**UN Compendium of principles, good practices and policies**

**on safe, orderly and regular migration in line with international human rights law**

**Contribution from the Council of Europe**

24 July 2017

This document is a submission by various units of the Council of Europe to OHCHR’s call for contributions for a compendium of principles, good practices and policies on safe, orderly and regular migration in line with international human rights law, following the adoption of Resolution A/HRC/35/17 on the Protection of the human rights of migrants: the global compact for safe, orderly and regular migration.

**Overview**

The European continent has in the last years faced an unprecedented increase in mixed migratory flows along the Mediterranean, leading to the so-called “refugee crisis”. The Council of Europe, the continent’s leading human rights organisation, favours a common European response based on respect of fundamental rights and human dignity, as well as on solidarity and shared responsibility.

In the specific context of migration, the Secretary General of the Council of Europe issued in 2015 a [guidance](file://BOSE-SHARE/home.HANGANU_J$/_coe-settings/desktop/ohchr/CoE%20SG%20guidance%20on%20migrants%20and%20asylum-seekers%20-%20Sept%202015.pdf) document to the Council of Europe’s 47 member states on the treatment of migrants and asylum seekers, including with regard to their reception and temporary living conditions, to ensure respect for their human rights. At the same time [an inventory](file://BOSE-SHARE/home.HANGANU_J$/_coe-settings/desktop/ohchr/COE%20Information%20document%20-%20Migration%20challenges%20for%20Europe.pdf) was performed of what had been done until September 2015 and what actions could be further undertaken by the Council of Europe.

**CoE standards of human rights protection**

The European legal order offers a high standard of human rights protection based on the European Convention on Human Rights, the European Convention for the Prevention of Torture and inhuman or degrading treatment or punishment, the European Social Charter, the Convention against trafficking in human beings and other human rights instruments. The basic rights thus guaranteed are

(i) the right to life and the right to be free from torture and from cruel, inhuman or degrading treatment or punishment; as well as *non-refoulement* in case of risk to life or risk of exposure to torture and cruel, inhuman and degrading treatment or punishment;

(ii) the right to liberty and security of the person (including the right to be free from arbitrary arrest or detention);

(iii) the right to be free from slavery and forced labour (including the right to be protected from abuse and exploitation, involuntary servitude);

(iv) the right to be free from discrimination based on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status;

(v) the right to a fair trial; and

(vi) the right to protection of economic, social and cultural rights, including the right to health, an adequate standard of living, social security, adequate housing, education, and just and favourable conditions of work.

Extensive references to the case-law of the European Court of Human Rights and of the European Committee of Social Rights implementing these rights in cases of migrants can be found in the [Handbook](https://www.coe.int/t/democracy/migration/Source/migration/ProtectingMigrantsECHR_ESCWeb.pdf) for legal practitioners, and in the [Statement](https://rm.coe.int/1680489511) of interpretation on the rights of refugees under the European Social Charter.

**CoE Secretary General’s Special Representative on Migration and Refugees**

In January 2016, the Secretary General appointed a Special Representative on Migration and Refugees, Tomáš Boček, to work with the relevant structures within the Council of Europe, the member States, the European Union and other international organisations, driving the assistance and support of the organisation to the member States and fostering international co-operation in this area. One of the areas included in the Mandate of the Special Representative is seeking and collecting information, including through fact-finding missions, on human rights situation of refugees and migrants.

Since his appointment, the Special Representative has issued four fact-finding mission reports following his visits to [Greece and “the former Yugoslav Republic of Macedonia](https://search.coe.int/cm/Pages/result_details.aspx?ObjectId=0900001680648495)”, to [Turkey](https://search.coe.int/cm/Pages/result_details.aspx?ObjectId=0900001680699e93), to [France](https://search.coe.int/cm/Pages/result_details.aspx?ObjectId=09000016806ae620) (Calais and Grande-Synthe) and to [Italy](https://search.coe.int/cm/Pages/result_details.aspx?ObjectId=09000016806f9d70). A fifth report on his recent visit to [Serbia and transit zones in Hungary](http://www.coe.int/en/web/portal/-/special-representative-of-the-secretary-general-on-migration-and-refugees-visits-serbia-and-two-transit-zones-in-hungary) will be available in September 2017. Additionally, the Special Representative issued a [Thematic Report](https://search.coe.int/cm/Pages/result_details.aspx?ObjectId=09000016806fdd08) on migrant and refugee children.

As of May 2017, he is also coordinating the implementation of the CoE Action Plan on the Protecting Migrant and Refugee Children in Europe.

**CoE Commissioner for Human Rights**

Migration is an issue on which the Council of Europe Commissioner for Human Rights has been very active and published an array of documents addressing in particular “pushbacks”, detention and criminalisation of migrants, the situation of vulnerable groups (children, victims of torture or trafficking or sexual violence etc.) and externalization of migration.  A very useful overview of his work on migration and refugees from 2012 to 2016 is available on his [thematic web page](http://www.coe.int/en/web/commissioner/thematic-work/migration)  and all the documents listed therein are available online.

Two important thematic documents published in 2016 and 2017 focusing on integration are the issue papers  [Realising the right to family reunification of refugees in Europe](https://rm.coe.int/prems-052917-gbr-1700-realising-refugees-160x240-web/1680724ba0) (2017) and [Time for Europe to get migrant integration right](https://wcd.coe.int/ViewDoc.jsp?Ref=CommDH/IssuePaper%282016%292&Language=all) (2016).

**CoE Action Plan on Protecting Refugee and Migrant Children (2017-2019)**

To enhance the impact of all its relevant activities, the Committee of Ministers has approved on 19 May 2017 an [Action Plan](https://search.coe.int/cm/Pages/result_details.aspx?ObjectId=090000168071484e) on Protecting Refugee and Migrant Children in Europe.

The Action Plan is based on a clear principle: in the context of migration, children should be treated first and foremost as children. It concerns all children in migration who arrive/have arrived in the territory of any Council of Europe member State, including asylum-seeking, refugee and migrant children. The concrete activities proposed thereunder are based on existing norms. The aim of the Action Plan is not to create new human rights standards. The Action Plan on Protecting Refugee and Migrant Children, with a special focus on unaccompanied children, has three main pillars:

1)         ensuring access to rights and child-friendly procedures;

2)         providing effective protection;

3)         enhancing the integration of children who would remain in Europe.

The implementation of the plan relies on the work of the Council of Europe in different areas, as described below.

**Equipping legal professionals to deal with asylum cases**

In 2015, the CoE’s Programme for Human Rights Education for Legal Professionals (HELP) developed in collaboration with UNHCR an online course on asylum and the ECHR, targeting judges, particularly those dealing with asylum requests, lawyers and prosecutors. The course’s aim is to strengthen and harmonise the application of ECHR standards on asylum across the CoE member States. Though the ECHR does not contain a right to asylum, any asylum-seeker under CoE MS jurisdiction is entitled to all ECHR rights.

In 2017, the HELP/UNHCR course on asylum saw its EU dimension reinforced with the inclusion of recent case law from both the Luxembourg and Strasbourg Courts. Additionally, the course was adapted to the needs of Greek legal professionals as well as the EU-Turkey statement of 18 March 2016. The course is accessible at the [HELP e-learning platform](http://help.elearning.ext.coe.int/).

The HELP/UNHCR course on asylum and the ECHR has been carried out to date in Belgium, Bulgaria, France, Greece, Italy, Serbia, Spain, the Russian Federation and Turkey. In Greece, a State legal aid service was set up in 2017 to assist asylum seekers at the appeals level. All the lawyers who applied successfully completed the HELP/UNHCR course on asylum.

This continues to be one of the most asked for courses in light of the massive arrival of refugees to Europe.

**CoE work on non-discrimination**

In May 2016 the European Commission against Racism and Intolerance adopted the [General Policy Recommendation No. 16](http://www.coe.int/t/dghl/monitoring/ecri/activities/GPR/EN/Recommendation_N16/REC-16-2016-016-ENG.pdf) on safeguarding irregularly present migrants from discrimination which was issued to support states in addressing a pressing issue of discrimination against individuals – women, men and children - who do not, or no longer, fulfil the conditions under national law for entry or stay in a member State of the Council of Europe. ECRI calls on States to comply with their specific obligations in relation to irregularly present migrant children and guarantee them access to education, immunisation, paediatric care and adequate shelter. The recommendations outline ways to ensure that these rights are respected in the areas of education, health care, housing, social security and assistance, labour protection and justice.

Additionally, ECRI’s fifth monitoring cycle focused on integration, including that of migrants, and numerous recommendations have been made in country reports. Here are a few typical examples:

1. ECRI recommends that the[**[Azerbaijani]**](http://hudoc.ecri.coe.int/eng?i=AZE-CbC-V-2016-017-ENG)authorities draw up a comprehensive integration strategy for persons with migration backgrounds; they should also develop, while respecting the principles of confidentiality and voluntary self-identification, statistical data and a set of indicators in order to evaluate and improve the integration and living conditions of migrants in core areas such as education, employment, health and housing.

2. ECRI strongly recommends that the [**[Cypriot]**](http://hudoc.ecri.coe.int/eng?i=CYP-CbC-V-2016-018-ENG) authorities develop a new integration plan for non-nationals, including foreign domestic workers, refugees and beneficiaries of subsidiary protection and other migrants. This should be done in close cooperation with the UNHCR, relevant NGOs and migrant associations, and should be accompanied by an awareness-raising campaign to inform the public, as well as employers and financial institutions, about the rights of beneficiaries of international protection.

3. ECRI strongly recommends the adoption of an updated and comprehensive integration strategy for immigrants in [**Iceland**](http://hudoc.ecri.coe.int/eng?i=ISL-CbC-V-2017-003-ENG), covering among others the issues of affordable and readily available Icelandic language classes, equality in employment and special support in education, with goals and targets, time-frames, funding, success indicators and a monitoring and evaluation system.

4. ECRI recommends [**[to the United Kingdom]**](http://hudoc.ecri.coe.int/eng?i=GBR-CbC-V-2016-038-ENG)that a refugee integration strategy is developed in England and Northern Ireland to assist newly-arrived refugees, in particular as concerns housing, employment, access to welfare and learning English, and that refugee integration is systematically evaluated.

In addition to these general recommendations there are many more specific ones linked to schools and education, housing, employment, health care, legal assistance, asylum seekers and refugees, family reunification, citizenship, incentives and rewards, objectives, indicators and target values, equality data, funding, evaluation, coordination and consultation.

**CoE work on children**

Through its programme “Building a Europe for and with Children”, the Council of Europe strives to protect and promote the rights of the child, including migrant children, in the 47 member States. Important legislative and policy changes to improve the protection of children’s rights have been brought about through a comprehensive set of two binding and 18 non-binding standards on children’s rights elaborated by member States and adopted by the Committee of Ministers.[[1]](#footnote-1) The knowledge base on progress and challenges in the implementation of the rights of the child under the relevant Council of Europe conventions has been broadened through reliable data collected by at least eight monitoring and other mechanisms of the Council of Europe.[[2]](#footnote-2)

The Council of Europe launched a new Strategy for the rights of the child (2016-2021) in April 2016[[3]](#footnote-3) and, as mentioned above, the Committee of Ministers adopted the Action Plan for the Protection of Refugee and Migrant Children (2017-2019).

Migrant and refugee children are especially vulnerable to violence both within the home and the host community from acts of xenophobia. In terms of protection and elimination of violence against children, the Council of Europe has developed an extensive set of legal norms which are relevant for CoE member states and are also open for accession, under certain conditions, by non-member states. These include the Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse ([the Lanzarote Convention](http://www.coe.int/en/web/children/convention)); as well as the Convention on Domestic Violence and Violence against Women ([Istanbul Convention](https://rm.coe.int/CoERMPublicCommonSearchServices/sso/SSODisplayDCTMContent?documentId=090000168046eab9&ticket=ST-219267-Uxq5fXc33qcftNGuFwU2-cas)), the [Convention on action against trafficking in human beings](http://www.coe.int/en/web/conventions/full-list/-/conventions/treaty/197), and the Convention on Cybercrime ([Budapest Convention](https://www.coe.int/en/web/conventions/full-list/-/conventions/rms/0900001680081561)).

The **Ad Hoc Committee for the Rights of the Child (CAHENF)** is responsible for overseeing the implementation of the Strategy for the Rights of the Child. The CAHENF is tasked with developing European standards to provide immediate care to refugees and asylum-seeking children, notably in the areas of guardianship, age assessment and, as relevant, statelessness. It will also take stock of illustrative examples of child-friendly age assessment procedures and practices in the 47 Council of Europe member states to provide an analysis of appropriate safeguards for children whose age is being disputed, prior to and throughout the procedures. A report on child-friendly age assessment procedures and practices will be issued in 2017 and could be shared with the OHCHR in due course.

The Council of Europe will guide member States in taking a co-ordinated child rights based approach, bearing in mind also the Recommendations on life projects for unaccompanied migration minors,[[4]](#footnote-4) on strengthening the integration of children of migrants and of immigrant background,[[5]](#footnote-5) and on the nationality of children.[[6]](#footnote-6)

The Council of Europe is committed to protecting the rights of children deprived of their liberty, including ending immigration detention of children. In cooperation with the Parliamentary Assembly of the Council of Europe (PACE) campaign to end immigration detention of children, a Guide for parliamentarians on monitoring places where children are deprived of their liberty for immigration purposes will be published in 2017. The Council of Europe has also co-funded a [guide](http://www.childrensrightsbehindbars.eu/images/Guide/Practical_Guide.pdf) on monitoring places where children are deprived of liberty.

The Council of Europe Parliamentary Assembly (PACE) adopted [Resolution 2136 (2016)](http://assembly.coe.int/nw/xml/XRef/Xref-XML2HTML-en.asp?fileid=23179&lang=en) ‘Harmonising the protection of unaccompanied minors in Europe’, calling on States to reinforce cross-border police co-operation and coordination to enhance the protection of children who go missing in Europe.

The Council of Europe Committee of the parties to the Convention on the protection of children against sexual exploitation and sexual abuse (Lanzarote Committee) adopted a [Special Report](https://rm.coe.int/168070cab1)  on the situation in the 41 States’ parties to the Convention; “ Protecting Children Affected by the Refugee Crisis from Sexual Exploitation and Sexual Abuse” on 3 March 2017. The Lanzarote Committee has set down hierarchy of procedures to be applied to unaccompanied children as follows: “*(i) family reunification, (ii) foster care, independent/supported accommodation for older children or other forms of non-institutional care; (iii) placement in small scale units in institution.”* [[7]](#footnote-7)

PACE adopted [Resolution 1810 (2011)](http://assembly.coe.int/nw/xml/XRef/Xref-XML2HTML-en.asp?fileid=17991&lang=en) “Unaccompanied children in Europe: issues of arrival, stay and return”, on 15 April 2011 calling on States to enhance family reunification procedures for unaccompanied children.

**CoE work on detention of migrants**

In view of the increasing number of migrants and asylum seekers being deprived of their liberty upon arrival in members States of the Council of Europe, the Committee of Ministers entrusted its Steering Committee on Human Rights ([CDDH](http://www.coe.int/cddh)) with exploring and referencing good practices as to alternatives to detention of irregular migrants ; it also requested its Steering Committee on Legal Cooperation (CDCJ) to [codify](http://www.coe.int/en/web/cdcj/activities/administrative-detention-migrants) the standards applicable in respect of conditions of detention of migrants.

The Committee for the prevention of torture and inhuman and degrading treatment (CPT) has issued a [factsheet](https://rm.coe.int/16806fbf12) recalling that deprivation of liberty under alien legislation should only be a measure of last resort and that alternative (non-custodial) measures should be developed and used wherever possible. The factsheet also refers to the required safeguards during detention and to substantive and procedural rights of the aliens detained, including as regards the conditions of their detention.

**CoE work on smuggling of migrants**

The prevention and suppression of smuggling of migrants in Europe and its severe implications for human rights pose complex legal challenges. Facilitated by criminal networks, the smuggling of migrants generates huge profits for the offenders involved. The life, freedoms and safety of smuggled migrants is put at risk. While the phenomenon gains increasing attention, the various normative sources in this field remain inadequate. The European Committee on Crime Problems (CDPC), convened [a Conference](http://www.coe.int/en/web/cdpc/conferences/conference-on-smuggling-of-migrants) that was held in Strasbourg on 27 June 2017 to develop strategies aimed at preventing and suppressing the smuggling of migrants. The issues that were particularly looked at concerned prevention, criminalisation of the smuggling of migrants, promotion and facilitation of international co-operation and the protection of the rights of smuggled migrants**.** The support that the CoE could provide to its member and observer states includes data collection and analysis, the development of databases, for example on country profiles of national legislation and policies concerning the criminalisation of migrant smuggling, the setting-up of a network to facilitate information exchange and to provide member States with a framework for liaising among them as well as with relevant sectors of the organization, capacity development for border officials and other relevant law enforcement entities aiming at enhancing available expertise to detect smuggling networks and efficiently distinguishing between victims and offenders, and for migration and asylum officials, prosecutors and judges with the aim to protect smuggled migrants. Existing CoE mechanisms such as the mechanisms against human trafficking (GRETA), violence against women (GREVIO) and the sexual exploitation of children (the Lanzarote Committee) should continue to be supported and strengthened in order to ensure the protection of the rights of smuggled migrants.

The link between smuggling and corruption was also underlined and the potential role of the Group of States against corruption (GRECO) in this respect.

**CoE work on trafficking in human beings**

The Council of Europe Convention on Action against Trafficking in Human Beings is currently in force in 47 European States (46 Council of Europe member States and Belarus) and is open for accession to any country in the world. The Convention adopts a human-rights based approach to the fight against trafficking in human beings and contains binding and concrete provisions in the areas of prevention of human trafficking, protection of victims, prosecution of traffickers, and co-operation with other States and civil society. The Convention provides a blueprint for improving anti-trafficking law, policy and practice and is of relevance to the preparatory process leading to the adoption of the global compact for safe, orderly and regular migration.

The implementation of the Convention is monitored by the Group of Experts on Action against Trafficking in Human Beings (GRETA), which is composed on 15 members who sit in their individual capacity and are independent and impartial in the exercise of their functions. GRETA is currently the only independent panel of experts monitoring the implementation of binding international legal provisions on combating trafficking in human beings.

GRETA has paid particular attention to the identification of trafficked persons among asylum seekers, unaccompanied/separated children and irregular migrants facing forced return/expulsion. [GRETA’s 5th General Report](https://rm.coe.int/168063093c), published in April 2016, provides an analysis of the identification of victims of trafficking in human beings among asylum seekers, refugees and migrants and highlights the risks of unaccompanied minors and separated children and the rights to receive appropriate protection and assistance.

Article 10 of the CoE Anti-Trafficking Convention places a positive obligation on States Parties to identify victims of trafficking. The Convention requires that the competent authorities have staff who are trained and qualified in identifying and helping victims, including children, and that the authorities collaborate with one another and with relevant support organisations, such as NGOs. Victim identification is a process that takes time. Even when the identification process in not completed, as soon as the competent authorities consider that there are reasonable grounds to believe that a person is a victim, he/she must be given a recovery and reflection period of at least 30 days (envisaged in Article 13 of the Convection) and must not be removed from the territory of the state concerned, be it to the country of origin or a third country. Pursuant to Article 12 of the Convention, presumed and identified victims of human trafficking must be provided with a range of assistance measures (including appropriate and secure accommodation, psychological and material assistance, medical treatment, translation and interpretation, counselling and information). Other relevant Convention provisions concern the issuance of residence permits (Article 14), compensation and legal redress (Article 15) and repatriation and return of victims (Article 16).

The human rights approach enshrined in the CoE Anti-Trafficking Convention requires States Parties to take into account the risk of persecution of victims of trafficking, as well as to ensure that all foreign nationals identified as victims of trafficking are informed about their right to request international protection and have access to fair and efficient asylum procedures.

GRETA has called upon States Parties to the Convention to uphold their commitment to protecting victims of trafficking and to ensure that migration policies and measures to combat migrant smuggling do not put at risk the lives and safety of trafficked people and do not prejudice the application of the protection and assistance measures provided by the Convention. It is also imperative to put in place reception and screening mechanisms which enable the identification of victims of trafficking among asylum seekers and migrants, in particular women and children who are especially vulnerable, and to adequately train the competent authorities, including at immigration detention centres and reception centres for asylum seekers.

GRETA has also asked States to take steps to reduce the particular vulnerability of irregular migrants to trafficking in human beings and to study the implications of the immigration legislation, in particular the offence of illegal entry and stay, for the identification and protection of victims of trafficking, and the prosecution of offenders. GRETA has stressed the importance of ensuring that human rights are respected, protected and fulfilled in all immigration procedures, including at borders and in transit zones.

GRETA has also emphasised that the positive obligation to prevent human trafficking for the purpose of labour exploitation requires States to consider expanding lawful routes to migration, and to regulate employers and businesses that may facilitate trafficking. Drawing on the judgments of the European Court of Human Rights in [*Rantsev v Cyprus and Russia*](http://hudoc.echr.coe.int/eng?i=001-96549)*,* and more recently in [*Chowdury and Others v Greece*](http://hudoc.echr.coe.int/eng?i=001-172365)*,* GRETA stresses that immigration rules must address relevant concerns relating to encouragement, facilitation or tolerance of trafficking, by ensuring safe and regular routes to migration.

The CoE Convention includes additional measures of protection and prevention required to ensure that the rights of child victims of trafficking are effectively protected. These include obligations on the State to ensure that trafficked children, or children at risk of trafficking, have effective access to asylum or other forms of protection and that the positive obligation to identify child victims is fulfilled by States. Early identification of victims of child trafficking is essential not only to ensuring that obligations of non-punishment are met, but also to ensuring that States take all appropriate measures to provide assistance and protection to children, including preventing risks of re-trafficking. Article 10(4) of the Convention provides that as soon as an unaccompanied child is identified as a victim, each Party shall: (a) provide for representation of the child by a legal guardian, organisation or authority which shall act in the best interests of that child; (b) take the necessary steps to establish his/her identity and nationality; (c) make every effort to locate his/her family when this is in the best interests of the child. As has been noted by GRETA, identification of child victims of trafficking requires specialised training to ensure that where a child is unable to explicitly articulate a concrete fear of persecution, including trafficking, such risks are recognised, and protection provided without delay. Identification of child victims is also essential to the prevention of re-trafficking. GRETA has stressed that the CoE Convention requires States Parties to ensure that a protective environment is provided for all children, so as to reduce vulnerability to trafficking including through facilitating lawful migration and family reunification.

Article 16 of the Convention contains extensive mandatory provisions on how repatriation and return of victims of trafficking should be conducted. Both returning and receiving States are obliged States Parties to take due regard of the rights, safety and dignity of the victim. Moreover, the Convention states that return shall preferably be voluntary and must take account of the status of any legal proceedings related to the fact that the person is a victim. Article 16 of the Convention should be read along with Article 40(4), which specifically mentions the principle of *non-refoulement* and provides that its applicability is in no way affected by the Convention. GRETA has stressed the need for individual risk assessments prior to the return of trafficked people to their home countries which will reduce the likelihood of anyone being returned to their home country in violation of the returning State’s international protection obligations.

Article 17 of the CoE Convention requires States Parties to promote gender equality (both *de facto* and *de jure* equality), recognising the specific gender dimension of human trafficking and the reality that women and girls may face specific risks related to gender, and to gender based discrimination. While women and girls are more likely to be victims of trafficking for the purpose of sexual exploitation, sexual exploitation is often combined with labour and other forms of exploitation. Recognising the significance of gender in human trafficking requires also acknowledging and addressing the reality that men and boys are also victims of trafficking for the purpose of sexual exploitation and other forms of exploitation. Trafficking of men and boys, in particular for sexual exploitation, may often remain invisible or hidden. The positive obligation on States to respect, protect and fulfil the rights of trafficked persons requires constant attention to the complex gender dimensions of trafficking and the need to ensure that assistance and protection measures recognise the significance of gender in all anti-trafficking actions.

At times of armed conflict and in zones of conflict, the risks of trafficking significantly increase. GRETA, and the Council of Europe, has emphasised the importance of effective human rights monitoring in all jurisdictions, including in areas of conflict, where trafficking networks may operate with impunity. GRETA has highlighted the need for expanded humanitarian resettlement and relocation programmes to facilitate safe passage for those seeking to escape persecution, thereby reducing vulnerability to trafficking.

**CoE work on equality**

In 2011 the Council of Europe [Convention on Preventing and Combatting Violence against Women and Domestic Violence](http://www.coe.int/en/web/istanbul-convention/about-the-convention) was opened for signature; it entered in force in 2014 and is currently ratified by 24 member states. In the context of migration, the convention addressed the particular vulnerability of migrant women, with or without documents, and women asylum-seekers to gender-based violence. The convention prohibits discrimination on the grounds of migrant or refugee status when it comes to implementing its provisions. It also requires that measures be taken to prevent such violence and support victims while taking into account the needs of vulnerable persons.

Moreover, the convention devotes an entire chapter to women migrants and asylum-seekers facing gender-based violence. It contains a number of obligations that aim at generating a gender-sensitive understanding of violence against migrant women and women asylum-seekers. For example, it introduces the possibility of granting migrant women, who are victims of domestic violence and whose residence status depends on that of their spouse or partner, with their own residence permit when the relationship ends. This allows a victim of domestic violence to leave the relationship without loosing her residence status. It also creates, for instance, the obligation to allow migrant victims who left and then did not return to the country they migrated to because they were forced into marriage in another country to regain their residence status.

Furthermore, the chapter includes provisions establishing the obligation to recognise gender-based violence against women as a form of persecution within the meaning of the 1951 Refugee Convention and contains the obligation to ensure that a gender-sensitive interpretation be given when establishing refugee status.

It is important to note that women seeking asylum have specific protection concerns and worries that are different to those of men. In particular, women may be fleeing gender-based violence but may be unable or unwilling to disclose relevant information during a refugee determination process that does not respect cultural sensitivities. Furthermore, unaccompanied women are often exposed to sexual harassment and sexual exploitation and are unable to protect themselves. In order to address the particular issues linked to women asylum-seekers, the convention establishes the obligation to introduce gender-sensitive procedures, guidelines and support services in the asylum process. Introducing a gender perspective into procedures allows for differences between women and men to be taken into account.

Another provision that is included in the convention reiterates the obligation to respect a well-established principle of asylum and of international refugee protection, which is the principle of *non-refoulement*. The convention establishes the obligation to ensure that victims of violence against women, who are in need of protection, regardless of their status or residence, are not returned to any country where their life would be at risk or where they may be subjected to torture or inhuman or degrading treatment or punishment.

A thematic factsheet on the [Protection migrant women, refugee women, and women asylum-seekers from gender-balanced violence](https://rm.coe.int/168046eabd) summarizes the aspects described above.

Additionally, in November 2014, in cooperation with Amnesty International, the Council of Europe has published [a guide to end female genital mutilation](https://rm.coe.int/1680464e9f) (FGM), which includes good practices.

**CoE work on education of migrants**

The project Linguistic Integration of Adult Migrants (LIAM) provides assistance to member states in developing coherent and effective policies on linguistic support to adult migrants in keeping with shared Council of Europe values and principles. The programme is supported by a number of partner organisations, including the OHCHR.

The Council of Europe has developed a dedicated [LIAM website](http://www.coe.int/lang-migrants), which

* provides practical support for the effective implementation of policy;
* encourages good practice and high quality in the provision of language courses and in assessment of language proficiency;
* offers a platform that enables member states to reflect on policy and practice in this area.

The Council of Europe has developed standard setting instruments and recommendations which provide for the principles governing actions in the migration field. These are complemented by language policy guidelines and reference tools developed to support their effective implementation in an inclusive approach based on shared values and principles. Among these are the [Guiding principles](http://www.coe.int/en/web/lang-migrants/guiding-principles) for agencies responsible for language policies and the [Language policies](http://www.coe.int/en/web/lang-migrants/language-policies-for-adult-migrants) for adult migrants.

In the context of the LIAM project a number of guidelines and instruments have been developed to provide support:

1. to policy makers and professionals as the integration of newly-arrived migrants is a multifaceted process, and therefore complex to evaluate.

In particular, [Guide to policy development and implementation](https://rm.coe.int/16802fc1cd) on linguistic integration as part of a coherent set of policy proposals for improving the situation of migrants while building harmonious community relations in increasingly diverse European societies. It offers an overview of the resources developed by the Council of Europe in the LIAM (linguistic integration of adult migrants) field. Using practical examples, it discusses the different forms of linguistic integration while taking account of the diversity of migrant populations, proposes guidelines for the design of learning programmes while suggesting adaptations to existing instruments, and also considers aspects relating to skills assessment.

1. to language course providers for efficient language education and quality

The [Self-Assessment Handbook](https://rm.coe.int/16802fc1d4) is designed to help providers of language and other courses for adult migrants to review the quality of all aspects of their work. National authorities responsible for overseeing the provision of courses for adult migrants may find it a useful reference document when setting up courses, reviewing quality guidelines, carrying out quality control or developing guidelines on quality assurance for providers.

1. to learners and teachers

The Council of Europe conceived and developed the [European Language Portfolio (ELP)](http://www.coe.int/en/web/portfolio) in parallel with the *Common European Framework of Reference for Languages* (CEFR). The European Language Portfolio (ELP) is a personal document devised by the Council of Europe to promote lifelong language learning. It supports the development of learner autonomy, intercultural awareness and plurilingualism (the ability to communicate in two or more languages at any level of proficiency).

Three features of the ELP give it particular relevance for adult migrants. First, the emphasis on learning how to learn helps to develop an awareness of language and language learning that they can continue to exploit, consciously and unconsciously, after their course has ended – for them, after all, learning the language of the host community will be a lifelong process. Secondly, the goal-setting and self-assessment cycle provides them with a means of subjecting their communicative situation to continuous analysis and helps to maintain focus on their immediate learning needs and reinforce their motivation. In this regard the scaled checklists are especially important if learners are required to work towards an exam related to one of the CEFR levels. Thirdly, the reporting function of the ELP is likely to be especially important to adult migrants. Their proficiency can easily be underestimated by officials and prospective employers, and a well organised ELP can bear effective testimony to language learning effort and achievement.

In many contexts there is no official curriculum to guide the design of language courses for adult migrants and no suitable textbook. In such circumstances the ELP can provide a basis for course design as well as implementation, checklist descriptors being used to define learning objectives and select learning activities and materials.

Further instruments related to ELP are available [here.](http://www.coe.int/en/web/lang-migrants/instruments#For learners and teachers:)

**CoE work on sports**

TheRecommendation CM/Rec(2012)10 of the Committee of Ministers to member States on the protection of child and young athletes from dangers associated with migration ([EN](file://BOSE-SHARE/home.HANGANU_J$/_coe-settings/desktop/ohchr/Rec%20CM-Rec(2012)10E.pdf), [FR](file://BOSE-SHARE/home.HANGANU_J$/_coe-settings/desktop/ohchr/Rec%20CM-Rec(2012)10F.pdf)) focuses on the issue of young athletes' transfers as a specific case in the global migration phenomenon and it proposes to mitigate risks, to frame these transfers and to develop opportunities in countries of origin. It provides specific recommendations on migration policies (introduction of specific visas, awareness among migration officials, identity document fraud prevention) and on sport policies (rules on agents’ activities, monitoring international transfers and clearing house mechanisms, protection of youth, mutual recognition of sanctions, etc.).

1. [European Convention on the Adoption of Children (revised)](http://www.coe.int/en/web/conventions/full-list/-/conventions/rms/0900001680084823) (CETS No. 202; 2008/2011); [Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse (Lanzarote Convention)](http://www.coe.int/en/web/conventions/full-list/-/conventions/rms/0900001680084822) (CETS No. 201: 2007/2010). For a list of all binding and non-binding Council of Europe standards protecting children’s rights, see [www.coe.int/children](http://www.coe.int/children). [↑](#footnote-ref-1)
2. European Committee of Social Rights (ECSR); Committee of the Parties to the Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse (Lanzarote Committee); Committee for the Prevention of Torture (CPT); European Commission against Racism and Intolerance (ECRI); Advisory Committee on the Framework Convention for the Protection of National Minorities (ACFC); Group of Experts on Action against Trafficking in Human Beings (GRETA); European Commission for Democracy through Law (Venice Commission); Committee of Experts of the European Charter for Regional or Minority Languages (ECRML). [↑](#footnote-ref-2)
3. <https://rm.coe.int/CoERMPublicCommonSearchServices/sso/SSODisplayDCTMContent?documentId=09000016805a9206> [↑](#footnote-ref-3)
4. [CM/Rec(2007)9](https://search.coe.int/cm/Pages/result_details.aspx?Reference=CM/Rec(2007)9" \o "Recommendation of the Committee of Ministers to member states on life projects for unaccompanied migrant minors (Adopted by the Committee of Ministers on 12 July 2007 at the 1002nd meeting of the Ministers' Deputies)). [↑](#footnote-ref-4)
5. [CM/Rec(2008)4](https://search.coe.int/cm/Pages/result_details.aspx?Reference=CM/Rec(2008)4" \o "Recommendation of the Committee of Ministers to member states on strengthening the integration of children of migrants and of immigrant background (Adopted by the Committee of Ministers on 20 February 2008 at the 1018th meeting of the Ministers' Deputies)). [↑](#footnote-ref-5)
6. [CM/Rec(2009)13](https://search.coe.int/cm/Pages/result_details.aspx?Reference=CM/Rec(2009)13" \o "Recommendation of the Committee of Ministers to member states on the nationality of children (Adopted by the Committee of Ministers on 9 December 2009 at the 1073rd meeting of the Ministers' Deputies)). [↑](#footnote-ref-6)
7. Lanzarote Committee Special Report “Protecting Children Affected by the Refugee Crisis from Sexual Exploitation and Sexual Abuse”, 3 March 2017,§ 87 available at <https://rm.coe.int/168070cab1> [↑](#footnote-ref-7)