) to timely recognize HT risks and to address these risks, as this might prevent human trafficking and obviate the risk of women and girls becoming exploited. This provision is of equal significance to the one that follows in this point, which calls for the improved measures to identify and protect victims.
7. In the point 26 b) *Providing women and girls in situations of disadvantage with access to basic services, including education, information, health care and employment opportunities*, to be added ...including **CULTURAL MEDIATION**, education, health care...
Explanation: As refugee and migrant women are in the situation of disadvantage as well, they additionally seek cultural mediation as their basic service in transit or destination countries on their migration route.
8. In the point 26 d) *Stepping up nationwide public awareness-raising campaigns, particularly in rural communities*, to be added ...Stepping up **LOCAL AND** nationwide public...
Explanation: Given the increasing role of local actors in combating human trafficking, it is of equal importance to design and maintain local public-awareness campaigns which address local specificities and potential risks to human trafficking in the local context. This is even more important in relation to refugees and migrants as, in many countries, they reside in facilities within local communities and are directly affected by local developments.
9. In the point 26 e) *Combating the practice of child and forced marriage through strengthened prevention efforts addressing its root causes, sensitization campaigns and appropriate*

punishment, to be added ...addressing its root causes, **WORKING WITH COMMUNITIES**, sensitization campaigns...

Explanation: In order to eradicate practice of child/forced marriage, it is not enough only to work with authorities or victims, but with communities themselves, community leaders and community members, in order to understand how harmful this practice is and how to sustainably overcome it.

10. In the point 27 after the provision d) add new provision e) **INVESTIGATING AND MAKING PROFESSIONALS RESPONSIBLE AND ACCOUNTABLE IN THE PROTECTION SYSTEM WHO DID NOT REACT TO, NOR FURTHER REPORT, THE SUSPICION OF HUMAN TRAFFICKING;**

Explanation: Experience says that the authorities might not always properly react when informed about potential violence and exploitation, even when informed by the victims themselves. If these authorities are not held accountable and accountable for such behavior, this might further foster human trafficking and can deepen distrust of institutions..

11. In the point 29 after the provision f) add new provision g) **PROVIDES SUFFICIENT LEGAL GROUNDS FOR REFUGEE AND MIGRANT WOMEN WHO SURVIVED HUMAN TRAFFICKING TO BE GRANTED ASYLUM (and therefore all belonging rights);**

Explanation: All states parties should introduce legal possibilities for migrant and refugee women who suffered HT to be granted asylum on this basis (similarly to gender-based violence, already introduced as an asylum ground by some states parties). It has to be noted that HT might also trigger migration of these women.

12. In the point 29 after the provision g) add new provision h) **ENSURES EQUAL TREATMENT BEFORE DOMESTIC COURTS AND ALL OTHER MECHANISMS FOR REFUGEE AND MIGRANT WOMEN REGARDLESS OF THEIR CURRENT LEGAL STATUS;**

Explanation: The experience says that access to justice for refugee and migrant women might be hindered due to their irregular status in the transit/destination country. This contributes to lack of trust of these women in the judicial system and might prevent them from reporting exploitation or violence they suffer. In almost every town in Serbia, under the Law on Prevention of Domestic Violence, there are Groups for Coordination and Cooperation that consist of representatives of basic public prosecutor's offices, police administrations and centers for social work, from the area within which the group is formed. Cases of migrant women GBV survivors are rarely a part of this mechanism.

13. In the point 29 after the provision h) add new provision i) **ENSURES THAT HUMAN TRAFFICKING VICTIMS ARE INFORMED ABOUT PLEA AGREEMENTS BETWEEN PERPETRATORS/TRAFFICKERS AND PROSECUTORS, AS THIS MIGHT LEAD TO PREQUALIFICATION OF THE CHARGES;**

Explanation: Experience from Serbia speaks of a practice of plea agreements between traffickers and prosecutors which might lead to prequalification of the charges (for instance, instead of human trafficking traffickers are prosecuted for solicitation of prostitution, which is a lighter offense). The victim is never informed on these agreements and therefore has no influence on them; the victim has to be informed on this in order to make further informed decisions in respect of the HT case in general or charges against the trafficker.

14. In the point 29 after the provision j) add new provision k) **SETS UP CLEAR STANDARD OPERATIONAL PROCEDURES FOR REFERRALS TO THE ACCOMMODATION OF**

REFUGEES AND MIGRANTS SURVIVORS OF GBV IN SAVE HOUSES FOR VICTIMS OF DOMESTIC VIOLENCE OR OTHER ACCOMODATION FACILITIES;

Explanation: It is of extreme importance that these governmental bodies operate in accordance with regulation that will cover all women at the territory of Serbia, especially migrant women regardless of their migration status if they are GBV victims. is important to emphasyses

15. In the point 31 after the provision g) add new provision h) **REPORTS ON THE IMPLEMENTATION OF THE NATIONAL PLAN OF ACTION WITH CLEAR ROADMAP FOR OVERCOMING IDENTIFIED SHORTAGES AND DELAYS;**

Explanation: Experience from Serbia says that reports on the implementation of the national action plans on combating human trafficking often lack the evaluation of their implementation, including the challenges and causes for delays, as well as the roadmap for overcoming such challenges and preventing delays in the future. These lacks further cause carrying over of the same objectives to the next action plan periods, with no clear indications on whether they will ever be achieved.

16. In the point 32 the 1st line *Ensure women's meaningful participation in trafficking prevention efforts*, to be added ...in trafficking prevention **AND PROTECTION** efforts:

Explanation: It is necessary to involve women who suffered trafficking in designing protection services and programs, as they are best aware of their own needs. Their meaningful participation might also shape the design of future protection and support services.

17. In the point 32 after the provision a) add new provision b) **VOICES OF WOMEN WHO SURVIVED HUMAN TRAFFICKING MUST BE HEARD WHEN DESIGNING PROTECTION PLANS AND PROGRAMS AIMED FOR HUMAN TRAFFICKING VICTIMS;**

Explanation: The same explanation as for the previous comment which refers to the very title line of the point 32.

18. In the point 34, at the end of the paragraph, add the following sentence: **IN WHICHEVER SOCIETY GENDER-BASED VIOLENCE IS `RELATIVISED`, IT IMPLIES THAT SUCH SOCIETY IS IN THE STATE OF CONFLICT.**

Explanation: It is important to stress the strong relation between gender-based violence and the state of conflict in a society. It must be emphasized that wherever gender-based violence is a `norm` or tolerated, such society is in a state of conflict, and this conflict will inevitably escalate at some point.

19. In the point 42 the provision f) *Raise awareness among displaced women and girls about all forms of trafficking*, to be added ...about all forms of trafficking, **ABOUT ALL RISKS TO TRAFFICKING AND HOW TO ADDRESS THESE RISKS;**

Explanation: It is of equal importance for displaced women and girls not only to be aware of all forms of trafficking but also to be informed and acquainted with all risks to trafficking and how to address these risks. In this way, displaced women and girls will learn to recognize the risks and timely report them to competent actors, thus preventing trafficking.

20. In the point 42 the provision h) *Train law enforcement agents, including police and border control officers, on the risks faced by displaced women to trafficking*, to be added... including police and border control officers, **SOCIAL CARE AND HEALTH CARE PROFESSIONALS**, on the risks...

Explanation: As social care and health care professionals can also come in frequent contact with displaced women, they should also be trained on the risks to trafficking these women can face and react timely and adequately when they recognize these risks.

21. In the point 49 the 5th line *Women are vulnerable to sexual and physical abuse by smugglers, state authorities, agents*, to be added ...abuse by smugglers, **THEIR SPOUSES, FATHERS, UNCLES, MALE RELATIVES, BUT ASLO** state authorities representatives...

Explanation: NGO Atina`s study on violence against migrant women has shown that many of them also suffered violence by other migrants which represents additional and grave risk during their travel. Therefore, it is important to have this category of abusers also listed here. <http://atina.org.rs/en/violence-against-women-and-girls-among-refugee-and-migrant-population-serbia>

22. After the point 55 add new point **56: FACILITATE EMPLOYMENT/RIGHT TO WORK FOR MIGRANT WOMEN WHILE BEING IN THE ASYLUM PROCEDURE;**

Explanation: The experience from Serbia says that the asylum procedure can take several months during which the employment/right to work for migrant women remains limited or restricted. Therefore, states parties should find the ways to facilitate this right for migrant women during the asylum procedure period, as these limitations/restrictions might increase the risks of violence and exploitation.

23. In the point 56 b) the 6th line *and relevant State employees, including the police, border officers, immigration, embassy and consular authorities, labour inspectors*, to be added ... consular authorities, **LOCAL AUTHORITIES, SELFGOVERNMENTS**, labour inspectors...

Explanation: Since migrants might be accommodated in facilities in small local communities (this is Serbia`s example), it is of great importance that local authorities counter stereotypical attitudes and therefore should be trained to do so. Countering stereotypical attitudes might result in decreasing social distance between local population and migrants and therefore directly contribute to safety of the latter.

24. In the point 57 after the provision k) add new provision **I) WORKING ON EFFECTIVELY DECREASING SOCIAL DISTANCE BETWEEN LOCAL POPULATION AND MIGRANT POPULATION;**

Explanation: Decreasing social distance is of particular importance for providing safe and supportive environment for migrants, and therefore deserves a new provision in this point. The lower the social distance between the two communities, the smaller the risks of violence and exploitation migrants are exposed to.

25. In the point 60 after the provision d) add new provision **e) FACILITATE INCLUSION OF MIGRANT WORKERS INTO THE LABOUR MARKET AND PROVIDE TRAININGS FOR IMPROVING THEIR SKILLS;**

Explanation: The inclusion of migrant workers into the labour market will reduce their vulnerability and exposure to risks of violence and exploitation. At the same time, the provision of appropriate trainings for improving their working skills will further contribute in reducing their vulnerability.

26. In the point 68 after the provision k) add new provision **I) ENSURE THE HUMAN TRAFFICKING VICTIMS' RIGHT TO APPEAL ON THE IDENTIFICATION STATUS DECISION IF THE DECISION IS NEGATIVE (SECOND INSTANCE PROCEEDINGS);**

Explanation: There is no case in Serbia that a potential human trafficking victims complained on negative decision on their behalf. It is of extreme importance, particularly in relation to migrant women, to ensure victim`s right to appeal on negative status decisions, so that such decisions could be reconsider by an independent second instance authority.

27. In the point 72. after the provision f) add new provision **g) FINANCIALLY SUPPORT LICENSED SERVICES FOR HUMAN TRAFFICKING VICTIMS PROVIDED BY CIVIL SOCIETY ORGANIZATIONS;**

Explanation: Experience says that in some cases civil society organizations run and provide specific support services for human trafficking victims which are the sole ones of their kind. As civil society organizations might be obliged by the state to license these services (which means that they are equal to those provided by the state itself), the state party has to find ways to financially support such services. Moreover, this is the recommendation CEDAW committee has already given in some of its state reports (i.e. the report to Serbia in 2019);

28. In the point 72 after the provision h) add new provision **i) ENSURE EXIT-PROGRAMS AND ALTERNATIVE INCOME-GENERATING OPPORTUNITIES FOR WOMEN WHO WANT TO LEAVE PROSTITUTION;**

Explanation: Regardless of the legal status of prostitution in the states parties, it is important to underline and ensure the support for women in prostitution who want to exit it, in order to create a safe environment for them. As stated in the explanation to the previous comment, this is also a recommendation CEDAW committee listed in its 2019 report to Serbia, thus should also be extended to other states parties.

29. In the point 72 after the provision l) add new provision **m) RECOGNIZE VICTIMS OF HUMAN TRAFFICKING AS HARD-TO-EMPLOY CATEGORY AND PROVIDE SUPPORT TO NATIONAL/LOCAL EMPLOYMENT SERVICES IN DEVELOPING ECONOMIC EMPOWERMENT PROGRAMS FOR THE VICTIMS;**

Explanation: The formal recognition of human trafficking victims as hard-to-employ category is one of the first steps in their successful economic empowerment and therefore should be recommended to all states parties. In line with this, national/local employment services must be endowed with continues and sufficient resources in order to create and implement adequate empowerment programs for victims.

30. In the point 72 after the provision q) add new provision **r) INTRODUCE ADDITIONAL EDUCATIONAL PROGRAMS FOR WOMEN WHO WERE TRAFFICKED FOR THE PURPOSE OF EARLY OR FORCED MARRIAGE;**

Explanation: Early or forced marriage often causes the termination of education for women and girls who suffered such exploitation. Therefore, once they exit it, it is necessary to provide them with appropriate educational support in order to keep up the quality of their lives and create better perspectives for the future.

31. In the point 84 after the provision c) add new provision **d) ENSURE THAT THE JUDICIAL PROCEEDINGS IN WHICH MIGRANT WOMEN ARE INVOLVED ARE BY NO MEANS RELATED TO THEIR ASYLUM APPLICATION;**

32. **Explanation:** Experience (from Serbia) says that judicial authorities might link ongoing court proceedings in which migrant women are involved (for instance, lawsuits for violence or exploitation they suffered) with their pending asylum procedure and therefore impact the outcome of both. As this might have quite a negative impact on the position of migrant women, states

parties should be recommended to effectively prevent the possible link of the two. Also, victims of human trafficking should be protected under those circumstances, not within asylum system. In the point 88 after the provision c) add new provision **d) PROVIDE CAPACITY BUILDING FOR JUDGES, PROSECUTORS AND POLICE OFFICERS TO RECOGNIZE SPECIFIC AND UNCOMMON FORMS OF EXPLOITATION MIGRANT WOMEN MIGHT BE EXPOSED TO, AS WELL AS THEIR CONSEQUENCES;**

Explanation: Since migrations might bring together distant cultures, professionals who come in contact with migrant women might overlook some harmful `cultural` practices and forms of exploitation they are not familiar with, and thus fail to recognize potential victims of human trafficking. This is why states parties should be recommended to provide specific capacity building for its professionals on the forms of exploitation inherent in the communities migrant women come from.

33. In the point 91 after the provision a) add new provision **b) PREVENT APPEARANCES OF HUMAN TRAFFICKING VICTIMS IN MULTIPLE CASES BEFORE COURTS;**

Explanation: Since human trafficking victims might be exploited for the purpose of committing multiple crimes for their traffickers, it is of utmost importance to prevent multiple charges against them and their reappearances before the court (for each of the possible charges), since this can gravely undermine their recovery perspective and increase their vulnerability. If it has been found that the victim committed a crime while being exploited, it should provide sufficient ground for rejecting other possible charges against the victim, which refer to the same period.

34. In the point 96 after the provision f) add new provision **g) DE-LINK FUNDING AND SUPPORT FOR MIGRANT WOMEN WHO ARE VICTIMS OF HUMAN TRAFFICKING FROM THEIR ASYLUM PROCEDURE;**

Explanation: It is necessary to underline that the funding and support provided for migrant women who are victims of trafficking should not depend on their legal status and their asylum procedure. This is due to the experience which says that certain support services were only provided for the national victims, but not for the victims from migrant population (for instance safe accommodation, which is in Serbia covered by local authorities and only for the nationals).