

# COUNCIL OF EUROPE

## COMMITTEE OF MINISTERS

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RECOMMENDATION No. R (85) 2

### OF THE COMMITTEE OF MINISTERS TO MEMBER STATES ON LEGAL PROTECTION AGAINST SEX DISCRIMINATION<sup>1</sup>

*(Adopted by the Committee of Ministers on 5 February 1985  
at the 380th meeting of the Ministers' Deputies)*

The Committee of Ministers, under the terms of Article 15.b of the Statute of the Council of Europe,

Aware that equality between men and women has not yet been fully achieved in spite of the extensive work carried out during these last years by member states ;

Noting that certain forms of sex discrimination still exist in the legislation and practice of some member states ;

Recognising the necessity to ensure legal and *de facto* equality between men and women, in particular by improving the situation of women and by taking into account the specific needs of certain categories of people ;

Conscious of the importance of the participation of women in the decision-making process at all levels ;

Realising the desirability of providing effective measures against sex discrimination and sanctions to ensure equality between men and women ;

Considering that the setting up of machinery to protect persons against sex discrimination is an important means of furthering equality between men and women ;

Having regard to the various relevant international instruments, especially the United Nations Convention of 1979 on the elimination of all forms of discrimination against women,

Recommends the governments of member states to take or reinforce, as the case may be, all measures they consider appropriate with a view to the progressive implementation of the principles set out in the appendix to this recommendation.

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1. When this recommendation was adopted, and in application of Article 10.2.c of the Rules of Procedure for the meetings of the Ministers' Deputies, the Representative of Liechtenstein reserved the right of his Government to comply with it or not.

## Appendix to Recommendation No. R (85) 2

### Principles

#### I. *Promotion of equality between the sexes by legislation*

In order to promote equality between the sexes, legislation should aim at the following objectives :

1. In the field of employment, men and women should have equal rights with regard to opportunities for employment and conditions of employment in all fields and, in particular, should be entitled to :
  - a. equal right of access to work ;
  - b. equal conditions of work ;
  - c. equal opportunities for training ;
  - d. equal pay for work of equal value ;
  - e. equal opportunities for advancement.
2. In the field of social security and pensions, men and women should be treated in an equal way with regard to access to official social security and pension systems or to any other similar systems set up under public law and with regard to the benefits paid by such systems.
3. In the field of taxation, men and women should be treated equally.
4. In the field of civil law, equal rights and duties should be given to both men and women, in particular with regard to :
  - a. the fulfilment of family responsibilities ;
  - b. the exercise of parental responsibilities insofar as it is not contrary to the interests of the child ;
  - c. the acquisition, administration and sharing of family property ;
  - d. the conclusion of contracts ;
  - e. the exercise of a gainful occupation by each spouse ;
  - f. the payment of maintenance by one spouse to the other spouse in the case of a separation or to a former spouse in the case of a divorce ;
  - g. the domicile and residence of each spouse ;
  - h. the rights of succession.Attention should be paid to the following questions :
  - a. the age for marriage and the age to adopt children ;
  - b. the family name.
5. In addition, equal treatment of men and women should be ensured concerning :
  - a. the acquisition and loss of nationality ;
  - b. political rights.

#### II. *Other measures of a general character*

1. States should, by means of adequate measures, endeavour to create the most favourable social, economic and cultural conditions in order to achieve equality between men and women. Appropriate information should be given to families in order that they can play an active role in the pursuit of these goals.
2. States should encourage the equal participation of men and women in all aspects of public life.
3. Men and women should be encouraged to make full use, on an equal basis, of all existing educational and training facilities.
4. Educational establishments, the mass media and persons or bodies responsible for the production of teaching material should be encouraged, by appropriate means, to play an active role promoting equality between men and women.

### III. *Special temporary measures (positive action)*

States should, in those areas where inequalities exist, give consideration to the adoption of special temporary measures designed to accelerate the realisation of *de facto* equality between men and women, where there are no obstacles of a constitutional nature, in particular by :

a. making employers aware of the desirability of having as an objective the achievement of equality between the sexes ;

b. giving or encouraging special training for persons of the under-represented sex to enable them to obtain the necessary qualifications.

### IV. *Machinery to promote equality*

States, in order to promote equality between men and women, should adopt suitable machinery which could have, without prejudice to the competence of the courts, one or more of the following tasks :

a. suggesting draft legislation and giving advice to the public authorities ;

b. preparing and promoting guidelines and codes of conduct ;

c. encouraging parties to collective bargaining to promote equality and to avoid any discriminatory results ;

d. acting to avoid and eliminate sex discrimination in advertisements ;

e. advising and, where possible, promoting a conciliation between the parties to a dispute ;

f. imposing appropriate administrative sanctions ;

g. bringing, in appropriate cases, legal proceedings before the courts.

### V. *Remedies and sanctions*

1. Legislation promoting equality should contain remedies and sanctions which are effective in discouraging discrimination, for example by making use of one or more of the following :

a. orders to prevent discrimination (prohibiting or requiring the discontinuation of an act, requiring a certain act to be carried out, setting aside a decision of a discriminatory nature) ;

b. adequate sanctions in case of failure to comply with such orders, administrative and, where necessary, criminal sanctions to punish acts of discrimination (such as fines, suspension of licence, public disclosure of discrimination) ;

c. damages to compensate victims of discrimination.

2. States should provide, where cases concerning sex discrimination are brought before the courts, rapid, inexpensive and suitable proceedings as well as free legal assistance wherever this is necessary.