



LOBBY EUROPEEN DES FEMMES EUROPEAN WOMEN'S LOBBY

Empowering immigrant women in the European Union EWL's contribution to the debate on the integration of third-country nationals in the EU

The **European Women's Lobby (EWL)** is a Non Governmental Organisation bringing together women's NGOs from 25 of the Member States of the European Union and accession countries, as well as from 20 European-wide and international organisations.

EWL's mission is to work together to achieve equality between women and men, to eliminate all forms of discrimination against women, to ensure respect for women's human rights and to eradicate violence against women.

Introduction

The profile of immigrant women – who make up half of the black and migrant population today - has evolved in recent years. Female migration now has a wide range of characteristics and varies according to the generation, country of origin and the length of time during which the women have been in the country.

Whereas in the past, some women tended to join their husbands under family reunification policies, many immigrant women today are migrating alone and are successfully developing strategies for social mobility. In particular, there is an influx of skilled women immigrants, who are finding jobs in sectors of the economy where there is a shortage of labour, such as caring for dependent persons or starting their own business. It is to be noted that an important number of immigrant women domestic workers are undocumented and therefore are in extreme precarious situation, vulnerable to exploitation and violence, without worker's legal rights and without access to social rights and health care.

It is regretful that the European Union persists in not including fully the rights and concerns of immigrant women in the current debate on the integration of immigrants in the EU¹ and more generally in the development of a European immigration policy². EWL denounces the two-fold discrimination to which immigrant women are subjected on the grounds of their gender and their origin in receiving countries and within immigrant communities themselves and calls upon the EU to take specific measures to consolidate their fundamental rights.

EWL supports the resolution 1478(2006) and the recommendation 1732(2006) on the integration of immigrant women in Europe adopted by the Parliamentary Assembly of the

¹ In particular the Communication on "A Common Agenda for Integration: Framework for the Integration of Third-Country Nationals in the European Union", COM(2005) 389 final

² Policy Plan on Legal Migration (COM(669)2005 and Proposal for a Directive on common standards and procedures in Member States for returning illegally staying third-country nationals COM (2005) 391

Council of Europe on the 24th of January 2006, and calls on the EU to take note and be inspired by these.

EWL believes that the following main focal areas of the integration process are:

1. The protection of the fundamental rights of immigrant women, including worker's rights
2. The promotion of the participation of immigrant women in public, political and economic life.
3. Dialogue with countries of origin

1. The protection of fundamental rights of immigrant women in the EU

1.1 Facilitating the granting of a legal status that is independent of and separate from that of the principal legal status holder

The status of immigrants the large majority of whom are women – joining their spouse under family reunification arrangements is linked to that of the principal legal status holder. This directly affects the personal situation of immigrant women who may lose their provisional residence permit and therefore find themselves in an illegal situation in the event of divorce, repudiation or the departure of their husband in the year following their arrival, which dissuades certain women who have experienced violence from making an official complaint.

The essential first step towards integrating immigrant women and not confining them to the domestic sphere is the recognition that they have a status and work permit in their own right. EWL has therefore denounced this situation and launched, in October 2005, a lobbying campaign with its national member organisations concerning the transposition of the Council Directive 2003/86/EC of 22 September 2003 on the right to family reunification³.

Recommendations to the EU and member States:

- To ensure that **autonomous status and work permit** is granted to the spouse and children of the principal legal status holder at the earliest opportunity (once the request for family reunification is accepted) in order to guarantee and protect their rights fully and facilitate their social integration.

1.2 Non-application in domestic law of any provision contrary to fundamental Human Rights, such as equality between women and men, which could be applied to immigrant women pursuant to private international law

The personal status of immigrant women in Europe is regulated either by the law of a person's habitual place of residence or by personal status law. The situation differs from one country to another, with each country using its own private international law: it is therefore for the national courts to identify and apply the law pertaining to the situation. This can result in legal conflicts between foreign family codes, international conventions signed by the host country and the fundamental values and rights guaranteed by the host

³ See EWL website:

http://www.womenlobby.org/site/1abstract.asp?DocID=1549&vIID=&RevID=&namePage=&pageParent=&DocID_sousmenu=&parentCat=534

country. The victim may be required therefore to refer the matter to a court in the host country in order to set aside judgments delivered by a foreign court that are incompatible with equality between women and men (e.g. repudiation or polygamy)⁴. This might be difficult for immigrant women who may not know their rights or the language of the host country well enough⁵ or don't have the means to afford legal aid.

The application of personal status laws in the host country can weaken the fundamental rights of immigrant women or EU nationals of immigrant origin, and this is clearly unacceptable in host countries that have ratified international and European Human Rights instruments.

Recommendations to the EU and Member States:

- The European Commission to undertake an **in-depth survey** in all EU Member States of the legal discrimination experienced by immigrant women who are subjected to discriminatory laws in force in their country of origin regarding the personal status;
- To ensure that any provision in foreign legislation relating to immigrant women in EU member states which is **contrary to the Charter of Fundamental Rights of the EU, the European Convention on Human Rights and its protocol 7** is identified and not applied and/or that any sections of bilateral agreements and rules of international private law which violate the fundamental human rights, in particular with regard to personal status in the field of marriage, divorce or child custody, are renegotiated, rejected or denounced.

1.3 Guaranteeing protection to immigrant women victims of violence

Immigrant women are exposed to many forms of violence, depending on their situation in the host country:

- **Immigrant women legally staying in the EU**, in particular those with a dependent status⁶, victims of physical and psychological violence (including the continuing practice of forced or arranged marriages) are often dissuaded from making formal complaints because of linguistic barriers, family pressure, isolation, cultural traditions⁷ or discrimination practices by officers in charge.
- **Undocumented migrant women** whose absence of status exposes them to all sorts of violence and abuse in the workplace.

⁴ For example, in France, the Court of Cassation established in 5 simultaneous judgments dated 17 February 2004 that “even where it resulted from a fair and inter partes procedure, any decision upholding the unilateral repudiation by a husband without giving legal effect to any objection from the wife (...) is contrary to the principle of equality between spouses in the dissolution of marriage, recognised by Article 5 of Protocol No. 7 to the European Convention on Human Rights (...) and

international public order (...) given that, in the case in question, the wife, and indeed both spouses, were domiciled in France.” - See judgments Nos. 256, 257, 258, 259 and 260 of the First Civil Section of the Court of Cassation, www.courdecassation.fr

⁵ Marina Da Silva, *Ces Françaises, victimes d'un droit personnel étranger*, Le Monde Diplomatique, November 2005

⁶ Under family reunification, see 1.1

⁷ See “No exit: the plight of battered Maghrebi immigrant women in France”, Senior thesis by Lori K. Mihalich, 5 April 2001, Woodrow Wilson School of Public and International Affairs

- **Women victims of trafficking for sexual exploitations.** The Council Directive 2004/81/CE of 29th April 2004⁸ grants temporary residence permit to victims of trafficking in human beings *if* they assist the competent authorities and give evidence against the traffickers. The EWL has criticised this directive, calling for stronger support for the victims: they should be granted a residence and work permit in the host countries without any conditions attached.

Recommendations to EU member States:

- To provide appropriate mechanisms, in the language of origin if necessary, to ensure that **immigrant women victims of violence are fully informed of their rights**, have effective access to legal, health and social assistance, and are able to obtain an independent legal status, residence and work permit.
- In order to prevent violence against immigrant women, **new immigrants, both men and women, should be given more information on their rights and duties in the host country**, including equality between men and women, the personal status of migrants, the rights and protection that derive from this and available legal channels of appeal.
- To ensure the protection of immigrant women in an irregular situation from all forms of exploitation and violence, including trafficking.
- To ratify and implement the **Council of Europe Convention on action against trafficking in human beings** of 16 May 2005.
- To implement the **European Parliament resolution on strategies to prevent the trafficking of women and children who are vulnerable to sexual exploitation** (2004/2216(INI)), in particular to develop and implement programmes of social inclusion and rehabilitation of women and children who have been the victims of trafficking (para 44) and to introduce measures enabling special residence authorisation to be granted in special cases in order to enable foreign victims who are in an irregular situation to escape from violence (para 49).

2. Promoting the participation of immigrant women in public, political and economic life

2.1 Achieving integration: a comprehensive approach

Integrating immigrant women is a dynamic process. Practical measures in this area should cover social, economic, human rights and cultural aspects. It implies also to acknowledge that the discrimination immigrant women experience, based on racism and sexism, develops both in the host country and sometimes in the immigrant communities themselves, where practices of inequality and submission are tolerated in the host countries in an approach based on cultural and religious relativism that is incompatible with human rights

Special attention needs to be given to the task of integrating girls from immigrant families. This implies in particular to ensure the **freedom to control their own bodies, access to birth control and the right to choose one's partner**. In this context, schools - with the

⁸ Council Directive 2004/81/CE of 29th April 2004 on the residence permit issues to third-country nationals who are victims of trafficking in human beings or who have been the subject of an action to facilitate illegal immigration, who cooperate with the competent authorities

proper code of conduct - can be an ideal setting for forging social ties with the host society and learning about democracy with due regard for gender mixing. Furthermore, it is important to ensure that **immigrant men** play their part in the moves to promote the integration and empowerment of immigrant women and young girls. Politicians and authorities must play a clear role in the integration process.

Recommendations to the EU and Member States:

- To develop mechanisms ensuring that **gender is fully mainstreamed in the implementation of the Commission's Framework for the Integration of Third-Country Nationals** in the European Union⁹ and review the Common Basic Principles for immigrant integration policy in the European Union (CBPs) accordingly. Such mechanisms should aim at:
 - **Training of immigrant women**, including language learning, knowledge of existing human, civic and social rights in the host society, where relevant, as key tools for social integration.
 - Incorporating in integration policies the **dimension of a sharing of family responsibilities and domestic tasks**, with both the father and mother playing their part, and access to social rights for both.
 - Promoting **information and awareness-raising campaigns in the media, the labour market, the vocational training sector and in schools** to increase the social status and the role of immigrant women in the host societies and to overcome stereotypes confining immigrant women to passive roles.
 - Guaranteeing the **fundamental rights of young girls** and adopt measures to achieve equality between boys and girls
- To collect **gender-disaggregated data on migration flows** to enable a better understanding of women's migration patterns, the needs of immigrant women, the discriminations they are facing, as well as the specific actions that could accelerate their integration into the host society.

2.2 Encouraging access to employment

Immigrant women are often confined to "traditional" sectors of the economy (services to households and domestic labour, health care) and are under more pressure to accept part-time work or jobs with flexible hours, which make it difficult to balance professional and family life or secure a proper old age pension. They are also more likely to be unemployed than immigrant men, and other, non-immigrant women. Furthermore they earn not only less than men but also less than white women for equal work, equal qualification and skilled experiences.

In the European Union, the **employment rate of immigrant women** is 16.9% lower than that of women of EU nationality; for men the difference is just 11%. The difference is even greater for highly skilled immigrant women (with an employment rate 23.2% lower than women of EU nationality with equivalent skills. Among men in the same category the differential is just 13%)¹⁰.

⁹ Communication on "A Common Agenda for Integration: Framework for the Integration of Third-Country Nationals in the European Union", COM(2005) 389 final

¹⁰ Employment in Europe 2003, Employment and European Social Funds, EC Publication

Statistics seem to show that variations in employment among immigrant women are determined less by their cultural baggage than by the characteristic features of the society, such as attitudes towards the participation of women in the labour market and national employment patterns.

Access to gainful employment is nevertheless an important step in securing independence, economic freedom and the integration of women of migrant origin.

Recommendations to EU Member States:

- To develop strategies to facilitate the participation of immigrant women in the labour market, based on strong government action, in terms of **recognition of diplomas**, the provision of **positive measures** in order to promote the practice of hiring immigrant women, such as programmes that sensitise multiculturalism.
- To ensure adequate **vocational training** for those immigrant women who are in need of specific training, which would aim at lifting them out of professions traditionally reserved for them (e.g. in the service, care or restaurant sector) and allowing them to access to more qualified jobs;
- Support the work of **non-governmental organisations** and social services providers, which play an important role in improving the skills of immigrant women and/or are fighting discrimination against them;
- Support the work of **trade unions** that, in the workplace, have a special duty to combat discrimination as well as the social and economic exclusion of immigrants and to ensure that the rules on equal treatment are observed.
- Encourage and facilitate **business creation** by immigrant women as a key element for providing access to employment, and offering immigrant women an outlet for their skills and qualifications.
- To link more closely EU policies on integration of immigrants with EU social inclusion and employment strategies.

2.3 The local dimension of integration

Competent in matters relating to social affairs, education, local democracy and intercultural and inter-faith dialogue, municipal authorities are a driving force in promoting integration and migrants' access to social rights. They also play a key role in providing support for local associations. These associations develop community activities, help improve the abilities of immigrant women, promote literacy and facilitate their socio-economic integration.

Recommendations to Member States, in particular municipal authorities:

- To develop **mechanisms** ensuring that immigrant women's rights and concerns are integrated in any action taken at municipal level;
- To encourage immigrant women to **participate in public bodies** and ensure that these bodies reflect the diversity of the society.
- To ratify and implement the Council of Europe Convention on the participation of foreigners in public life at local level (5 February 1992), and in particular to grant **electoral rights to local elections** to third-country nationals in the EU.
- To support actively **local and national NGOs, networks and service providers** of/for immigrant women

3. Dialogue with countries of origin

It is important to initiate dialogue with the countries of origin, encouraging the promotion of equality between women and men as fundamental human rights, and to call upon them to prohibit practices in some countries which are contrary to human rights, such as repudiation, polygamy, divorce without mutual consent and issues regarding the custody of children. The eradication of poverty from a gender perspective in the countries of origin is also essential to tackle the causes of inequalities and economic dependence.

Finally, as active participants of migratory movements, immigrant women contribute to the maintenance of their households and to the development of their communities of origin through the sending of remittances. The relationship between gender and remittances should be acknowledged and analysed further within the debate on immigration, development and integration of immigrants in the host country.

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Other sources: Strengthening women's rights in a multicultural Europe, EWL contribution to the World Conference Against Racism, Durban September 2001 / EWL contribution to the European Commission Green Paper on the management of economic migration, COM(2004)0811 / Empowering migrant women living in Europe, report of the workshop organised by EWL and Solidar, October 2005 – see EWL website / Gender mainstreaming, International Organisation for Migration (IOM), www.iom.int. “Migrants, Minorities and Employment”, European Observatory for Racist and Xenophobic Phenomena, October 2003, p. 20. / Opinion of the Committee on Equal Opportunities between Women and Men on “Human Mobility and the right to family reunification”, rapporteur: Mr Giuseppe Gaburro (Italy, EPP), 6 May 2004 / Gender, remittances and development, working paper, INSTRAW, June 2005.