



Note - European Network of Migrant Women

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KEY POINTS :

=> There are many legal and practical obstacles linked to the legal status of migrant women, which prevent or limit their access to healthcare and social services, as well as to education and early childhood care.

=> In many EU countries, access to care for chronic illness, disability or other long-term health needs is very limited for migrants, and virtually non-existent for those in an irregular situation.

=> Some migrants risk having their residence status revoked or not renewed if they access social assistance services and benefits, due in particular to the vague definition of "unreasonable burden on the social assistance system of the host Member State" in the European directive on freedom of movement (2004).

=> Many migrant women are confined to jobs in the care sectors and the informal economy, which are generally excluded from contributory social insurance schemes, such as those providing maternity protection and healthcare.

=> Administrative requirements and procedures, costs, language barriers, lack of appropriate services and access to information, fear of deportation and sexist and racist discrimination - both in policy and in practice - are further barriers to access to public services and social benefits for migrants.

THE SPECIFIC SITUATION OF MIGRANT WOMEN :

The situation of migrant women is specific in that they are confronted with intersecting forms of discrimination.

=> **Discrimination based on sex** and male violence, including sexual exploitation in prostitution, the vast majority of which targets migrant girls and women.

=> **Racist discrimination** and exclusion, including lack of access to public services and lack of recognition of qualifications.

=> **Other forms of discrimination** linked to age, sexual orientation or health status, for example, as well as specific situations such as being a single mother.

For a long time, migration policies in Europe have mainly taken account of the male perspective. However, contrary to some attempts at misinformation in Europe, migrant women and girls, refugees and asylum seekers, now make up around half of the migrant population. As a group, they face persistent inequality and violence throughout their migratory journey.

LEGAL STATUS :

Access to public services and social benefits is intrinsically linked to the issue of legal status:

> The integration of women arriving in the EU in the context of family reunification - regulated by the directive on family reunification (2003) - is an important issue. As 2/3 of the partners arriving are women (European Parliament), the fact that their legal status in many countries remains dependent on their spouse makes them more vulnerable. **Some women, unemployed and socially excluded, are kept in violent relationships for fear of being deported.**

> The situation of migrant women in an irregular situation is even more precarious, as they risk deportation or detention at any time and can only work in the informal labour market, which excludes them from social protection and benefits.

During the COVID crisis, **the European Network of Migrant Women highlighted the increased risk for migrant women in precarious situations of losing their legal status and thus becoming more excluded from society and more vulnerable to violence.** This applies in particular to domestic workers and care assistants who risk losing their jobs and accommodation, women asylum seekers whose applications for permanent status are delayed indefinitely, victims of domestic violence whose legal status depends on their spouse, and women in prostitution, including victims of human trafficking for sexual exploitation. In partnership with the law firms of TrustLaw (Thomson Reuters Foundation), we have carried out a legal mapping of undocumented women's access to fundamental rights in nine European countries (Belgium, France, Germany, Italy, Portugal, Hungary, Spain, Sweden and Greece).

MIGRANT WOMEN ARE OVER-REPRESENTED IN THE CARE SECTOR AND THE INFORMAL ECONOMY WHICH DISTANCES THEM FROM ACCESS TO PUBLIC SERVICES:

The European Institute for Gender Equality (EIGE) states that migrant women are more likely to be unemployed or economically inactive than any other group in the EU labour market. ¼ of female third-country nationals aged between 18 and 24 are not in employment or education (EUROSTAT). The European Commission estimates that one in five non-EU migrant women is overqualified for her job, twice as many as other women. This process is known as 'deskilling'. It's a vicious circle, because it confines these women to jobs that prevent them from accessing public services, while at the same time reinforcing the need for such access by increasing the risk factors.

> SEASONAL WORKERS: They face abusive working conditions, physical abuse, sexual assault and racism, and have **no access to social protection or public services, even though they are exposed to chemicals that can adversely affect their health**. In January 2020, the United Nations Special Rapporteur on Extreme Poverty, on a visit to Spain, reported that the living conditions of these women were among the worst in the world, with no direct access to water, electricity or adequate sanitation.

DOMESTIC WORKERS: Domestic workers are a particularly vulnerable category. In most countries, they are not entitled to contribution-based social benefits. They also have limited access to public services such as healthcare and childcare. **This sector of the reproductive economy, although vital, is often not sufficiently regulated by labour law and not subject to inspections.** This affects around 8.5 million migrant women in Europe, most of whom are overqualified. According to the IOM, during the COVID crisis, their human rights were violated in countless ways because they had no protection: unfair dismissals, physical and sexual violence, low wages, lack of access to healthcare, etc. **The most widespread problems are low wages and long working hours. Their position of administrative and material dependence on their employers results in an unequal balance of power when it comes to negotiating pay or days off.** Employers regularly demand unpaid overtime. There is also a hierarchy of domestic workers according to their ethnic origin: Albanian women in Greece and Moroccan women in Spain have even less bargaining power with their employers.

NURSES: The crisis in nursing care and the use of foreign nurses means that the value of this work is underestimated, leading to low pay for nurses and care assistants. This also has an impact on the beneficiaries of care services and contributes to unfair and unsustainable systems. **Decent work must be an integral part of definitions and priorities for quality care systems.**

ACCESS TO HEALTH CARE:

Migrant women have specific health care and protection needs. The isolation they may face reinforces these needs. **Comprehensive healthcare, including sexual and reproductive health care, is necessary given the increased risk of sex-based and sexual violence to which they are exposed, including on arrival in the host country and while waiting to obtain a residence permit.** In a study published in September 2023, Dr Jérémy Khouani, a doctor from Marseilles, correlates migration and sexual violence and concludes that female asylum seekers are 18 times more likely to be victims of rape in France than French women in the general population.

Women in an irregular situation are generally excluded from access to maternity protection and healthcare, except in emergencies. Without maternity protection, many women are forced to continue working until very late in their pregnancy or to return to work prematurely, which can expose them and their children to significant health risks.

Access to social protection and services often requires beneficiaries to register or provide personal data to a government agency, which can be risky for irregular

migrants. In many countries, officials are required to register and report the immigration status of people accessing public services. These practices not only violate the rights of migrants and their families, but can also threaten the well-being of the community as a whole if, for example, migrants are prevented from accessing medical treatment or vaccinations.

ACCESS TO JUSTICE:

Access to justice for migrant women is extremely limited throughout the European Union. The barriers are similar to those affecting access to healthcare, but we also note **a failure to take account of the specific situations of migrant women in European and national legal frameworks, as well as a lack of training for legal professionals.** In response to these findings, the European Network of Migrant Women has developed and is implementing a European project called FULFIL, which aims to strengthen migrant women's access to their fundamental rights in Europe through :

- Developing an analysis of the EU Charter of Fundamental Rights from the perspective of the rights of women, particularly migrant women.
- The creation of a database exclusively dedicated to case law concerning violations of the fundamental rights of migrant women.
- The implementation of a comprehensive training programme for legal professionals on the subject.
- Creating and running a network of trained legal professionals in Europe.

PUBLIC SERVICES FOR YOUNG CHILDREN:

Evidence suggests that non-nationals, whether mobile EU citizens or non-EU migrants, are among those at greatest risk of poverty or social exclusion. The cost of early childhood services is therefore an important factor.

For example, **cost is the main barrier to accessing formal childcare services across the EU, particularly before the age of three. These costs need to be reduced, as set out in the European Child Guarantee, through investment by Member States - supported by the EU (notably via the ESF+ fund).**

RECOMMENDATIONS :

- The EU should use its shared competence on labour rights, in accordance with Article 153 TFEU, to **legislate on the establishment of minimum requirements for working and employment conditions** aimed at protecting employed migrant women, including in irregular situations.
- In order for social protection systems and access to public services to be effective for migrant women, States must **adopt a multidimensional and sex specific approach** in the formulation of laws, policies and regulations, as well as in the design and implementation of programmes and services.

- States must adopt **measures to promote the full professional integration of domestic workers**, in particular through adequate employment contracts, in accordance with the international standards set out in ILO Convention 189 on domestic workers.
- **Confidentiality barriers must be effectively implemented between social/public services and migration authorities.**
 - Example: In Portugal, the Ministry of Social Affairs maintains a database of all children of parents in irregular situations, which enables the government to allocate resources to schools and hospitals according to need, but this database is inaccessible to immigration services.
- There is a need to reform family migration regulations that discriminate against women, in order to **provide migrant women with residence permits, independent of their spouse and employer**, and to facilitate access to services and benefits in the event of relationship breakdown. In particular, migrant women seeking help in cases of domestic violence must be given their own residence permit, separate from that of their spouse.
 - Progress: revision of the directive on long-term residence. Measures have been included by the EP to enable migrant workers not to be too dependent on their employer, notably by including a 6-month window during which they are entitled to social benefits without being employed. In the case of female border workers, the revision includes the possibility of counting the period during which the person traveled in both directions to obtain a long-term residence permit.
- **Harmonisation of data collection broken down by sex, legal status and other relevant indicators**, combined with strict measures for anonymisation and use of the data, is also essential. Fragmentation between organisations and data collection agencies is a major obstacle to the creation and implementation of effective public policies.
- In terms of access to care, **initiatives specifically tailored to reach migrant women and girls**, such as mobile clinics or one-stop centres, need to be put in place.
- States must ensure **full implementation of maternity leave rights at least as defined in the Pregnant Workers Directive and the Work-Life Balance Directive**.
- States should be encouraged to implement processes **enabling migrant and refugee women to obtain either a diploma equivalent to their original qualification or certification of their skills**.
- Member States must ensure the full application of all employment regulations, including the **Working Time Directive**, to care workers, including domestic workers.
- States must ensure the issuance of **renewable permits of reasonable initial duration (2 years is considered good practice)**, as well as pathways to permanent residency and citizenship.
- It is important to **increase freedom of association and access to trade unions/collective bargaining for migrant workers**:
 - See ENoMW's AGENCY project: Lack of citizenship or legal status should not mean that migrant women and girls have no say in the political, economic and social affairs of their host country.

The EU care strategy must:

- Recognise the essential role and contributions of women migrant workers, including those in an irregular situation, in this sector. Recognise that the exploitative conditions experienced by many of these workers have a negative impact on the quality of these services.
- **Implement concrete actions to ensure decent work for all people working in the care and support sector**, regardless of their migration or residence status, including through targeted measures.
- Implement concrete actions to ensure that all people living in the EU have access to quality services according to their needs, regardless of their migration or residence status.
- Guarantee greater control in the domestic work sector by allowing/facilitating access by labour inspectors to private homes when they constitute a workplace and by putting in place measures to enable domestic workers to talk to the competent authorities in a safe environment.

The availability, accessibility, affordability and quality of health care, social services and long-term care, as well as early childhood education and care, are essential for all, and in particular for those who, as non-nationals with diverse status living in the EU, may face particular barriers in accessing care, intersectional discrimination, marginalisation and in-work poverty.