



International Organization for Migration (IOM)
The UN Migration Agency

Questionnaire of the Special Rapporteur on the Human Rights of Migrants on Good practices and initiatives of gender-responsive migration legislation, policies, and practices

- How do/es the country/ies on which your organisation is working define “gender responsiveness”?

There is no gender specific legislation, provisions and policies in the context of migration.

- Please provide information on any existing or forthcoming good practices or initiatives of gender-responsive migration legislation, policies or practices in the country/ies your organisation is working on. (Should you provide information on legislation or policy, kindly submit the original text, accompanied by an English translation if it is in a language other than the six official UN languages.)

– The Law on Asylum and Refugees

The Law on Asylum and Refugees (LAR) determines all aspects of the asylum procedure, including legal phases and proceedings, the rights and obligations of asylum seekers, as well as the competences and functions of the State Agency for Refugees (SAR)¹. Article 8 (5) of the LAR includes among the acts of persecution based on which refugee status may be granted: “*legal, administrative, police or judicial measures which are discriminatory on their own or implemented in a discriminatory manner*”; “*acts against persons on the grounds of their gender or against children*”.

Article 45f (4) of the same law stipulates that “*at the centres of the State Agency for Refugees, female aliens seeking international protection shall be accommodated separately from male ones, unless they are family members and have consented thereto.*”²

– The Law on Aliens in the Republic of Bulgaria

Article 41 of the Law on Aliens in the Republic of Bulgaria determines under what circumstances a foreigner may be returned to his/her country of origin, transit or third country. Article 44 of the same law determines the circumstances under which foreigners may be accommodated in closed centres – Specialized Homes for the Temporary Accommodation of Foreigners (SHTAFs) managed by the Migration Directorate of the Bulgarian Ministry of the Interior. This law does not include any gender responsive provisions.

– Sexual and Gender-Based Violence SOPs

In 2008, the SAR, with the support of UNHCR Bulgaria developed SOPs on the prevention of and response to SGBV incidents against asylum seekers. The SOPs outline the procedures for the identification of and provision of support to asylum seekers survivors of SGBV in centres managed by the SAR (RRCs/TC) and outside of these centres by SAR and other relevant institutions and

¹ The SAR is the institution responsible for all aspects of the asylum procedure. All registration and receptions centres for asylum seekers (open centres) in Bulgaria are under the management of SAR.

² Чл. 45е (4) от Закона за убежището и бежанците „В центровете на Държавната агенция за бежанците чужденците, търсещи международна закрила, от женски пол се настаняват отделно от тези от мъжки пол, освен когато са членове на едно семейство и са дали съгласието си за това.“

organizations. The SOPs were subsequently revised in 2018 by the SAR, again with the support of UNHCR Bulgaria. According to SAR, they were adopted in April 2018 and are part of the SAR's internal rules and regulations. IOM Bulgaria has no information on whether similar SOPs on the prevention of and response to SGBV incidents against third country nationals accommodated in SHTAFs have been developed by the Mol's Migration Directorate.

– **Case law on Female Genital Mutilation (FGM)**

There have been very few cases/claims explicitly based on FGM due to failure to report on the part of the victims themselves as well as failure to proactively identify FGM victims on the part of SAR. Recent positive development is the decision № 3585 from the 30th of May 2018 of the Sofia Administrative Court which explicitly recognizes FGM as a form of GBV amounting to persecution. In its ruling, the Court annulled a decision of the SAR denying the grant of refugee and/or humanitarian status of a victim of FGM. The matter was sent back to SAR for reconsideration on the grounds that the main applicant's underage daughter would be at risk of being subjected to FGM upon return to the country of origin. The main applicant was eventually given refugee status on the basis of the potential risks facing her daughter. This is a legal precedent that could be use in future cases.

- Please indicate any challenges and/or obstacles in the implementation of gender responsive migration legislation and/or policies?
 - Article 45f (4) of the LAR which stipulates that female aliens seeking international protection shall be accommodated separately from male ones is not always applied in practice.
 - Sexual and Gender-Based Violence SOPs are not always applied in practice and according to anecdotal evidence from IOM, not all SAR personnel working in registration and reception centres (RRCs) are familiar with the SOPs.
 - Based on the field experience of IOM's Mobile Protection teams, the issue of SGBV is an extremely difficult topic for discussion with migrants and asylum seekers residing in Bulgaria. Asylum-seeking women are reluctant to talk about SGBV they were subjected to in their countries of origin and during their journey to Bulgaria or SGBV they are currently experiencing. Usually, it takes several months for IOM social workers and psychologists to gain the trust of the women, so that they can start sharing more freely. It is also important to mention that asylum-seeking women do not always recognize SGBV as such, as it may be normalized and mainstreamed in their countries of origin.
- Based on the experience accumulated with these interventions so far; as well as the lessons learned, what would have to be done differently to maximise the gender responsive impact of these interventions?
 - Reforms in the national migration-related legislation are needed to include gender responsive provisions.
 - Gender responsive guidelines and policies should also be adopted.
 - A comprehensive procedure for the identification and provision of support to asylum seekers victims of SGBV which includes all stakeholders need to be put in place.

- What support could other stakeholders (other than governments) provide to make migration policies, legislation, and practices more gender responsive?
 - Greater coordination and joint advocacy efforts by non-state actors (UN and civil society) towards the Bulgarian government on the amendment of current legislation to include gender-responsiveness in migration-related laws, policies and practices.