



# **Make equality in law a reality in fact**

**Compilation of recommendations  
of the Committee of Ministers  
in the field of equality  
between women and men**

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French edition :

*Faire de l'égalité en droit une réalité dans les faits – Compilation de recommandations du Comité des Ministres dans le domaine de l'égalité entre les femmes et les hommes*

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## Preface

Under Article 15.b of the Statute of the Council of Europe, the Committee of Ministers may, in the context of “the adoption by governments of a common policy with regard to particular matters”, issue recommendations to member governments.

These are drawn up by government experts accountable to the Committee of Ministers and allow for interaction between political interests and technical and sector-specific considerations. Their adoption by the Committee of Ministers involves the joint expression of European governmental opinions on the subjects concerned, which gives them considerable weight, even though they do not have the binding force of conventions. For member states, recommendations constitute a sound basis for developing national legislation, policies and programmes.

From the 1980s onwards, the Council of Europe and its Steering Committee for Equality between Women and Men (CDEG) had the stimulating task of putting forward European standards which enabled a new approach to be taken to the issue of gender equality and shaped its development in Europe over the past decades.

One of the first recommendations adopted in the field of equality between women and men, *Recommendation No. R (85) 2 of the Committee of Ministers on legal protection against sex discrimination*, provided member states with guidelines which were remarkable both in ambition and in scope. They addressed issues in the field of work and employment, social security and pensions, taxation, civil law, in particular family law, nationality and political rights, along with measures of a general nature aiming to create a favourable environment for equality in public life, in the educational system and in the media, etc. The recommendation also approached the issue of positive action, or special temporary measures, to accelerate the achievement of *de facto* equality, as well as the need for states to create machinery to promote equality.

These activities quickly posed the question of the scope of equality and gave rise to a new understanding of gender equality objectives within the Council of Europe, marking a turning point in its work. From 1988, gender equality was no longer seen as a legal or social issue, but as a human rights principle and a fundamental criterion of democracy.

With its inclusion in the human rights sector, the most important in the organisation, gender equality achieved a higher profile and acquired greater significance. The CDEG was able to continue its work on priority issues such as balanced participation of women and men in political and public decision-making and the protection of women against violence, giving these areas a new dimension. *Recommendation No. (96) 5 of the Committee of Ministers on Reconciling Work and Family Life* described such reconciliation as “a precondition for a meaningful quality of life and for the full exercise of fundamental rights in the economic and social sphere”. It included guidelines on aspects such as the organisation of working time, the abolition of gender discrimination in the labour market, the development of services in favour of families, the adaptation of social security schemes and tax systems and the organisation of school time and curricula. These guidelines having been set out, *Recommendation Rec(2003)3 on balanced participation of women and men in political and public decision making* put forward the measures needed for achieving genuine participation by women and men in all sectors of society. It laid down a minimum threshold of 40% for the participation of the under-represented sex – a figure subsequently taken up by many member states – enabling them to exercise real power and influence decision-making.

Violence against women is the other main obstacle to achieving *de jure* and *de facto* equality. The adoption on 20 April 2002 of *Recommendation No. R (2002) 5 on the protection of women against violence*,

marking the culmination of lengthy awareness-raising efforts to make the issue a political priority, was a major advance in this area. As the first international text to regard violence against women as a gross violation of human rights, it put forward an overall strategy for preventing such violence, prosecuting the perpetrators and protecting the victims. It was implemented by the member states as part of a pan-European campaign which led to the drafting of the first human rights legal instrument in this area, the *Council of Europe Convention on preventing and combating violence against women and domestic violence*.

The emergence of new concerns such as the role of women in conflict situations and peace building, as well as trafficking in human beings and sexual exploitation demanded appropriate, targeted responses. Recommendation No. R (2000) 11 on action against trafficking in human beings for the purpose of sexual exploitation was the starting point in raising European states' awareness of the problem and gave rise to a Council of Europe convention which requires the contracting parties to adopt comprehensive prevention, protection and prosecution strategies for combating this serious violation of human rights more effectively.

The persistent inequalities in areas such as health and education called for other strategies, however. Resulting from the application of Recommendation No. R (98) 14 of the Committee of Ministers to member states on Gender Mainstreaming, Recommendations CM/Rec(2007)13 on gender mainstreaming in education and CM/Rec(2008)1 on the inclusion of gender differences in health policy – which were prepared by the relevant Council of Europe steering committees in co-operation with the CDEG – highlight the use of the gender mainstreaming strategy in devising appropriate, targeted policies which take account of the interests of both women and men.

The application of the strategy and its various instruments demanded efforts in terms of conceptualisation and further refinement in order to help the member states with implementation. The drafting of recommendations accordingly turned towards the strategies, instruments and measures required for achieving genuine gender equality, such as gender equality mechanisms and gender mainstreaming. Recommendation CM/Rec(2007)17 on gender equality standards and mechanisms is a real model here. It is a powerful instrument for supporting the practical implementation of member states' obligations with a view to progressing and speeding up the achievement of gender equality. It emphasises the need to have legal provisions which formally guarantee equality in line with international standards, as well as mechanisms for implementing and monitoring the application of provisions, while proposing solutions in the event of violations.

All the recommendations and their explanatory memorandums, which provide valuable insights into the political motivations and technical considerations behind the drafting of individual recommendations, are set out below. Assessment of their implementation has enabled the Council of Europe to keep track of how its 47 member states' approach to the issue has evolved and decide on new policy actions to improve the results. The recommendations are a source of inspiration for future action to be carried out so that gender equality becomes a *de facto* reality. Being intended to be applied by the Council of Europe and its member states in the continuing efforts to achieve equality as an integral part of human rights and a fundamental criterion of democracy, they are aimed at all those who wish to make gender equality a precondition for protecting human rights and building a genuine democracy.

**Recommendation No. R (79) 10  
of the Committee of Ministers to member states  
concerning women migrants<sup>1</sup>**

*(adopted by the Committee of Ministers on 29 May 1979  
at the 305th meeting of the Ministers' Deputies)*

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

Considering the aim of the Council of Europe is to achieve a greater unity between its members for the purpose of safeguarding and realising the ideals and principles which are their common heritage and facilitating their economic and social progress;

Guided by the principle of equality of opportunity and treatment between men and women workers and by the provisions of the European Social Charter contained in Articles 4, sub-paragraph 3, 18 and 19 concerning respectively the right of men and women workers to equal pay for work of equal value, the right to engage in a gainful occupation in the territories of other Contracting Parties, and the effective exercise of the right of migrant workers and their families to protection and assistance;

Having regard to the European Convention on the Legal Status of Migrant Workers and to Resolutions (74) 15 and (76) 11 as far as the principle of the equality of treatment of national and migrant workers is concerned;

Convinced that in the context of genuine European integration member states could usefully formulate a migration policy providing for the implementation and development of preventive measures in the social, cultural and educational life of women migrants,

Recommends that the governments of member states:

1. ensure that:

i. national legislation and regulations concerning women migrants be fully adapted to existing international standards which are in force for their countries;

ii. effective equality of opportunity and treatment between migrant and national women workers is ensured in practice by efficient and systematic monitoring of the implementation of national legislation and regulations

2. envisage, without prejudice to any provisions more favourable to women migrant workers provided for in national legislation or international agreements, the following steps:

*i. in respect of information*

- to develop close collaboration between the sending and receiving countries so as to provide women migrants before departure and during residence with any necessary information about living and working conditions in the receiving country;
- to see to it that this information is provided in a language which they can understand;

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1. When the recommendation was adopted, the Representative of the Federal Republic of Germany, referring to Article 10.2.c of the Rules of Procedure for the meetings of the Ministers' Deputies, reserved the right of his government to comply or not with the text of the second and third sub-paragraphs of paragraph 2.iv of the recommendation.



- to set up as far as possible and, where they already exist, improve and promote social services and provide them with the necessary means:

*a.* to assist women migrants to adapt to the social environment of the receiving country, notably by providing better reception facilities such as housing, hostels, crèches, schools, etc. suited to their needs and those of their families;

*b.* to inform women migrants and particularly unmarried mothers, widows and divorcees, through all appropriate channels and during their residence in the receiving country, about their legal rights and obligations, as well as the related legal and administrative machinery – including the procedure for the recovery of maintenance payments set up in 1967 by the Committee of Ministers of the Council of Europe – that may protect and assist them with the necessary administrative formalities;

*c.* to help women migrant workers adapt to their working environment by giving them information about their specific rights and obligations, about services available to them and the opportunities for vocational training, and to encourage employment services to be associated if necessary with all these information activities ;

*ii. in respect of conditions of residence and work*

- to take all appropriate measures to prevent discrimination between indigenous women workers and migrant women workers, both in the case of redundancy and, where national legislation permits, in the case of subsequent re-engagement;
- to ensure that in conformity with the national legislation the unemployed wives of migrant workers and their dependent children can keep their residence permit and be provided with appropriate social and administrative assistance in exercising their rights if their husbands lose their jobs, as long as the husband's residence permit remains valid;
- to see to it that women migrant workers who are made redundant and are compelled to leave the country of employment retain all their acquired rights or rights in the process of being acquired, in conformity with the national legislation and regulations;

*iii. in respect of living conditions and socio-cultural development in general*

- to take adequate steps to promote the adjustment of women migrants to the social and professional environment of the receiving country;
- to see to it that the conditions of access to and enjoyment of child care facilities are based, as far as possible, on a criterion of equality with national workers;
- to promote public awareness and understanding among the population of the specific problems of women migrants;
- to ensure that the competent authorities take initiatives and measures in close cooperation with organisations, including those for women migrants – to promote cultural self-fulfilment among women migrants, provide for their socio-cultural advancement and foster communication with the social environment of the receiving country;

*iv. in respect of basic training, vocational guidance and promotion*

- to increase the resources enabling women migrants to take advantage of language classes corresponding to their needs and, if need be, reading and writing classes, in accordance with Resolution (68) 18 of the Committee of Ministers;
- to extend to women migrants the benefit of vocational guidance, vocational training and permanent education;
- to enable women migrant workers to enjoy, on the same footing as indigenous women workers, the vocational retraining and rehabilitation facilities provided by the competent services and to support, notably in the framework of international agreements, all measures to further their promotion and ensure their resettlement should they change their occupation in the receiving country or return to their countries of origin.

3. report to the Secretary General of the Council of Europe every five years on measures taken to give effect to this recommendation.



**Recommendation No. R (81) 6  
of the Committee of Ministers to member states  
on the participation of women and men in an equitable proportion  
in committees and other bodies set up in the Council of Europe**

*(adopted by the Committee of Ministers on 30 April 1981  
at the 333rd meeting of the Ministers' Deputies)*

The Committee of Ministers, under the terms of Article 15.b of the Statute of the Council of Europe,  
Considering that one of the aims of the Council of Europe is to facilitate the economic and social progress  
of its members;

Considering that full participation by both women and men in political, economic, social and cultural  
life is an essential factor for the balanced development of society;

Considering that such participation must be effective at all levels, including the international level;

Having noted that women are clearly less numerous than men on most of the committees and other  
bodies set up in the Council of Europe,

Recommends that the governments of member states should, as far as possible:

*a.* ensure participation of women and men in an equitable proportion in the committees and other  
bodies set up under the Statute of the Council of Europe or under a treaty drawn up in that organisation;

*b.* nominate candidates of both sexes for committees and other bodies set up by election in the  
Council of Europe.



**Recommendation No. R (81) 15  
of the Committee of Ministers to member states  
on the rights of spouses relating to the occupation  
of the family home and the use of the household contents<sup>1</sup>**

*(adopted by the Committee of Ministers on 16 October 1981  
at the 338th meeting of the Ministers' Deputies)*

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

Considering the aim of the Council of Europe is to achieve a greater unity between its members, *inter alia*, by promoting the adoption of common rules in legal matters;

Recognising that disparities still exist concerning the rights of spouses with regard to the family home and household contents between the laws of member states;

Recalling its Resolution (78) 37 on equality of spouses in civil law;

Recognising the importance of promoting such equality with regard to the occupation of the family home and the use of the household contents;

Noting that in some states the rights of spouses relating to the family home and household contents are insufficiently protected;

Considering that although legal and *de facto* equality between the sexes is being progressively achieved in the member states of the Council of Europe it is desirable to improve the legal situation of spouses with regard to the family home and household contents;

Considering that the adoption by states of systems of co-ownership and co-leases of the family home is one of the means for strengthening the right of each spouse to occupy the said home while realising at the same time that such systems may not always sufficiently protect the right of occupation;

Desirous of providing common rules to enable states progressively to improve the rights of spouses in this field,

Recommends governments of member states to secure the rights of spouses to occupy the family home and to use the furniture and other objects which are meant for the use of the family in the home by introducing legislation or adapting, where necessary, their legislation to comply with the principles set out in the appendix to this recommendation and to take into consideration the possibility of adopting systems of co-ownership and co-leases as one of the means for strengthening the right of occupation of the family home.

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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 France reserved the right of his government to comply or not with the principles set out in the appendix to the recommendation ;
- the Representative of the Federal Republic of Germany reserved the right of his government to comply or not with Principles 1, 2, 4 and 5, paragraph 2, of the appendix to the recommendation ;
- the Representative of Italy reserved the right of his government to comply or not with Principle 5 of the appendix to the recommendation.

## **Appendix to Recommendation No. R (81) 15**

### **Principles**

#### **A. Rights of spouses relating to the occupation of the family home**

##### *Principle 1 – Consent of the spouse*

1. Any legal act by one spouse which might directly prejudice the right of the other spouse to occupy the family home must be carried out with the consent of the latter.
2. Where consent is unjustifiably withheld, or impossible to obtain, the authorisation of the court or other competent authority may be requested.
3. National legislation may provide for a system of registration of this right of occupation which ensures that this right is effective against third parties.

##### *Principle 2 – Sanctions*

1. Any act in breach of paragraph 1 of Principle 1 may, subject to paragraph 2 of Principle 1 and paragraph 2 below, be set aside or be subject to any other appropriate sanctions, when the right of occupation cannot be maintained.
2. The rights of bona fide third parties may be protected according to conditions laid down by national law.

##### *Principle 3 – Breakdown of marriage*

The right to occupy the family home may be assigned, in appropriate cases and according to the conditions laid down by national law, exclusively to one of the spouses in the case of a divorce or judicial separation.

##### *Principle 4 – Surviving spouse*

The surviving spouse shall have the right, in appropriate cases and according to the conditions laid down by national law, to continue to occupy the family home.

##### *Principle 5 – Leases*

1. Principles 1 to 4 shall also apply where the family home is held on leasehold by one of the spouses.
2. When the family home is held on leasehold by one of the spouses and this spouse does not discharge the obligations of a leaseholder, the other spouse shall have the right of continuing the lease by discharging these obligations.

#### **B. The rights of spouses relating to the use of the household contents**

##### *Principle 6 – Consent of the spouses*

Any act carried out by one spouse without the consent of the other spouse prejudicing the right of the latter to use the furniture and other objects which are meant for the use of the family in the home may be set aside, subject to any rights of bona fide third parties provided by national law, or this act may be subject to any other appropriate sanction.

##### *Principle 7 – Breakdown of marriage*

The whole or part of the said household contents may, in appropriate cases and according to the conditions laid down by national law, be assigned exclusively to one of the spouses in the case of a divorce or judicial separation.

##### *Principle 8 – Surviving spouse*

The surviving spouse shall have the right, in appropriate cases and according to the conditions laid down by national law, to be granted the whole or part of the said household contents.

**Recommendation No. R (81) 17  
of the Committee of Ministers to member states  
on adult education policy<sup>1</sup>**

*(adopted by the Committee of Ministers on 6 November 1981  
at the 339th meeting of the Ministers' Deputies)*

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

Having regard to the Standing Conference of European Ministers of Education held in Stockholm in 1975, which endorsed the principles of permanent education, and to the Symposium on "A Permanent Education Policy Today", held at Sienna in 1979;

Having noted the discussions in the conference entitled "Adult education ten years of change: prospects for the 1980s", which was organised by the Council of Europe in Strasbourg in 1980;

Having noted the intention of competent national authorities to intensify co-operation and interaction in the field of adult education;

Considering that, at the present time, millions of women and men find themselves faced by the urgent necessity for vocational training or retraining and for an updating of their education in order to cope with new patterns of work, of unemployment and of leisure;

Considering that adult education is one of the means to respond to present difficulties caused by the evolution of the labour market and the continuous introduction of new technologies;

Convinced that adult education is also one of the means of responding to the increasing demand for access to knowledge and to the cultural heritage on the one hand, and for active participation in the creation of knowledge and of new cultural values, on the other hand;

Convinced that adult education is a fundamental factor of equality of educational opportunity and of cultural democracy, and therefore of particular importance for ensuring the promotion of equal status for women and men;

Underlining that adult education is also a powerful factor in the protection of democracy and the rights of individuals and disadvantaged groups to the extent that it can enable people to make critical judgments and act consciously on the increasing flood of information,

Recommends the governments of member states:

*a.* to take account, in the implementation of their policies for adult education, of the factors set out in the appendix or to draw them to the attention of the competent bodies concerned so that they can be considered and, where appropriate, taken into account;

*b.* to ensure that this recommendation and the reference documents<sup>2</sup> which form its basis are distributed as widely as possible among all persons and bodies concerned with the different forms of the education of adults.

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1. When Recommendation No. R (81) 17 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 Switzerland reserved the right of his government to comply with it or not.  
2. Report of the Sienna Symposium on "Permanent Education Policy Today", and the final report of the project Development of Adult Education".



**Appendix to Recommendation No. R (81) 17**  
**Factors to be considered in applying adult education policy**

A. While respecting the variation, as between member states, of structures and of social, economic and administrative conditions, particularly their educational systems, it is important, concerning the objectives of adult education policy:

1. to regard adult education as one of the factors for economic and social development;
2. to take into consideration in adult education the whole person in the totality of his or her social, economic and cultural context and for that purpose further reduce any existing contrast between general education and vocational training;
3. to integrate progressively adult education in a comprehensive system of permanent education by developing at all levels of education approaches and methods that can be used by adults in order to meet the diverse educational needs which arise throughout their lives;
4. to promote, by means of adult education, the development of the active role and critical attitudes of women and men, as parents, producers, consumers, users of the mass media, citizens and members of their community;
5. to relate, as far as possible and according to national circumstances, the development of adult education to the lifestyles, responsibilities and problems of the adults concerned;
6. to stimulate industrial and commercial firms as well as administrations and public services to promote adult education by taking into account, in addition to their technical requirements, training needs connected with industrial democracy and socio-cultural development;
7. to encourage, in fields such as health, quality of life and the environment, housing, work and employment, family, culture and leisure, the co-operation between public, voluntary and private adult education agencies (including the universities) and other educational and social welfare agencies;
8. to support adult education experiments aiming at the creation of activities and job opportunities, particularly those responding to social needs not covered by free enterprise or by the public sector.

B. Concerning the organisation of adult education, it would be appropriate:

9. to take into account:
  - a. the responsibilities appropriate to the different levels (national, regional and local) and the machinery necessary to develop adequate co-operation and co-ordination of interested institutions both within and between these levels;
  - b. according to national situations, the optimum dimension of the "local unit" to which the organisation and management of adult education could be handed over, it being understood that, where appropriate, the central government would continue to assume co-ordination, set standards and protect the interests of migrant workers and disadvantaged groups;
10. to consider the possibility:
  - a. of co-ordinating, where national systems make this appropriate, the actions of the various government departments responsible, entirely or partially, for adult education;
  - b. of encouraging mutual information, consultation and proper co-ordination between public authorities and responsible voluntary bodies at all levels regarding their adult education policies and activities;
  - c. of establishing an advisory council able to help the development and realisation of adult education policies by its technical advice and support;
11. to investigate whether and under what conditions the coherent development of adult education could be facilitated by the drawing up of an outline law or other statutory provisions.

**Recommendation No. R (81) 18  
of the Committee of Ministers to member states  
concerning participation at municipal level**

*(adopted by the Committee of Ministers on 6 November 1981  
at the 339th meeting of the Ministers' Deputies)*

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

Considering that the aim of the Council of Europe is to achieve a greater unity between its members for the purpose of safeguarding and realising the ideals and principles which are their common heritage and facilitating their economic and social progress, and that this aim can be pursued, *inter alia*, by common action in social, legal and administrative matters and in the maintenance and further realisation of human rights and fundamental freedoms;

Having regard to the resolution concerning citizen participation at the municipal level adopted by the European Ministers responsible for Local Government at their 3rd meeting (Stockholm, 7-8 September 1978);

Having seen the conclusions for the 4th Conference of European Ministers responsible for Local Government (Madrid, 21-23 May 1980);

Re-affirming its devotion to representative democracy at all levels as part of the common heritage of member states and the basis of citizen influence on government;

Convinced that municipal autonomy is one of the cornerstones of democracy in European countries;

Considering that the conditions in which municipal democracy has to operate have been modified considerably in recent years as a result of structural and fundamental changes in local authority organisation and economic and political factors affecting local life;

Judging it necessary to strengthen representative democracy at the local level by bringing decision-making as close as possible to the citizens and involving citizens more directly in the management of the affairs of their community while safeguarding efficiency in the conduct of local affairs;

Recalling Resolution 101 (1978) of the Conference of Local and Regional Authorities of Europe on the participation of the individual in local public life;

Noting the proposals made in Assembly Recommendations 712 (1973), 799 (1977) and 903 (1980) concerning the specific position of migrants with respect to involvement in community life,

Considering that in a general manner foreign residents are integrated into local communities to a degree which varies according to their term of residence;

Taking into account that their often considerable contribution to the economic life and prosperity of the local community, their share in the taxes levied on all residents, the family links sometimes created with native families and their general contribution to the social and cultural life of the community, have generated a legitimate aspiration to fuller participation in the management of local affairs,

Recommends the governments of member states:

1. to adopt a policy for promoting participation in public local life;

2. to invite local authorities to consider taking the measures set out at the appendix to this recommendation;
3. to consider establishing legal frameworks where they do not already exist enabling local authorities to take such measures.

**Appendix to Recommendation No. R (81) 18**  
**Measures to be taken at local level for developing participation**  
**in the management of local affairs**

1. The strengthening of the interchange of information and communication at local level between citizens and their elected representatives thus providing improved opportunities for citizen influence and in particular:
  - 1.1. by promoting the expansion of municipal information activities and encouraging local authorities to adopt comprehensive information policies involving particularly information officers, bulletins, brochures, local meetings and public meetings on local affairs;
  - 1.2. by pursuing an active information policy towards young persons, for example in schools and via youth organisations;
  - 1.3. by taking into account the situation of the local mass media by encouraging local authorities to facilitate their work and by drawing upon the experience of new broadcasting media such as cable-vision and videograms in order to develop future policies in this area;
  - 1.4. by permitting and facilitating public access to municipal meetings and by providing publicity to ensure the maximum openness of local administration;
  - 1.5. by making it easier for elected municipal representatives to carry out their functions by increasing the possibility for them to devote more time to their work and relieving them from certain economic constraints
2. To improve opportunities for participation by citizens in general and, in particular, by those who, for various reasons, have at present great difficulties in participating in municipal affairs and to develop their political capacities, and in particular:
  - 2.1. by providing efficient consultation procedures and improving those already existing;
  - 2.2. by using municipal referenda in certain situations;
  - 2.3. by improving the participation of voluntary organisations (particularly of young persons) by means of better procedures for their consultation and by facilitating their co-operation in joint bodies;
  - 2.4. by encouraging the participation of women in local politics;
  - 2.5. by ensuring that groups socially and economically under-privileged in local life, for example elderly and handicapped persons, the unemployed and, in general all those, such as women and young people who, for various reasons, have difficulty in participating in local life, are able to make themselves heard especially through representative organisations and through consultation procedures and consultative bodies.
3. To deepen citizen influence in municipal planning in general on long-range and strategic decisions and in particular:
  - 3.1. by giving citizens the opportunity of participating in the various phases of the decision-making process by dividing the decision-making process, if possible, into different phases, for example programming, drafting and alternative phases and implementation;
  - 3.2. by illustrating planning material lucidly and intelligibly (maps, models, audiovisual techniques and films) and to the greatest possible extent by making it available to the general public throughout the course of planning work.

4. To strengthen citizen influence on the local environment and to place municipal activities on a stronger local footing and in particular:
  - 4.1. by facilitating the working conditions of voluntary organisations especially in urbanised areas and in rural communities;
  - 4.2. by encouraging the creation within sub-municipalities of bodies of various kinds where possible elected or composed of elected members which could be given advisory informative and possibly delegated executive powers;
  - 4.3. by taking every possible opportunity of functional decentralisation for example in according more responsibilities in the field of schools, day nurseries, hospitals, sport and recreation centres, theatres, libraries, etc.;
  - 4.4. by setting up local service and administrative offices to facilitate contacts between local authorities and citizens;
  - 4.5. by facilitating within the existing authorities the establishment of an integrated neighbourhood approach to the provision of local services.
5. To encourage participation in local life by foreign residents, and in particular:
  - 5.1. by providing for them a specific and active information policy;
  - 5.2. by ensuring that account is taken as far as possible of their needs and wishes;
  - 5.3. by promoting the creation of local representative bodies for foreign residents to be consulted whenever appropriate;
  - 5.4. by taking whatever steps are necessary to promote, in so far as possible, equal opportunities for foreign residents and to promote good relations between all residents, whatever their nationality, with a view to integrating foreign residents into local life;
  - 5.5. as regards those member states which already provide for the participation by some foreign residents in local elections, by considering the extension, if necessary on a reciprocal basis, of such right to vote to all foreign residents who are nationals of member states.



**Recommendation No. R (82) 2  
of the Committee of Ministers to member states  
on payment by the state of advances on child maintenance<sup>1</sup>**

*(adopted by the Committee of Ministers on 4 February 1982  
at the 343rd meeting of the Ministers' Deputies)*

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

Considering that the aim of the Council of Europe is to achieve greater unity between its members, *inter alia* by promoting the adoption of common rules in legal matters;

Noting that a large number of children are brought up by only one of their parents and that often one of the persons who is responsible for meeting their needs (hereinafter referred to as the "debtor") does not live with them and does not comply with the maintenance obligation;

Considering that it is primarily the responsibility of parents to provide children with appropriate maintenance but that the state should intervene when they fail to do so;

Recollecting that the European Conference on Family Law, held at Vienna in September 1977, expressed the wish that states take necessary measures to intervene, either by way of advance payment or by any other method, when the father and mother or one of them fails to comply with their maintenance obligations;

Having regard to Recommendation 869 (1979) of the Consultative Assembly of the Council of Europe on payment by the state of advances on child maintenance;

Recognising the advantage of adopting common rules to enable states progressively to improve the rights of children in this field,

Recommends governments of member states:

1. to adopt, taking as a guide the principles contained in the appendix to this recommendation, a system of advance payment of maintenance to children when the debtor fails to comply with his obligation, if they already have a system aiming at the same objective, to adapt it, if necessary, to the above-mentioned principles;
2. to strengthen the means of recovering advances from a debtor resident in another state and, to this end, to facilitate the recognition and enforcement of decisions relating to maintenance obligations for children, where appropriate by ratifying the relevant international instruments.

**Appendix to Recommendation No. R (82) 2**

*Principles*

1. Payments of advances on child maintenance will be made under a system set up by the state where a person who is under a legal obligation to pay maintenance, which has become enforceable by compulsory process, has failed to comply with his obligation. This system will apply to children habitually resident in the territory of that state and who are not living with the person liable to pay maintenance.

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1. When this recommendation was adopted, the Representatives of Ireland and Italy, in application of Article 10.2.c of the Rules of Procedure for the meetings of the Ministers' Deputies, reserved the right of their governments to comply with it or not.

2. The age of the child up to which payments will be made will be fixed by each state. In any event, the advance payment will be made until the end of the period of compulsory schooling.
3. The advance payments may be refused if the child or the parent with whom he is living has sufficient financial resources to meet his needs.
4. Advance payments may be limited to a sum fixed according to criteria laid down by each state.
5. Advance payments will not release the debtor either from his obligations towards the state with regard to the sum advanced by the latter or from his obligations with regard to the child for any residual sum.
6. Public authorities may recover advance payments from the debtor. Where they have the recognised power to do so they may also recover, on behalf of the maintenance creditor, the full sum required by a legal obligation which has become enforceable by compulsory process. Except in cases of double payment, the failure to recover from the debtor all or part of the advanced payments will not give a right to recover these advances from the child.

**Recommendation No. R (84) 4  
of the Committee of ministers to member states  
on parental responsibilities<sup>1</sup>**

*(adopted by the Committee of Ministers on 28 February 1984  
at the 367th meeting of the Ministers' Deputies)*

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

Considering that the aim of the Council of Europe is to achieve a greater unity between its member states, *inter alia*, by promoting the adoption of common rules in legal matters;

Considering that it is possible to make improvements to the legal systems relating to parental responsibilities in order to promote the development of the personality of the child and to protect his person and his moral and material interests while guaranteeing legal equality between parents,

Recommends governments of member states to adapt, where necessary, their legislation to comply with the principles concerning parental responsibilities set out in the appendix to this recommendation.

**Appendix to Recommendation No. R (84) 4**

*Principle 1*

For the purposes of this recommendation:

a. parental responsibilities are a collection of duties and powers which aim at ensuring the moral and material welfare of the child, in particular by taking care of the person of the child, by maintaining personal relationships with him and by providing for his education, his maintenance, his legal representation and the administration of his property ;

b. the terms "father", "mother", "parents" refer to persons having a legal filiation link with the child.

*Principle 2*

Any decision of the competent authority concerning the attribution of parental responsibilities or the way in which these responsibilities are exercised should be based primarily on the interests of the child. However, the equality between parents should also be respected and no discrimination should be made, in particular on grounds of sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.

*Principle 3*

When the competent authority is required to take a decision relating to the attribution or exercise of parental responsibilities and affecting the essential interests of the children, the latter should be consulted if their degree of maturity with regard to the decision so permits.

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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 Representatives of Denmark, Liechtenstein, Norway and the United Kingdom reserved the right of their Governments to comply or not with the first paragraph of Principle 9 as set out in the appendix to the recommendation;  
– the Representative of the Netherlands reserved the right of his Government to comply or not with Principle 11 as set out in the appendix to the recommendation.



*Principle 4*

When the persons having parental responsibilities exercise them in a way which is detrimental to the essential interests of the child, the competent authority should take, of its own motion or on application, any appropriate measures.

*Principle 5*

Parental responsibilities for a child of their marriage should belong jointly to both parents.

*Principle 6*

In the case of a dissolution of the marriage or of a separation of the parents, the competent authority requested to intervene should rule on the exercise of parental responsibilities. It should accordingly take any appropriate measures, for example by dividing the exercise of the responsibilities between the two parents or, where the parents consent, by providing that the responsibilities should be exercised jointly. In taking its decision, the authority should take account of any agreement concluded between the parents provided it is not contrary to the interests of the children.

*Principle 7*

1. Where the child is born out of wedlock and a legal filiation link is established with regard to one parent only, the parental responsibilities should belong to that parent.
2. Where the child is born out of wedlock and a legal filiation link is established with regard to both parents, national law may provide that the parental responsibilities should be exercised:
  - a. subject to the provisions of Principle 8:
    - i. by the mother alone;
    - ii. by the father alone, when a decision has been taken by the competent authority or when an agreement has been concluded between the two parents;
  - b. according to the division between the two parents decided by the competent authority;
  - c. jointly by both parents if they live together or if an agreement has been concluded between them.

*Principle 8*

In all cases both parents should be under a duty to maintain the child. The parent with whom the child does not live should have at least the possibility of maintaining personal relationships with the child unless such relationships would be seriously harmful to the interests of the child.

*Principle 9*

1. Where the parental responsibilities are exercised jointly by both parents and one of them dies, these responsibilities should belong to the surviving parent.
2. Where the parent who exercises alone some parental responsibilities dies, his responsibilities should be exercised by the surviving parent unless the interests of the child require any other measures.
3. Where there is no longer any parent living, the competent authority should take a decision concerning the attribution of parental responsibilities. National legislation may provide that these responsibilities may be given to a member of the family or to a person designated by the last parent to die, unless the interests of the child require any other measures.

*Principle 10*

1. Where parental responsibilities are exercised jointly by both parents, any decision affecting the interests of the child should be taken by the agreement of both.

2. Where there is a disagreement and the matter is referred to the competent authority by one of the parents, this authority should, insofar as the interests of the child so require, try to reconcile the parents, and, if this fails, take the appropriate decision.

3. With regard to third parties, the agreement of both parents should be presumed except in cases where national law, having regard to the importance of the interests at stake, requires an express agreement.

*Principle 11*

Each parent should normally be informed of the exercise of the responsibilities which have not been given to him, to the extent desired by him and, in any event, when the essential interests of the child are affected.



**Recommendation No. R (84) 17  
of the Committee of Ministers to member states  
on equality between women and men in the media**

*(adopted by the Committee of Ministers on 25 September 1984  
at the 375th meeting of the Ministers' Deputies)*

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

Considering that the aim of the Council of Europe is to achieve a greater unity between its members for the purpose of safeguarding and realising the ideals and principles which are their common heritage;

Noting that these ideals and principles include equality between women and men;

Being aware that, as emphasised in the United Nations Convention on the elimination of all forms of discrimination against women, the promotion of equality between women and men necessarily presupposes a change in "the social and cultural patterns of conduct of men and women, with a view to achieving the elimination of prejudices and customary and all other practices which are based on the idea of the inferiority or the superiority of either of the sexes or on stereotyped roles for men and women" (Article 5);

Recognising that the media play an important part in forming social attitudes and values and offer immense potential as instruments of social change;

Referring to the work and the results of the Seminar on "the Contribution of the Media to the Promotion of Equality between Women and Men" organised by the Council of Europe in Strasbourg from 21 to 23 June 1983;

Bearing in mind the Convention for the Protection of Human Rights and Fundamental Freedoms;

Recalling its commitment to the principles of freedom of expression and the free flow of information as embodied, *inter alia*, in its Declaration of 29 April 1982, which enable men and women to understand political, social, economic and cultural questions better and discuss them more freely;

Emphasising the principle prevailing in member states whereby media organisations are self-governing and independent of governments as regards particularly the content of programmes;

Recalling its Recommendation No. R (81) 17 on adult education policy and Recommendation No. R (84) 3 on the principles on television advertising,

Recommends that the governments of member states contribute to the promotion of equality between women and men in the electronic and printed media by taking appropriate steps with a view to implementing the following measures:

1. providing those responsible for the media with documentation and information on measures and/or initiatives taken by national authorities and, if possible, by any intergovernmental organisations to promote equality between women and men;
2. stimulating and, as far as possible, co-ordinating national research on public preferences and satisfaction in the matter of news and non-fiction programmes, with a breakdown according to sex, age, educational level, etc.;
3. stimulating evaluation by national research of the impact and influence of entertainment programmes where sex stereotyping and prejudices are concerned;

4. encouraging research on the selection, perception and understanding of messages, and on the appropriate use of affective and rational forms of language;
5. promoting the development, possibly in co-operation with organisations such as the European Broadcasting Union (EBU), of adult education programmes to be broadcast through the media, particularly for sections of the population that are isolated from the major currents of public life, for example women in rural areas and women migrants. Programmes for these two and other target groups could be seen as part of the objectives of the "European Declaration on Cultural Objectives";<sup>1</sup>
6. encouraging adoption by the media organisations of positive action programmes to improve the situation of women, particularly at decision-making levels and in technical services;
7. developing channels of education and training facilities for women in the new media technology;
8. ensuring application of the principle of equal treatment between women and men as a result of rules laid down for the recruitment, training, remuneration, promotion and any other conditions of employment of persons employed in the media;
9. encouraging the presence of women in an equitable proportion in media supervisory and management bodies;
10. encouraging wider participation by women in talks and discussions broadcast by the media;
11. ensuring that in publicity campaigns sponsored in the media by the public authorities, the dignity of women is safeguarded and a positive image of them is projected and also that the factual reality of relationships between women and men based on partnership is reflected without any sexual stereotyping, and that any exploitation of the bodies of women and men to draw attention to goods or services is barred;
12. encouraging awareness in the media and among the general public of the problems of equality between women and men in the media, in particular by the nationwide organisation of meetings and seminars on this question.

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1. Adopted at the 4th Conference of European Ministers responsible for Cultural Affairs (Berlin, 23-25 May 1984).

**Recommendation No. R (84) 22  
of the Committee of Ministers to member states  
on the use of satellite capacity for television and sound radio<sup>1</sup>**

*(adopted by the Committee of Ministers on 7 December 1984  
at the 378th meeting of the Ministers' Deputies)*

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

Considering that the aim of the Council of Europe is the achievement of greater unity between its members for the purpose of safeguarding and realising the ideals which are their common heritage;

Bearing in mind the Convention for the Protection of Human Rights and Fundamental Freedoms;

Recalling its commitment to the freedom of expression and the free flow of information and ideas as embodied *inter alia* in its Declaration of 29 April 1982;

Recalling the principles on television advertising, especially for satellite television, set out in its Recommendation No. R (84) 3 of 23 February 1984;

Recalling its Resolution (74) 26 of 2 July 1974 on the right of reply;

Recalling its Recommendation No. R (84) 17 of 25 September 1984 on equality between women and men in the media;

Taking into account the independence of service providers in matters of programme content and the freedom of artistic expression of programme makers;

Bearing mind the desire expressed by the European Ministers of Culture in Berlin in May 1984 to promote the production of programmes in European countries to supply material for the broadcasting time offered by the new networks;

Considering that the increase of satellite capacity available for television and sound radio makes the adoption of common European principles for the fair use of that capacity highly desirable;

Anxious to promote the harmonisation of the laws which the member states will adopt on the use of satellite capacity;

Considering that the Council of Europe is particularly suited to establish common principles in this field,

Recommends that the governments of member states:

*a.* respect the following principles on the use of satellite capacity for television and sound radio as regards matters falling within their competence, and

*b.* take all necessary steps to ensure that those principles are known and respected by the persons and bodies concerned.

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

## Principles

### *Definition and scope*

The following principles apply to the use of the capacity of direct broadcasting satellites (DBS) or fixed service satellites (FSS) for the purpose of transmitting programme-carrying signals meant for direct reception by the public, or for the distribution by broadcasting, cable or any other means accessible to members of the public.

For the purposes of this recommendation, the term “service provider” means any public or private broadcasting organisation, any consortium of broadcasting organisations, or any other entity responsible for television and sound radio programmes provided via satellite for reception by members of the public.

This recommendation does not concern problems of copyright and neighbouring rights.

### *Principle 1: Applicable law*

1.1. The state whose competent authority or body makes satellite capacity available to a service provider shall satisfy itself that the programmes to be transmitted comply with its relevant legislation and that its supervisory and judicial bodies have jurisdiction over the service provider.

1.2. Where one member state of the Council of Europe makes satellite capacity available to another member state for use by service providers, the states in question shall reach agreement as to the applicable law.

### *Principle 2: Programme standards*

2.1. Apart from the provisions of the law which is applicable according to Principle 1, service providers shall in general comply with the following basic requirements concerning programme content:

- a. news shall not be presented inaccurately or in a partial manner;
- b. programmes shall not be indecent and in particular not contain pornography;
- c. programmes shall not infringe the right to respect for privacy and family life; they shall respect the views of others;
- d. programmes shall not give undue prominence to violence or incite to race hatred;
- e. programmes shall respect the sensitivity and the physical, mental and moral personality of children and young persons especially when large numbers of them are likely to watch.

2.2. All efforts shall be made to avoid that the acquisition by one service provider of exclusive rights for an event of high public interest will result in depriving a large part of the public of the opportunity to follow that event on television or radio. In particular, the special conditions of sound radio reports shall be taken into account.

### *Principle 3: Responsibility*

Licences granted by public authorities or contracts concluded with them relating to the use of satellite capacity shall specify the responsibilities of the service provider and of any of the latter’s sub-contractors.

### *Principle 4: Right of reply*

Every natural or legal person regardless of nationality or place of residence shall have the opportunity to exercise the right of reply or similar remedies, relating to programmes referred to in this recommendation. To that effect the name of the person or body responsible for the programme shall be provided with it.

### *Principle 5: Provision of information*

5.1. The fullest possible information about service providers shall be made available upon request by the competent national authority. Such information shall include, depending upon the case, the name,

seat, legal status of the service provider, the purpose of the use of satellite capacity, the nature of the programmes, the way of financing and the public for which the programmes are intended.

5.2. Every state shall indicate which authorities or bodies are competent to regulate and licence the use of satellite capacity by service providers.





**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.

**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;

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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.

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.



**Recommendation No. R (85) 7  
of the Committee of Ministers to member states  
on teaching and learning about human rights in schools**

*(adopted by the Committee of Ministers on 14 May 1985  
at the 385th meeting of the Ministers' Deputies)*

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

Considering that the aim of the Council of Europe is to achieve a greater unity between its members for the purpose of safeguarding and realising the ideals and principles which are their common heritage;

Reaffirming the human rights undertakings embodied in the United Nations' Universal Declaration of Human Rights, the Convention for the Protection of Human Rights and Fundamental Freedoms and the European Social Charter;

Having regard to the commitments to human rights education made by member states at international and European conferences in the last decade;

Recalling:

- its own Resolution (78) 41 on "The teaching of human rights",
- its Declaration on "Intolerance: a threat to democracy" of 14 May 1981,
- its Recommendation No. R (83) 13 on "The role of the secondary school in preparing young people for life";

Noting Recommendation 963 (1983) of the Consultative Assembly of the Council of Europe on "Cultural and educational means of reducing violence";

Conscious of the need to reaffirm democratic values in the face of:

- intolerance, acts of violence and terrorism;
- the re-emergence of the public expression of racist and xenophobic attitudes;
- the disillusionment of many young people in Europe, who are affected by the economic recession and aware of the continuing poverty and inequality in the world;

Believing, therefore, that, throughout their school career, all young people should learn about human rights as part of their preparation for life in a pluralistic democracy;

Convinced that schools are communities which can, and should, be an example of respect for the dignity of the individual and for difference, for tolerance, and for equality of opportunity,

I. Recommends that the governments of member states, having regard to their national education systems and to the legislative basis for them:

*a.* encourage teaching and learning about human rights in schools in line with the suggestions contained in the appendix hereto;

*b.* draw the attention of persons and bodies concerned with school education to the text of this recommendation;

II. Instructs the Secretary General to transmit this recommendation to the governments of those states party to the European Cultural Convention which are not members of the Council of Europe.

## **Appendix to Recommendation No. R (85) 7**

### **Suggestions for teaching and learning about human rights in schools**

#### *1. Human rights in the school curriculum*

1.1. The understanding and experience of human rights is an important element of the preparation of all young people for life in a democratic and pluralistic society. It is part of social and political education, and it involves intercultural and international understanding.

1.2. Concepts associated with human rights can, and should, be acquired from an early stage. For example, the non-violent resolution of conflict and respect for other people can already be experienced within the life of a pre-school or primary class.

1.3. Opportunities to introduce young people to more abstract notions of human rights, such as those involving an understanding of philosophical, political and legal concepts, will occur in the secondary school, in particular in such subjects as history, geography, social studies, moral and religious education, language and literature, current affairs and economics.

1.4. Human rights inevitably involve the domain of politics. Teaching about human rights should, therefore, always have international agreements and covenants as a point of reference, and teachers should take care to avoid imposing their personal convictions on their pupils and involving them in ideological struggles.

#### *2. Skills*

The skills associated with understanding and supporting human rights include

##### *i. intellectual skills, in particular:*

- skills associated with written and oral expression, including the ability to listen and discuss, and to defend one's opinions;
- skills involving judgment, such as:
  - the collection and examination of material from various sources, including the mass media, and the ability to analyse it and to arrive at fair and balanced conclusions;
  - the identification of bias, prejudice, stereotypes and discrimination;

##### *ii. social skills, in particular:*

- recognising and accepting differences;
- establishing positive and non-oppressive personal relationships;
- resolving conflict in a non-violent way;
- taking responsibility;
- participating in decisions;
- understanding the use of the mechanisms for the protection of human rights at local, regional, European and world levels.

#### *3. Knowledge to be acquired in the study of human rights*

3.1. The study of human rights in schools will be approached in different ways according to the age and circumstances of the pupil and the particular situations of schools and education systems. Topics to be covered in learning about human rights could include

- i. the main categories of human rights, duties, obligations and responsibilities;
- ii. the various forms of injustice, inequality and discrimination, including sexism and racism;
- iii. people, movements and key events, both successes and failures, in the historical and continuing struggle for human rights;

iv. the main international declarations and conventions on human rights, such as the Universal Declaration of Human Rights and the Convention for the Protection of Human Rights and Fundamental Freedoms.

3.2. The emphasis in teaching and learning about human rights should be positive. Pupils may be led to feelings of powerlessness and discouragement when confronted with many examples of violation and negations of human rights. Instances of progress and success should be used.

3.3. The study of human rights in schools should lead to an understanding of, and sympathy for, the concepts of justice, equality, freedom, peace, dignity, rights and democracy. Such understanding should be both cognitive and based on experience and feelings. Schools should, thus, provide opportunities for pupils to experience affective involvement in human rights and to express their feelings through drama, art, music, creative writing and audiovisual media.

#### *4. The climate of the school*

4.1. Democracy is best learned in a democratic setting where participation is encouraged, where views can be expressed openly and discussed, where there is freedom of expression for pupils and teachers, and where there is fairness and justice. An appropriate climate is, therefore, an essential complement to effective learning about human rights.

4.2. Schools should encourage participation in their activities by parents and other members of the community. It may well be appropriate for schools to work with non-governmental organisations which can provide information, case-studies and first-hand experience of successful campaigns for human rights and dignity.

4.3. Schools and teachers should attempt to be positive towards all their pupils, and recognise that all of their achievements are important – whether they be academic, artistic, musical, sporting or practical.

#### *5. Teacher training*

5.1. The initial training of teachers should prepare them for their future contribution to teaching about human rights in their schools. For example, future teachers should

- i. be encouraged to take an interest in national and world affairs;
- ii. have the chance of studying or working in a foreign country or a different environment
- iii. be taught to identify and combat all forms of discrimination in schools and society and be encouraged to confront and overcome their own prejudices.

5.2. Future and practising teachers should be encouraged to familiarise themselves with:

- i. the main international declarations and conventions on human rights;
- ii. the working and achievements of the international organisations which deal with the protection and promotion of human rights, for example through visits and study tours.

5.3. All teachers need, and should be given the opportunity, to update their knowledge and to learn new methods through in-service training. This could include the study of good practice in teaching about human rights, as well as the development of appropriate methods and materials.

#### *6. International Human Rights Day*

Schools and teacher training establishments should be encouraged to observe International Human Rights Day (10 December).





**Recommendation No. R (87) 2  
of the Committee of Ministers to member states  
containing a model agreement to enable the members of the family  
forming part of the household of a member of a diplomatic mission  
or consular post to engage in a gainful occupation**

*(adopted by the Committee of Ministers on 12 February 1987  
at the 404th meeting of the Ministers' Deputies)*

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

Noting the difficulties encountered in many states by members of the family forming part of the household of a member of a diplomatic mission or consular post who wish to engage in a gainful occupation;

Realising that many members of such households, in particular spouses, may wish to work in the state where the member of a diplomatic mission or consular post is assigned to duty;

Considering that a model agreement might assist states when preparing agreements to enable the members of such households to work,

Recommends governments of member states to take into consideration the model agreement appended to this recommendation during any negotiations concerning the exercise of a gainful occupation by the members of the family forming part of the household of a member of a diplomatic mission or consular post.

**Appendix to Recommendation No. R (87) 2  
Model agreement to enable the members of the family  
forming part of the household of a member of a diplomatic mission  
or consular post to engage in a gainful occupation**

*1. Authorisation to engage in a gainful occupation*

a. The members of the family forming part of the household of a member of a diplomatic mission or consular post of the sending state shall be authorised, on a reciprocal basis, to engage in a gainful occupation in the receiving state, in accordance with the provisions of the law of the receiving state.

b. For the purposes of this agreement:

- “a member of a diplomatic mission or consular post” means any employee of the sending state who is not a national of the receiving state and who is assigned to official duty in the receiving state in a diplomatic mission, consular post or mission to an international organisation;
- “a member of the family” means the spouse of a member of a diplomatic mission or consular post and any minor child who form part of the household of a member of a diplomatic mission or consular post.

c. Any authorisation to engage in a gainful occupation in the receiving state shall, in principle, be terminated at the end of the assignment of the member of a diplomatic mission or consular post.

*2. Procedures*

a. A request for authorisation to engage in a gainful occupation shall be sent on behalf of the member of the family by the embassy of the sending state to the Ministry of Foreign Affairs of the receiving state.

b. The procedures followed shall be applied in a way which enables the member of the family to engage in a gainful occupation as soon as possible and any requirements relating to work permits and similar formalities shall be favourably applied.

### *3. Civil and administrative privileges and immunities*

In the case of members of the family who enjoy immunity from the civil and administrative jurisdiction of the receiving state in accordance with the Vienna Convention on diplomatic relations or under any other applicable international instrument, such immunity shall not apply in respect of any act carried out in the course of the gainful occupation and falling within the civil or administrative law of the receiving state.

### *4. Criminal immunity*

In the case of members of the family who enjoy immunity from the criminal jurisdiction of the receiving state in accordance with the Vienna Convention on diplomatic relations or under any other applicable international instrument:

a. *Alternative 1:* the provisions concerning immunity from the criminal jurisdiction of the receiving state shall continue to apply in respect of any act carried out in the course of the gainful occupation. However, the sending state shall give serious consideration to waiving the immunity of the member of the family concerned from the criminal jurisdiction of the receiving state.

*Alternative 2:* the sending state shall waive the immunity of the member of the family concerned from the criminal jurisdiction of the receiving state in respect of any act carried out in the course of the gainful occupation save in special instances when the sending state considers that such a waiver could be contrary to its interests.

b. The sending state shall give serious consideration to waiving the immunity of the member of the family from the execution of a sentence.

### *5. Fiscal and social security regimes*

In accordance with the Vienna Convention on diplomatic relations or under any other applicable international instrument, members of the family shall be subject to the fiscal and social security regimes of the receiving state for all matters connected with their gainful occupation in that state.

**Recommendation No. R (87) 5  
of the Committee of Ministers to member states  
on making old-age and invalidity benefits generally available<sup>1</sup>**

*(adopted by the Committee of Ministers on 12 March 1987  
at the 405th meeting of the Ministers' Deputies)*

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

1. Considering that the aim of the Council of Europe is to achieve a greater unity between its members for the purpose, *inter alia*, of facilitating their social progress;
2. Considering that making old-age and invalidity benefits generally available constitutes an important means of furthering and harmonising social progress in Europe;
3. Recalling that, in its Declaration on human rights of 27 April 1978, it decided to explore the possibility of extending the rights of the individual, notably rights in the social field, which should be protected by European conventions or any other appropriate means
4. Recalling that, in its final communiqué, the 2nd Conference of European Ministers responsible for Social Security, held in Madrid in 1982, particularly expressed its interest in the general application of old-age benefits;
5. Bearing in mind:
  - the right to social security and social assistance as set forth in Articles 12 and 13 of the European Social Charter,
  - Part V (Old-age benefit) and Part IX (Invalidity benefit) of the European Code of Social Security as amended by the Protocol thereto,
  - International Labour Organisation Convention No. 128 on invalidity, old-age and survivors' benefits,
  - International Labour Organisation Recommendation No. 131 of 1967 concerning invalidity, old-age and survivors' benefits,
  - and the provisions of its own Resolution (70) 16 on social and medico-social policy for old age, and Resolution (76) 32 on security measures to be taken in favour of pensioners and persons remaining in activity after pensionable age;
6. Noting that, despite the progress achieved, some groups of people are still excluded from old-age and invalidity benefits in several member states;
7. Considering that the progressive extension to the whole population of a personal right to old-age and invalidity benefits constitutes an important objective;
8. Considering that it is desirable that member states, through their social security systems, should provide the elderly and disabled with an adequate means of livelihood,

Recommends that the governments of member states make old-age and invalidity benefits generally available in accordance with the guiding principles and specific measures set out in the appendix hereto.

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1. When this recommendation was adopted, the Representative of the Federal Republic of Germany recorded his abstention, in application of Article 10.2.d of the Rules of Procedure for the meetings of the Ministers' Deputies.

## **Appendix to Recommendation No. R (87) 5**

### **Part A**

#### **Guiding principles for making the right to old-age and invalidity benefits generally available**

##### *a. Personal scope*

1. All members of the resident population should be provided with social security protection in cases of old age and invalidity.
2. If necessary, this objective could be attained progressively, starting with the extension to all categories of employed persons and continuing with the extension to the entire economically active population.

##### *b. Personal right to benefit*

3. Protection should be made generally available through the recognition, even if progressive, of a personal right to old-age and invalidity benefits.
4. Where the general availability of old-age and invalidity benefits does not form part of the universal protection scheme, the following categories of persons, in addition to the economically active categories of the population, should be entitled to appropriate protection in cases of old age and invalidity

*– Unpaid persons who devote themselves to household tasks or social work*

All unpaid persons who devote themselves to household tasks or to social work should be placed on the same footing as workers as regards protection in cases of old age and invalidity, or be entitled to non-contributory old-age and invalidity benefits, or be allowed to be affiliated to a voluntary old-age/invalidity insurance scheme under the social security system;

*– Non-active persons unfit for work*

All persons who have been unable to gain entitlement to contributory old-age and invalidity benefits owing to their being unfit for work, in particular as a result of a congenital disability or a disease contracted during childhood, should receive non-contributory invalidity and old-age benefits;

*– Other non-active persons*

All other non-active persons should either be entitled to non-contributory old-age and invalidity benefits or be able to become affiliated to a voluntary old-age and invalidity insurance scheme under the social security system.

##### *c. Entitlement to and calculation of benefits*

5. Periods during which persons receive social security cash benefits should, under the conditions prescribed in national legislation, be taken into consideration towards the qualifying periods for old-age and invalidity benefits and the calculation of benefit amounts.
6. Periods devoted to bringing up children, looking after dependants or performing unpaid social work of community value by persons who, as a result, have interrupted an occupational activity, should count towards the qualifying periods for old-age and invalidity benefits and the calculation of benefit amounts.

##### *d. Right of appeal*

7. In the event of old-age or invalidity benefits being withheld, withdrawn or suspended, or in the event of disputes as to their amounts, the persons concerned should be entitled to bring an appeal, in principle free of charge, to the competent jurisdiction.

*e. Pensionable age*

8. The pensionable age prescribed by national legislation should be the same for all persons concerned, regardless of the social security scheme to which they belong, whether it be contributory or non-contributory, without prejudice to any exceptions justified by particular living and working conditions.

**Part B****Measures specific to invalidity benefit***a. Definition of the contingency*

9. Each member state should work towards harmonising the definitions of invalidity in legislation applicable to different categories of its population.

10. Workers' incapacity to work or earn and non-active persons' incapacity to engage in their everyday activities as a result of illness or infirmity should be the main factor in the assessment of invalidity. Impairment of physical or mental faculties should be a supplementary factor.

11. In all cases, the evaluation of the residual capacity to work or earn or to engage in everyday activities should be made according to the age of the persons concerned and, where reintegration into occupational life is possible, according to their aptitudes and vocational qualifications, the rehabilitation and re-employment facilities available to them and their chances of leading a normal life.

12. When assessing and reviewing the degree of invalidity, account should be taken not only of the medical problems but also of the psychological, employment and vocational training problems of the persons concerned.

*b. Eligibility for benefit*

13. Member states should ease qualifying conditions in cases where invalidity results from an accident, a congenital disability or a childhood illness. In no case should qualifying periods be such as to deny protection to the youngest victims of invalidity.

14. Persons who do not qualify for invalidity benefit under an insurance scheme should be entitled to non-contributory invalidity benefit, subject to a means test.

*c. Functional rehabilitation and occupational retraining measures*

15. In addition to cash benefits, member states should:

- provide functional and occupational rehabilitation facilities to prepare disabled persons for the resumption of their previous activity or, where this is not possible, for the most suitable alternative activity, having regard to their aptitudes and capacities;
- take measures to facilitate employment of disabled persons;
- grant mobility aids and promote the social integration of disabled persons;
- adapt supplementary forms of aid as warranted by the additional living expenses and needs of disabled persons.



**Recommendation No. R (88) 3  
of the Committee of Ministers to member states  
on the validity of contracts between persons  
living together as an unmarried couple  
and their testamentary dispositions<sup>1</sup>**

*(adopted by the Committee of Ministers on 7 March 1988  
at the 415th meeting of the Ministers' Deputies)*

The Committee of Ministers, under the terms of Article 15.b of the Statute of the Council of Europe,  
Considering that the aim of the Council of Europe is to achieve a greater unity between its members, in particular by promoting the adoption of common rules in legal matters;

Considering that many problems concerning persons living together as an unmarried couple may be resolved by the conclusion of contracts between such persons or by testamentary dispositions made by one in favour of the other;

Noting that in some countries such contracts and testamentary dispositions might be considered to be contrary to public policy or morality,

Recommends that the governments of member states take the necessary measures:

i. to ensure that contracts relating to property between persons living together as an unmarried couple, or which regulate matters concerning their property either during their relationship or when their relationship has ceased, should not be considered to be invalid solely because they have been concluded under these conditions;

ii. to apply the same principle to testamentary dispositions.

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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 Luxembourg reserved the right of his Government to comply with it or not.





**Recommendation No. R (89) 1  
of the committee of ministers to member states  
on contributions following divorce<sup>1</sup>**

*(adopted by the Committee of Ministers on 18 January 1989  
at the 423rd meeting of the Ministers' Deputies)*

The Committee of Ministers, under the terms of Article 15.b of the Statute of the Council of Europe,  
Considering that the aim of the Council of Europe is to achieve a greater unity between its members, in particular, by promoting the adoption of common rules in legal matters;

Noting that a divorce may seriously affect the standard of living of both parties ;

Desiring to help each party to be self-supporting after divorce;

Considering that, where a party is not able to be self-supporting after divorce, adequate contributions should be provided;

Having regard to Resolution (78) 37 of the Committee of Ministers on equality of spouses in civil law,  
Recommends the governments of member states to implement the following principles:

*Principle 1*

After a divorce, the aim should be that, as far as possible, each party should be economically independent and self-supporting. This aim might be attained by appropriate rules relating to:

*a.* matrimonial property regimes, in particular by granting to a former spouse the right to obtain a fair share in the property of the other;

*b.* old-age insurance schemes, to enable the former spouses to benefit equally from payments made during their marriage.

*Principle 2*

The aim of Principle 1 could also be achieved by the payment, by one party to the other, either of a capital sum or periodical payments for a limited period.

*Principle 3*

If the aim cannot be attained, the party who is not self-supporting should be entitled to contributions made by the other party or by public authorities or both in the manner prescribed by national law.

*Principle 4*

In the assessment of contributions to be made by one party to the other party under Principles 2 and 3, account should be taken of all relevant factors and, in particular, the resources and the financial needs of each party.

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1. The Representative of Ireland, in application of Article 10.2.c of the Rules of Procedure for meetings of the Ministers' Deputies, reserved the right of his Government to comply with the recommendation or not.

*Principle 5*

In the assessment of contributions to be made by one party to the other party, account should not be taken of any fault of either party. However, legislation may provide the possibility that a contribution may be refused or reduced where the party seeking the contribution has been seriously at fault.

*Principle 6*

In the case of a change in the circumstances of either party, the amount of the periodical payments to be paid by one party to the other may be revised.

*Principle 7*

After the death of the debtor, contributions should, wherever possible, be maintained or replaced by other benefits such as a share in the debtor's estate or, if national law so provides, contributions by public authorities.

*Principle 8*

States should take measures or reinforce existing measures at a national and international level to ensure that effective means are available to enforce the recovery of contributions.

*Principle 9*

The parties should provide the necessary information to determine whether there is an obligation to provide contributions, to fix the amount and to enable the amount to be recovered.

The obligation to provide this information may also, if necessary, be imposed on public authorities or employers of the parties who possess it.

**Recommendation No. R (90) 4  
of the Committee of Ministers to member states  
on the elimination of sexism from language**

*(adopted by the Committee of Ministers on 21 February 1990  
at the 434th meeting of the Ministers' Deputies)*

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

Considering that the aim of the Council of Europe is to achieve a greater unity between its members for the purpose of safeguarding and promoting the ideals and principles which are their common heritage;

Considering that equality between women and men falls within the scope of those ideals and principles;

Welcoming the fact that the principle of equality between the sexes is gradually becoming part of law and practice in Council of Europe member states;

Considering, however, that the achievement of real equality between women and men is still being hindered by social, cultural and other barriers;

Stressing the fundamental role of language in forming an individual's social identity, and the interaction which exists between language and social attitudes;

Convinced that the sexism characterising current linguistic usage in most Council of Europe member states whereby the masculine prevails over the feminine – is hindering the establishment of equality between women and men, since it obscures the existence of women as half of humanity, while denying the equality of women and men;

Noting also that the use of the masculine gender to denote people of both sexes is, in today's social context, a source of uncertainty about the people – men or women – involved;

Aware of the importance of the role played by education and the media in shaping attitudes and behaviour;

Welcoming the initiatives already taken at national and international level to adapt language to the social and psychological trends towards equality between women and men;

Having regard to its Recommendation No. R (85) 2 on legal protection against sex discrimination;

Having regard also to the Resolution on policy and strategies for achieving equality in political life and in the decision-making process, and to the Resolution on policies to accelerate the achievement of real equality between women and men, adopted respectively by the 1st (Strasbourg, 4 March 1986) and the 2nd (Vienna, 4-5 July 1989) European Ministerial Conferences on Equality between Women and Men;

Bearing in mind its Declaration on equality of women and men, adopted on 16 November 1988,

Recommends that the governments of member states promote the use of language reflecting the principle of equality of women and men, and take any measures they consider appropriate with a view to:

1. encouraging the use, as far as possible, of non-sexist language to take account of the presence, status and role of women in society, as current linguistic practice does for men;

2. bringing the terminology used in legal drafting, public administration and education into line with the principle of sex equality;
3. encouraging the use of non-sexist language in the media.

**Recommendation No. R (96) 5  
of the Committee of Ministers to member states  
on reconciling work and family life**

*(adopted by the Committee of Ministers on 19 June 1996  
at the 569th meeting of the Ministers' Deputies)*

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

Considering that the aim of the Council of Europe is to achieve a greater unity between its members for the purpose of safeguarding and realising the ideals and principles which are their common heritage and facilitating their economic and social progress, while respecting human rights and fundamental freedoms;

Bearing in mind Article 1 of the Revised European Social Charter, which contains an undertaking to ensure the effective exercise of the right to work, as well as Article 20 concerning the right to equal opportunities and equal treatment in matters of employment and occupation without discrimination on the grounds of sex, and Article 27 concerning the right of workers with family responsibilities to equal opportunities and equal treatment;

Bearing in mind its declaration adopted on the occasion of its 83rd Session in 1988 on equality of women and men;

Recalling that, in the resolution on the employment of women adopted at the close of the 4th Conference of European Ministers of Labour (Copenhagen, 1989), the Ministers of Labour agreed that adaptive and innovative measures were required in order to better reconcile working life and family life, whether it be in social infrastructures, labour and social protection legislation, or flexibility of employment for workers, without prejudice to access by women to professional responsibilities of all kinds;

Bearing in mind Recommendation No. R (94) 14 of the Committee of Ministers on coherent and integrated family policies;

Taking note of the final communiqué of the XXIVth session of the Conference of European Ministers responsible for Family Affairs on the theme of the status and role of fathers – family policy aspects (Helsinki, 1995);

Bearing in mind the various instruments of the International Labour Organisation, particularly Convention No. 156 and Recommendation No. 165 concerning equal opportunities and equal treatment for men and women workers: workers with family responsibilities, and Convention No. 175 and Recommendation No. 182 concerning part-time work;

Considering that the initiatives to enable women and men to reconcile their occupational, family and upbringing responsibilities arising from the care of children contained in the Recommendation of the Council of the European Communities of 31 March 1992 on child care (92/241/EEC) are relevant to the circumstances pertaining in all member states;

Bearing in mind the principles set out in Article 18 of the United Nations Convention on the Rights of the Child (1989), which provides that the states parties shall use their best efforts to ensure recognition of the principle that both parents have common responsibilities for the upbringing and development of their children, that they shall render appropriate assistance to parents in the performance of their child-rearing responsibilities, and that they shall take all appropriate measures to ensure that children of working parents have the right to benefit from child-care services and facilities for which they are eligible;

Bearing in mind the strategic objectives set out in the Platform for Action adopted by the United Nations 4th World Conference on Women (Beijing, 1995), and in particular those aiming at the promotion of the harmonisation of work and family responsibilities for women and men;

Considering that employment and family policies should promote equal opportunities in order to overcome discrimination on grounds such as disability, age, sex, sexual orientation, race, colour or ethnic origins;

Welcoming the progress already made in facilitating the labour force participation of workers with family responsibilities;

Recognising that the reconciliation of work and family life is a problem of considerable complexity which still remains insufficiently understood;

Recognising, nonetheless, that the following observations can be made:

- it is women who most often continue to bear the principal burden of family responsibilities;
- discrimination against women in the labour market is encouraged by insufficient sharing of family responsibilities;
- women and men have an increasing desire and willingness to share their family responsibilities more equally;
- numerous obstacles, especially social and cultural, stand in the way of a more equal sharing between women and men of their family responsibilities;
- overall, labour-market actors continue to take insufficient account of the family responsibilities of women and men;

Taking note of the development and importance of family responsibilities for women and men arising from economic, cultural and social changes;

Taking into consideration, on the one hand, the difficult economic and social context, particularly the budgetary restrictions confronting member states, and, on the other hand, the potential benefits to be gained in the promotion of a working society that uses the skills of all its members to the full;

Noting that the full social and economic participation of workers with family responsibilities has positive effects for the efficiency of the economy, the promotion of employment, and the fight against unemployment, and also has a role in strengthening social cohesion;

Considering that success in meeting the objectives and implementing the measures and initiatives described below demands both individual initiative and collective effort;

Considering, furthermore, that the undertaking of such a collective effort concerns, *inter alia*, public authorities, employers, organisations of employers and workers, and non-governmental organisations;

Being aware that greater access for women to positions of responsibility is an important factor in promoting measures designed to improve equal opportunities for women and men;

Affirming that the reconciliation of work and family life, promoting as it does self-fulfilment in public, professional, social and family life, is a precondition for a meaningful quality of life and for the full exercise of fundamental human rights in the economic and social sphere,

Recommends that the governments of member states:

- I. Take action, within the framework of a general policy promoting equal opportunities and equal treatment, to enable women and men, without discrimination, to better reconcile their working and family lives;
- II. Adopt and implement the measures and general principles described in the appendix to this recommendation in the manner they consider the most appropriate to achieve this goal in the light of national circumstances and preferences.

## Appendix to Recommendation No. R (96) 5

### General principles

1. With a view to creating effective equality of opportunity and treatment for women and men workers, each member state should make it an aim of national policy to enable persons with family responsibilities who are engaged or wish to engage in employment to exercise their right to do so without being subject to discrimination and, to the extent possible, without any conflict between their employment and family responsibilities.
2. The need for women and men to meet their responsibilities for child rearing should be made a priority, not only in respect of their very young children but also in respect of their older children. It is also important that workers be able to meet their increasing responsibilities to other dependent family members, and in particular to their relatives who are elderly or who have a disability.
3. The measures described in this appendix imply a considerable change in attitudes, business structures and working patterns in the public and private sectors, and it is therefore important to ensure that the measures in this appendix are implemented with the full involvement and co-operation of all labour-market actors including employers and organisations of employers and workers.
4. Although the measures described in this appendix relate essentially to the labour market, they will not in themselves ensure a more equal reconciliation of occupational and family responsibilities. A concerted effort therefore needs to be taken in all fields of social life in order to promote and take account of changes in the roles of women and men in both the workplace and the home.
5. With a view to promoting the reconciliation of working and family life, action needs to be taken in a number of related priority policy areas, namely
  - the organisation of working time;
  - the abolition of discrimination between women and men in the labour market;
  - the development of adequately financed services in favour of families;
  - the adaptation of social security schemes and tax systems to the increasing diversity in working patterns;
  - the organisation of school time and curricula.
6. A significant effort should be made to strengthen the regulatory and social infrastructures which support and assist workers who have to reconcile their working and family responsibilities.
7. The various instruments of the international bodies referred to in the preamble to this recommendation should be applied as widely as possible.

### Organisation of working time

#### *General*

8. Governments should promote effective flexibility, or, where appropriate, encourage employers' and workers' organisations to promote such flexibility, throughout the length of the active life of workers, to take account of their family responsibilities. Account should be taken of their needs and in particular on their preparation for, entry to and withdrawal from the labour market.

#### *A flexible employment practice*

9. Employers should be encouraged to develop flexible employment practices enabling their workers, both women and men, to meet the demands of their family responsibilities in the most satisfactory manner possible. In so far as is possible, account should be taken of the individual circumstances of each worker in relation to their family responsibilities and the needs of the persons dependent on them (for example the size of their family, whether they are a single parent, or whether their dependent relatives are ill, elderly or have a disability).



10. A flexible and voluntary employment practice widely agreed between employers and workers should comprise as many as possible of the following options:

- easier access to part-time work for those workers who so wish;
- easier access, where possible, to options for “distance employment” such as, for example, telework or homework for those workers who so wish;
- the possibility for workers to vary their working hours and the organisation of their working time, whilst retaining the possibility of reverting to their original hours;
- leave arrangements to care for family members who are ill or who have a disability.

11. Flexible employment practices should provide for conditions of employment which are equivalent or comparable to those of similarly placed full-time workers. In particular, member states are encouraged to extend this principle of equal or comparable treatment to the following areas:

- job security;
- work place representation;
- career development including promotion possibilities;
- pay and other benefits.

#### *Maternity and parental leave*

12. Women should be entitled to legal protection in the event of pregnancy, and, in particular, an adequate period of maternity leave, adequate pay or allowance during this period and job protection.

13. The fathers of newly born children should also be allowed a short period of leave to be with their families. In addition, both the father and the mother should have the right to take parental leave during a period to be determined by the national authorities without losing either their employment or any related rights provided for in social protection or employment regulations. The possibility should exist for such parental leave to be taken part-time and to be shared between parents.

14. The measures described in paragraph 13 should apply equally for the benefit of persons adopting a child.

15. The return to work at the end of a period of parental leave should be facilitated by, for example, vocational guidance and training facilities.

#### **Abolition of discrimination between women and men in the labour market**

16. A reduction of wage differentials between women and men should be encouraged in order to achieve a more equal sharing of family responsibilities within each family unit. Accordingly, measures should be taken to promote:

- i. a more balanced distribution of women and men in different sectors and occupations;
- ii. a reduction of wage differentials between female dominated and male dominated occupations;
- iii. a reduction in wage differentials between women and men within the same occupation.

#### **Development of adequately financed services in favour of families**

17. A wide and diversified variety of high quality services in the public and private sectors (including the voluntary welfare sector and the personal service sector) should be available to assist women and men in better reconciling their occupational and family responsibilities. They should operate at local level and cover child-minding services, child care, the bringing up of dependent children, reception facilities outside school time and the care of relatives who are elderly or who have a disability

18. In order to ensure the success of the various services they should be financed collectively and not only by families. They should also be closely co-ordinated by the different parties concerned, that is

national, regional and local authorities, employers, organisations of employers and workers, as well as service users themselves.

19. Employers should also be encouraged to participate, financially or otherwise, in the provision of child care and family facilities for their workers, or in other services to help them meet their family responsibilities.

20. Full information should be available to users on the various services open to them, the standard of these services and their charges.

21. Where charges are made for child care and other services, these should be reasonable, and/or means-tested, and reflect the nature and quality of the service provided by the public authorities. Where necessary, and in order to ensure that these services are effectively available for workers with low means, financial assistance should be provided by the public authorities. Governments should ensure that the services are open to all children and that they should not be excluded for reasons related to the situation, and particularly the financial situation, of their parents.

22. Assistance to families may take the form of cash benefits, free entitlement to services, services at reduced charges and public funding to service providers. Consideration should be given to determining the most efficient means of financing these services.

23. The full range of public services, in particular public transport and housing, should be organised to better meet the needs of workers with family responsibilities. Similarly, urban and rural planning should take into account such responsibilities.

#### **Adaptation of social security schemes and tax systems to the increasing diversity of working patterns**

24. Where necessary, income tax and social security schemes should be reviewed to ensure that their operation does not work against the goal of enabling women and men to better reconcile their occupational and family responsibilities and to share these responsibilities between them more equally.

25. With a view to financing the assistance referred to in paragraph 22, contribution and tax systems might be designed in such a way as to encourage employers to make provision for their workers.

#### **The organisation of school time and curricula**

26. An effort should be made to better harmonise school and working hours.

27. School curricula should support an awareness of the needs related to reconciling work and family life.



**Recommendation No. R (98) 14  
of the Committee of Ministers to member states  
on gender mainstreaming**

*(adopted by the Committee of Ministers on 7 October 1998  
at the 643rd meeting of the Ministers' Deputies)*

The Committee of Ministers, under the terms of Article 15.b of the Statute of the Council of Europe,  
Considering that the aim of the Council of Europe is to achieve greater unity between its members for the purpose of safeguarding and promoting the ideals and principles which are their common heritage;  
Considering that achieving effective equality between women and men is an integral part of these ideals and principles;

Having regard, in this context, to its declaration on the equality of women and men, adopted on 16 November 1988;

Bearing in mind the objectives set forward in the declaration and platform for action adopted by the United Nations Fourth World Conference on Women (Beijing, 1995);

Recalling the declaration adopted at the Second Summit of the Council of Europe (October 1997), in which the heads of state and government of the member states of the Council of Europe stressed "the importance of a more balanced representation of men and women in all sectors of society, including political life", and called for "continued progress with a view to achieving effective equality of opportunities between women and men";

Having regard to the declaration on equality between women and men as a fundamental criterion of democracy, adopted by the 4th European Ministerial Conference on Equality between Women and Men (Istanbul, November 1997);

Convinced that one of the main strategies to achieve effective equality between women and men is gender mainstreaming;

Welcoming the report on gender mainstreaming, produced by its Steering Committee on Equality between Women and Men (CDEG), setting out the conceptual framework for gender mainstreaming and a methodology for its implementation, accompanied by examples of good practice;

Convinced that the implementation of the strategy of gender mainstreaming will not only promote effective equality between women and men, but also result in a better use of human resources, improve decision-making and enhance the functioning of democracy,

Recommends that the governments of member states:

- disseminate widely the CDEG's report on gender mainstreaming and encourage its use as a tool for implementing this strategy in the public and private sectors;
- encourage decision-makers to take inspiration from the report in order to create an enabling environment and facilitate conditions for the implementation of gender mainstreaming in the public sector.



**Recommendation No. R (2000) 11  
of the Committee of Ministers to member states  
on action against trafficking in human beings  
for the purpose of sexual exploitation<sup>1</sup>**

*(adopted by the Committee of Ministers on 19 May 2000,  
at the 710th meeting of the Ministers' Deputies)*

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

Bearing in mind that Europe has recently experienced a considerable growth of activities connected with trafficking in human beings for the purpose of sexual exploitation, which is often linked to organised crime in as much as such lucrative practices are used by organised criminal groups as a basis for financing and expanding their other activities, such as drugs and arms trafficking and money laundering;

Considering that trafficking in human beings for the purpose of sexual exploitation extends well beyond national borders, and that it is therefore necessary to establish a pan-European strategy to combat this phenomenon and protect its victims, while ensuring that the relevant legislation of the Council of Europe's member states is harmonised and uniformly and effectively applied;

Recalling the Declaration adopted at the Second Summit of the Council of Europe (October 1997), in which the heads of state and government of the member states of the Council of Europe decided "to seek common responses to the challenges posed by the growth (...) in organised crime (...) throughout Europe" and affirmed their determination "to combat violence against women and all forms of sexual exploitation of women";

Bearing in mind the European Convention for the Protection of Human Rights and Fundamental Freedoms (1950) and its protocols;

Bearing in mind the European Social Charter (1961), the Revised European Social Charter (1996) and the Additional Protocol to the European Social Charter providing for a System of Collective Complaints;

Bearing in mind the following recommendations of the Committee of Ministers to member states of the Council of Europe: Recommendation No. R (91) 11 on sexual exploitation, pornography and prostitution of, and trafficking in, children and young adults; Recommendation No. R (96) 8 on crime policy in Europe in a time of change, and Recommendation No. R (97) 13 concerning intimidation of witnesses and the rights of the defence;

Bearing in mind the following texts of the Parliamentary Assembly of the Council of Europe: Recommendation 1065 (1987) on the traffic in children and other forms of child exploitation, Recommendation 1211 (1993) on clandestine migration: traffickers and employers of clandestine migrants, Resolution 1099 (1996) on the sexual exploitation of children and Recommendation 1325 (1997) of the Council of Europe on trafficking in women and forced prostitution in Council of Europe member states;

Recalling also the Convention on the Elimination of all forms of Discrimination against Women (1979) and other international conventions such as the United Nations Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others (1949);

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1. When adopting this Recommendation, the Representatives of Germany and the Netherlands indicated that, in accordance with Article 10.2.c of the Rules of Procedure for the meetings of the Ministers' Deputies, they reserved the right, for their respective governments, to comply or not with paragraph I.1 of the Appendix to the Recommendation.

Considering that trafficking in human beings for the purpose of sexual exploitation, which mainly concerns women and young persons, may result in slavery for the victims;

Condemns trafficking in human beings for the purpose of sexual exploitation, which constitutes a violation of human rights and an offence to the dignity and the integrity of the human being,

Recommends that the governments of member states:

1. review their legislation and practice with a view to introducing, where necessary, and applying the measures described in the appendix to this recommendation;
2. ensure that this recommendation is brought to the attention of all relevant public and private bodies, in particular police and judicial authorities, diplomatic missions, migration authorities, professionals in the social, medical and education fields and non-governmental organisations.

## **Appendix to Recommendation No. R (2000) 11**

### **I. Basic principles and notions**

1. The basic notions should be as follows: trafficking in human beings for the purpose of sexual exploitation includes the procurement by one or more natural or legal persons and/or the organisation of the exploitation and/or transport or migration – legal or illegal – of persons, even with their consent, for the purpose of their sexual exploitation, *inter alia* by means of coercion, in particular violence or threats, deceit, abuse of authority or of a position of vulnerability.

On this basis, the governments of member States are invited to consider the following measures:

### **II. General measures**

2. Take appropriate legislative and practical measures to ensure the protection of the rights and the interests of the victims of trafficking, in particular the most vulnerable and most affected groups: women, adolescents and children.
3. Give absolute priority to assisting the victims of trafficking through rehabilitation programmes, where applicable, and to protecting them from traffickers.
4. Take action to apprehend, prosecute and punish all those responsible for trafficking, and to prevent sex tourism and all activities which might lead to forms of trafficking.
5. Consider trafficking in human beings for the purposes of sexual exploitation as falling within the scope of international organised crime, and therefore calls for co-ordinated action adapted to realities both at national and international levels.

### **III. Basis for action and methods**

6. Take co-ordinated action using a multidisciplinary approach involving the relevant social, judicial, administrative, customs, law enforcement and immigration authorities and non-governmental organisations (NGOs).
7. Encourage co-operation, involving both national authorities and NGOs, between countries of origin, transit and destination of the victims of trafficking, by means of bilateral and multilateral agreements.
8. In order to ensure that these actions have a firm and reliable basis, encourage national and international research concerning, in particular:
  - the influence of the media, and above all new information and communication techniques on trafficking in human beings for the purpose of sexual exploitation;
  - the clients of the sex trade: trends in demand and their consequences for trafficking in human beings for the purpose of sexual exploitation;
  - the origin of the phenomenon of trafficking and the methods used by traffickers.

9. Consider the establishment of research units specialising in trafficking in human beings for the purpose of sexual exploitation.

10. Take steps to develop, both at national and international level, data and statistics that will help to shed more light on the phenomenon of trafficking in human beings for the purpose of sexual exploitation and, if possible, compare the way the phenomenon is developing in the Council of Europe's different member States.

#### **IV. Prevention**

##### *i. Awareness-raising and information*

11. Organise information campaigns with a gender perspective in order to increase public awareness of the hazardous situations that may lead to trafficking and the negative effects of such trafficking and, in particular, discredit the notion that there are easy gains to be made from prostitution; these campaigns should be directed at all parties concerned, particularly female immigration applicants and women refugees.

12. Organise information campaigns intended to discredit sex tourism and discourage potential participants from joining in such activities.

13. Provide appropriate information, such as documentation, videos and leaflets on trafficking in and the sexual exploitation of women, children and young persons to diplomatic representatives, public authorities, the media, humanitarian NGOs and other public and private bodies working in the countries of origin of potential victims.

14. Disseminate widely, in every country, information on the health risks associated with sexual exploitation.

15. Encourage and organise activities to make media professionals more aware of issues relating to trafficking in human beings for the purpose of sexual exploitation and the influence the media can have in this field.

##### *ii. Education*

16. Introduce or step up sex education programmes in schools, with particular emphasis on equality between women and men and on respect for human rights and individual dignity, taking into account the rights of the child as well as the rights of his or her parents, legal guardians and other individuals legally responsible for him or her.

17. Ensure that school curricula include information on the risks of exploitation, sexual abuse and trafficking that children and young people could face and ways of protecting themselves; this information should also be circulated to young people outside the education system and to parents.

18. Provide both boys and girls with an education that avoids gender stereotypes and ensures that all teachers and others involved in education are trained in such a way as to incorporate a gender dimension into their teaching.

##### *iii. Training*

19. Organise special training for social workers, as well as for medical, teaching, diplomatic, consular, judicial, customs and police personnel to enable them to identify cases of trafficking for the purpose of sexual exploitation and respond appropriately.

20. Introduce and/or develop training programmes to enable police personnel to acquire specialised skills in this field.

21. In particular, set up specific training programmes and exchanges of experiences in order to improve co-operation between the police and the NGOs specialising in victim protection.



22. Also introduce training programmes for immigration officials and frontier police so that they can contribute to prevention by making sure that persons travelling abroad, particularly young persons not accompanied by a parent or guardian, are not involved in trafficking.

*iv. Long-term action*

23. Combat the long-term causes of trafficking, which are often linked to the inequalities between economically developed countries and those that are less developed, particularly by improving the social status as well as the economic condition of women in the latter.

24. Take into account in economic, social, migration or other policies, the need to improve women's condition and prevent trafficking in human beings and sex tourism.

25. Disseminate information on the possibilities of legal migration in order to make women aware of the conditions and procedures for obtaining visas and residence permits.

**V. Assistance to and protection of victims**

*i. Victim support*

26. Encourage the establishment or development of reception centres or other facilities where the victims of human trafficking can benefit from information on their rights, as well as psychological, medical, social and administrative support with a view to their reintegration into their country of origin or the host country.

27. In particular, ensure that the victims have the opportunity, for example through the reception centres or other facilities, to benefit from legal assistance in their own language.

*ii. Legal action*

28. Provide, where possible, victims of trafficking, particularly children and witnesses, with special (audio or video) facilities to report and file complaints, and which are designed to protect their private lives and their dignity and reduce the number of official procedures and their traumatising effects.

29. If necessary, and particularly in the case of criminal networks, take steps to protect victims, witnesses and their families to avoid acts of intimidation and reprisals.

30. Establish victim protection systems which offer effective means to combat intimidation as well as real threats to the physical security of the victims and their families both in countries of destination and countries of origin.

31. Provide protection when needed in the country of origin for the families of victims of trafficking when the latter bring legal proceedings in the country of destination.

32. Extend, where appropriate, this protection to members of associations or organisations assisting the victims during civil and penal proceedings.

33. Enable the relevant courts to order offenders to pay compensation to victims.

34. Grant victims, if necessary, and in accordance with national legislation, a temporary residence status in the country of destination, in order to enable them to act as witnesses during judicial proceedings against offenders; during this time, it is essential to ensure that victims have access to social and medical assistance.

35. Consider providing, if necessary, a temporary residence status on humanitarian grounds.

*iii. Social measures for victims of trafficking in countries of origin*

36. Encourage and support the establishment of a network of NGOs involved in assistance to victims of trafficking.

37. Promote co-operation between reception facilities and NGOs in countries of origin to assist the return and reintegration of victims.

*iv. Right of return and rehabilitation*

38. Grant victims the right to return to their countries of origin, by taking all necessary steps, including through co-operation agreements between the countries of origin and countries of destination of the victims.

39. Establish, through bilateral agreements, a system of financing the return of victims and a contribution towards their reintegration.

40. Organise a system of social support for returnees to ensure that victims are assisted by the medical and social services and/or by their families.

41. Introduce special measures concerned with victims' occupational reintegration.

**VI. Penal legislation and judicial co-operation**

42. Enact or strengthen legislation on trafficking in human beings for the purpose of sexual exploitation and introduce, where necessary, a specific offence.

43. Introduce or increase penal sanctions that are in proportion to the gravity of the offences, including dissuasive custodial sentences, and allow for effective judicial co-operation and the extradition of the persons charged or convicted.

44. Take such steps as are necessary to order, without prejudice to the rights of third parties in good faith, the seizure and confiscation of the instruments of, and proceeds from, trafficking.

45. Facilitate police investigation and monitoring of establishments in which victims of trafficking are exploited and organise their closure if necessary.

46. Provide for rules governing the liability of legal persons, with specific penalties.

47. Provide for traffickers to be extradited in accordance with applicable international standards, if possible, to the country where evidence of offences can be uncovered.

48. Establish rules governing extra-territorial jurisdiction to permit and facilitate the prosecution and conviction of persons who have committed offences relating to trafficking in human beings for the purpose of sexual exploitation, irrespective of the country where the offences were committed, and including cases where the offences took place in more than one country.

49. In accordance with national laws concerning the protection of personal data, as well as with the provisions of the Council of Europe Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data, set up and maintain information systems which could be useful for the investigation and prosecution of trafficking offences.

**VII. Measures for co-ordination and co-operation**

*i. At national level*

50. Set up a co-ordinating mechanism responsible for drawing up the national policy on combating trafficking and organising a multidisciplinary approach to the issue.

51. Use this mechanism to encourage the exchange of information, the compilation of statistics and the assessment of practical findings obtained in the field, trends in trafficking and the results of national policy.

52. Use this mechanism to liaise with mechanisms of other countries and international organisations in order to co-ordinate activities, and to monitor, review and implement national and international strategies aimed at combating trafficking;

*ii. At international level*

53. As far as possible, make use of all the available international instruments and mechanisms applicable to trafficking, particularly regarding the seizure and confiscation of profits earned from trafficking.

54. Set up an international body to co-ordinate the fight against trafficking, with particular responsibility for establishing a European file of missing persons, in accordance with national laws concerning the protection of personal data.

55. Increase and improve exchanges of information and co-operation between countries at bilateral level as well as through international organisations involved in combating trafficking.

56. Governments are invited to consider signing and ratifying, if they have not already done so, the Council of Europe's Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime (1990), the Revised European Social Charter (1996) and the Additional Protocol to the European Social Charter providing for a System of Collective Complaints (1995), the European Convention on the Exercise of Children's Rights (1996), the Convention on the Elimination of all forms of discrimination against Women (1979) and its Optional Protocol (1999), as well as the United Nations Convention on the Rights of the Child (1989) and/or to consider withdrawing existing reservations to these instruments.

57. Governments are invited to incorporate into their national systems all the measures necessary to apply the principles and standards laid down in the Action Programme adopted at the 4th World Conference on Women (Beijing, 4-15 September 1995), and in particular Part IV.D, and the agreed conclusions adopted at the 42nd session of the United Nations Commission on the Status of Women, the resolution adopted regularly by the General Assembly of the United Nations on the Traffic in Women and Girls, the declaration adopted at the Ministerial Conference containing European Guidelines for Measures to Prevent and Combat Trafficking in Women for the Purpose of Sexual Exploitation (The Hague, 24-26 April 1997), as well as in the following recommendations of the Committee of Ministers to the member states of the Council of Europe: Recommendation No. R (80) 10 on measures against the transfer and the safekeeping of funds of criminal origin, Recommendation No. R (85) 11 on the position of the victim in the framework of criminal law and procedure and Recommendation No. R (87) 21 on assistance to victims and the prevention of victimisation.

## **Explanatory memorandum**

### **I. Preliminary remarks<sup>1</sup>**

#### *A. Historical background*

The phenomenon of trafficking has always existed, but it has changed considerably in the course of time. Towards the end of the 19th century and at the beginning of the 20th century, large-scale migration of European women to the American continent and North Africa was organised, as was the trafficking of women into Europe.

To put an end to what was commonly known as “white slaving”, two international conferences were held in Paris in 1902 and 1910. This work culminated in the signing of the International Convention for the Suppression of the White Slave Traffic (Paris, 4 May 1910), later supplemented by the International Convention for the Suppression of the Traffic in Women and Children (30 September 1921) and the International Convention for the Suppression of the Traffic in Women of Full Age (Geneva, 11 October 1933). The Convention for the Suppression of the Traffic in Persons and the exploitation of the Prostitution of Others (New York, 2 December 1949) cancelled and replaced, in parts, the provisions of the earlier international instruments.

#### *B. Trafficking in human beings today: a global phenomenon*

The development of communications and the economic imbalances in the world have made trafficking more international than ever. There was first the white slave traffic, then trafficking from South to North and now there is trafficking in human beings from the more disadvantaged regions to the more prosperous regions, whatever their geographical location (but in particular to western Europe).

##### *1. The context*

Recently, trafficking in human beings (mainly women and girls, though men are also to be found among the victims) has developed world wide, and affects the whole planet. When the desire to emigrate cannot be satisfied legally, would-be migrants resort to intermediaries, who often turn out to belong to organised crime rings and are in fact responsible for “recruiting” people destined for prostitution. The situation in certain parts of Europe, in particular in central and eastern Europe since the end of the 80s, (with the opening of the frontiers, increasing unemployment and poverty, collapse of state structures and less controls) has tended to favour the development of all types of illegal trafficking and in particular trafficking in human beings for the purpose of sexual exploitation.

This trend would not be possible without the development of specific networks in the field of sexual exploitation, which rely on the demand. The clients are the true pillars of the prostitution system. The client, the male buyer in the prostitution market, generally remains anonymous or invisible, except in the case of rape or sexual abuses perpetrated on children. However, he plays an important role in trafficking (see also C, *the clients of the sex trade*).

##### *2. Organised crime*

Trafficking in human beings has become a highly lucrative business, run by criminal networks. These networks consist of several types of organisation.

*The large organisations* are characterised by a hierarchical international structure with political and economic contacts at all levels, in both the countries of origin and in the destination countries. The traffic generally takes place behind a legal facade and builds upon a thorough knowledge of the law and administrative practice in the different destination and transit countries.

The victims are promised high earnings in the destination countries. Sometimes it is agreed at the outset, orally or in writing that they will work as barmaids, dancers, “hostesses” or prostitutes. In other cases they

<sup>1</sup> A number of comments and data have been taken from the “Plan of Action against traffic in women and forced prostitution”, prepared by Mrs Michèle Hirsch, Barrister in Brussels (Belgium) and consultant to the Council of Europe.

are enticed by the prospect of obtaining a good job, with no allusion made at all to prostitution. Victims have reported that they were transported in groups and that they had passed through the hands of several intermediaries (and sometimes several countries) before reaching their destination. On the way they were medically examined for AIDS or any venereal diseases. During the journey they generally had no idea where they were or where they were being taken to. Sometimes they were sometimes sequestered in a transit country and forced to prostitute themselves there. On arrival at their destination, their passports were confiscated.

*Medium-sized organisations* differ from the large organisations mainly in that they do not sell the victims to other groups, but keep them under their control, placing them in their own clubs and brothels. The victims of these organisations are subjected to close surveillance, forced to sign acknowledgements of debts (they are often made to contract substantial loans before leaving their country of origin) and required to hand over a large proportion of their earnings from prostitution for the use of rooms and other facilities. The pressures exerted are often very strong: the victims are held against their will, beaten, raped, drugged, underfed and fined if they do not do the organisation's bidding.

*Small organisations* are based on the demand of cabarets and other establishments of this type, and supply women/men.

There is also a minority group of *people who have migrated to Europe without going through any of these organisations*. These people use a broad range of methods, both legal and illegal, for crossing frontiers, sometimes with the help of others who exploit their vulnerable situation.

Regardless of the way in which the victims entered the destination countries – whether through the intermediary of a trafficking ring or not – they nearly always enter the same prostitution circuit where they are obliged to use the “services” offered by the criminal organisations.

### *3. Different legislation in Council of Europe member States*

There are important differences between the relevant laws of member States. Some States specifically make trafficking for the purpose of sexual exploitation a criminal offence, others trafficking in human beings in general, while in others again there are as yet no specific provisions.

Regarding prostitution, there are different legal systems or practices. Some States apply “prohibitionism” (prostitution is prohibited and clients are punished); others practice “legalism” or “regulationism” (the exploitation of the prostitution of persons of full age is not punishable) or again an “abolitionist” system (prostitution is not an offence but its exploitation is).

These substantial differences give rise to considerable argument at international level, with States starting from positions which are often opposed or difficult to reconcile.

### *C. Measures introduced at international level to combat trafficking*

Noting the considerable increase in trafficking in human beings, the international community has taken action to combat this phenomenon. Without claiming to be exhaustive, this section traces the main activities undertaken in this field by the international organisations, which were taken into account by the authors of the recommendation.

#### *1. United Nations Organisation*

Member States of the United Nations Organisation have stressed that trafficking in human beings constitutes a flagrant violation of the victims' fundamental rights. They have noted that trafficking has become a major activity of international organised crime and called for the elimination of this phenomenon and assistance to the victims of this form of violence, who are mainly women and girls. Several United Nations reports, resolutions and programmes of action are concerned with this subject. Mention should be made in particular of:

- The annual resolutions on combating traffic in women and girls adopted by the United Nations General Assembly.

- The report on trafficking in women and forced prostitution submitted to the UN Commission on Human Rights by the UN special rapporteur on violence against women, its causes and consequences (document E/CN.4/1997/47).
- The Vienna Programme of Action, adopted by the World Conference on Human Rights (Vienna, 14-25 June 1993), and the Declaration on the Elimination of Violence against Women adopted by the General Assembly (December 1993) stated that member States were “alarmed that opportunities for women to achieve legal, social, political and economic equality in society are limited, *inter alia*, by continuing and endemic violence against women (...)”.
- The Cairo Programme of Action adopted by the International Conference on Population and Development (Cairo, 5-13 September 1994), and the Beijing Platform for Action adopted at the Fourth World Conference on Women (Beijing, 4-15 September 1995), established a series of basic principles concerning equality between women and men. The Beijing Platform for Action in particular called on governments of countries of origin, transit and destination, and regional and international organisations, to address the root factors that encourage trafficking by taking measures in the sphere of criminal and civil justice, ensuing co-operation between all relevant law enforcement services, and allocating resources for rehabilitation of victims and preventive education and training programmes.

## 2. Interpol

Responsible for promoting co-operation and mutual assistance between the criminal police authorities, Interpol should play a major role in combating trafficking. Very early some member States expressed concern as the result of a first wave of women transported to West European countries from South East Asia. There was a need to improve the exchange of information on illegal activities such as bogus marriages, illegal entry and the use of forged identity papers. At the time, the main consideration was not the interests of the women victims of these activities but illegal immigration as an activity of organised crime.

In accordance with the terms of reference decided by its General Assembly, Interpol adopted a multi-disciplinary approach calling for co-ordination of the activities of all the authorities. In co-operation with the appropriate agencies of the United Nations and the European Union, joint campaigns against trafficking in human beings and the exploitation of prostitution have been organised. Future projects in this field could include the publication of a handbook listing the competent authorities, contact points and departments with specialised knowledge and expertise in such matters. Through its particularly effective information network, Interpol has also started to collect data on trafficking in human beings.

## 3. International Organisation for Migration (IOM)

Among the activities undertaken by the IOM in recent years in the field of trafficking in human beings, the reports and the publications prepared under the Migration Information Programme were especially useful to the drafters of the recommendation.<sup>1</sup> The drafters also examined the results of a project carried out by the IOM for the European Commission’s STOP programme on “Analysis of data and statistical resources available in EU member States on trafficking in humans, particularly in women and children for the purposes of sexual exploitation (1998)”.

## 4. Budapest Process

The drafters of the recommendation followed the work done under this process, in particular the Ministerial Conference on the prevention of illegal migration held in Prague (October 1997).

1. See in particular: “Trafficking and Prostitution: the growing exploitation of migrant women from Central and Eastern Europe”, May 1995; “Trafficking in Women in Italy for sexual exploitation”, June 1996; “Trafficking in Women to Austria for sexual exploitation”, June 1996; “Trafficking of women to countries of the European Union: characteristics, trends and policy issues”, paper submitted by the IOM to the Conference on Trafficking in Women for sexual exploitation, Vienna, June 1996.

### 5. Organisation for Security and Co-operation in Europe (OSCE)

Being directly concerned by the problem, OSCE member States have on several occasions expressed their concern at the scale of the phenomenon of trafficking.<sup>1</sup>

### 6. European Union

EU member States have undertaken to maximise co-operation in the fight against trafficking in human beings, and against trafficking in women and children in particular. Several initiatives and actions are worthy of mention:

- The European Parliament has adopted a series of Resolutions: Resolution on the protection of witnesses in the fight against organised crime (OJ No C 327 (1995)), Resolution on trafficking in human beings (OJ No C 32 (1996)) and the Resolution on victims of violence who are minors (OJ No C 320 (1996)).
- The conclusions of the European Conference on trafficking in women for the purpose of sexual exploitation (Vienna, 10-11 June 1996), organised by the European Commission in collaboration with the IOM resulted in the Communication of the Commission to the Council and the European Parliament on this subject (COM (96) 567 final), later supplemented by a second Communication (COM (98) 726). One of the main conclusions of these texts is the need for national, regional and international co-operation and co-ordination between the authorities responsible for migration, justice and social affairs and NGOs, and for links to be made between international and regional organisations such as the United Nations, the Council of Europe, EU institutions and other regional groupings in order to benefit from the application of more complementary policies. The Communications refer to the different activities undertaken by the Steering Committee for equality between women and men (CDEG) of the Council of Europe (see below).
- This action was strengthened by the adoption of Joint Actions of the Council based on article K.3 of the European Union Treaty concerning action to combat trafficking in human beings and the sexual exploitation of children (96/700/JAI and 97/154/JHA). These joint actions were adopted among other things to improve judicial co-operation.
- The Declaration adopted at the Ministerial Conference on the question of trafficking in women for the purpose of sexual exploitation (The Hague, 24-26 April 1997), contains guidelines for effective measures to prevent and combat trafficking in women for the purpose of sexual exploitation.
- The fight against trafficking in human beings is now part of the mandate of Europol, which has introduced activities in this field.
- Several Community programmes to combat trafficking (STOP, DAPHNE, etc.) have been introduced.

#### D. The origins of the recommendation: the work of the Council of Europe

At the beginning of the 90s, the Council of Europe, and in particular its Steering Committee for Equality between Women and Men (CDEG), launched various actions to combat trafficking in human beings in present-day form.

The CDEG organised *study and research activities*: the **seminar** on action against traffic in women and forced prostitution as violations of human rights and human dignity (Strasbourg, 25 September 1991) was followed by the setting up of a **Group of Experts** on action against traffic in women and forced prostitution (EG-S-TP) (1992-1993).

As a result of this work, a consultant, Ms Michèle Hirsch (Belgium), at the request of the CDEG, prepared a **Plan of action** against traffic in women and forced prostitution (EG (96) 2). A true platform for government action, this Plan contains many pointers for reflection and research concerning legal provisions,

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1. See the Stockholm Declaration of the OSCE Parliamentary Assembly (Stockholm, 9 July 1996) and the interventions made by several States and NGOs participating in the Fourth OSCE Implementation Meeting on Human Dimension Issues (Warsaw, 26 October-6 November 1998) and at subsequent meetings.

socio-economic and administrative measures, the police, and preventive and educational measures to combat trafficking.

Other activities were aimed more at *awareness raising*:

- The CDEG organised an international seminar on action against traffic in human beings for the purpose of sexual exploitation: the role of NGOs" (Strasbourg, 29-30 June 1998). The conclusions of this seminar (attended by over 150 people from over 40 countries) called for joint and concerted actions, and in particular co-operation between the NGOs of different countries;
- The CDEG held a workshop on "good" and "bad" practices regarding the image of woman in the media: the case of trafficking in human beings for the purpose of sexual exploitation (Strasbourg, 28-29 September 1998). At this workshop, journalists and media professionals from all over Europe sought solutions for avoiding sensationalism while at the same time disseminating information about the realities of trafficking;
- Several seminars in a number of countries of origin (Albania, Bosnia and Herzegovina, Ukraine) have been organised in recent years with the aim of alerting the different actors (police, judges, social workers, embassy staff, teachers) to their role vis-à-vis the victims of trafficking and the dangers that threaten certain persons. In 1999, an information and prevention campaign on the risks of trafficking was organised in Albania for refugees from Kosovo.<sup>1</sup>
- Various activities have been carried out in co-operation with other international organisations (United Nations, Interpol, Europol, United Nations High Commissariat for Human Rights, etc.).

#### *E. The drafters of the recommendation and their approach*

After all this work the CDEG was convinced that trafficking could be combated only through a multidisciplinary and co-ordinated approach involving all the parties concerned at national, regional and international level. The Committee thus considered it necessary to follow up the activities already undertaken by the different committees of the Council of Europe by taking the initiative to define a strategy for preventing and combating this type of offence. Following consultations with the different Council of Europe committees concerned in the legal, social, economic, human rights and mass media fields, the Multisectoral Group on action against trafficking in human beings for the purpose of sexual exploitation (EG-S-TS) was set up under the authority of the Steering Committee for Equality between Women and Men (CDEG).<sup>2</sup>

The EG-S-TS was made up of experts from a number Council of Europe committees.<sup>3</sup> It begins its work in December 1997 and completed it in February 1999, holding three working meetings during that period.

1. The final report of this campaign is available and may be obtained from the Council of Europe, Directorate General of Human Rights, Secretariat of the Steering Committee for Equality between Women and Men (CDEG), F -67075 Strasbourg Cedex.

2. The terms of reference of the EG-S-TS were as follows:

"Under the authority of the CDEG, the task of the Group is to plan and prepare actions that the Council of Europe could undertake in the field of combating traffic in human beings for the purpose of sexual exploitation, and in particular traffic in women and girls. The Group will have to undertake the follow-up to the work of the CDEG on action against traffic in women and forced prostitution. See footnote 1 taking into account the work undertaken by other national and International bodies (European Union, United Nations, International Organisation for Migration, Budapest Group, INTERPOL/EUROPOL, etc.). In particular, the task of the Group is to:

i. determine priority fields of action for the Council of Europe on the fight against traffic in human beings for the purpose of sexual exploitation and study and evaluate, in particular on the basis of the opinions of the different Committees already consulted by the CDEG, the necessity and feasibility of the various actions that the Council of Europe could consider undertaking;

ii. in the framework of the possible actions envisaged, determine the modalities of co-operation to be established with other competent International bodies and NGOs;

iii. on the basis of previous work achieved by the CDEG, and also taking into account existing international legal instruments, prepare a draft Recommendation including basic principles and suggestions for action at national level on the fight against traffic in human beings for the purpose of sexual exploitation."

3. Its ten members were appointed by the following Committees, in consultation with the Secretariat, having regard to the need for an equitable geographical balance: CDEG; Steering Committee on the Mass Media (CDMM); Steering Committee on Social Policy (CDPS); Steering Committee for Human Rights (CDDH); European Committee on Legal Co-operation (CDCJ); European Committee on Migration (CDMG); Governmental Committee of the European Social Charter (T-SG); European Committee on Crime Problems (CDPC).



The multisectoral group studied the methods of preventing trafficking in human beings for the purpose of sexual exploitation, in particular traffic in women and children, especially young girls. The recommendation suggests to member States a list of measures that can really help protect the victim's interests, ensure that the perpetrators are prosecuted and respect the interests of the other parties concerned, such as the medical, social and judicial authorities, the law enforcement services, the migration authorities and the NGOs. They constitute guidelines that States can decide to apply according to their national situation.

## **II. Comments on the recommendation's provisions**

### *Preamble and provisions*

After having evoked the context of trafficking in human beings in Europe, the recommendation recalls the international reference texts and condemns trafficking as a violation of human rights.

#### *1. Context*

The preamble begins by briefly describing the context of the phenomenon of trafficking: rapid growth in Europe and association with the category of organised crime. Faced with such a situation, the setting up of a co-ordinated strategy becomes indispensable and must, above all, be realised on the basis of a harmonisation of the relevant legislation in the Council of Europe's member States. The term "relevant legislation" refers to legislation in the civil, social and penal domains.

As concerns the more general context of trafficking, see also the comments above (under "preliminary remarks").

#### *2. Reminder of the international reference texts*

First it should be recalled that the Heads of State and Government of the Council of Europe member States decided, in the Final Declaration of the Second Summit (Strasbourg, 10-11 October 1997), to seek common responses to the challenges posed by the growth in organised crime throughout Europe and to intensify their co-operation to strengthen the legal protection of children and affirmed their determination to combat violence against women and all forms of sexual exploitation of women. The impact of this declaration was reinforced by the actual presence and signature of all the 40 Heads of State and Government of the Council of Europe Member States.

In the course of their work, the drafters constantly referred to the principles enshrined in the European Convention on Human Rights and Fundamental Freedoms (1950), the European Social Charter (1961), the European Social Charter (revised) (1996) and the Additional Protocol to the European Social Charter providing for a System of Collective Complaints (1995), the European Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime (1990) and the European Convention on the Exercise of Children's Rights (1996), which are fundamental for the activities of the Council of Europe. They also took account of the guidelines for the joint actions of the European Union to combat trafficking in human beings and sexual exploitation of children (1997), the Convention based on Article K.3 of the Treaty on European Union on the establishment of a European Police Office (Europol Convention) (1995), the United Nations Convention on the Elimination of all forms of discrimination against women (1979) and the United Nations Convention on the Rights of the Child (1989).

The text of the preamble also lists a series of recommendations<sup>1</sup> adopted by the Committee of Ministers and the Parliamentary Assembly of the Council of Europe to which reference was made in the preparation of the text.

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1. Namely, Recommendations adopted by the Committee of Ministers of the Council of Europe: Recommendation No R (91) 11 on sexual exploitation, pornography and prostitution of, and trafficking in, children and young adults; Recommendations adopted by the Parliamentary Assembly of the Council of Europe: Recommendation No R (96) 8 on crime policy in Europe in a time of change, and Recommendation No R (97) 13 concerning intimidation of witnesses and the rights of the defence; Recommendation 1065 (1987) on the traffic in children and other forms of child exploitation, Recommendation 1211 (1993) on clandestine migration, Recommendation 1099(1996) on the sexual exploitation of children and Recommendation 1325 (1997) of the Council of Europe on trafficking in women and forced prostitution in Council of Europe member States;

### 3. Condemnation of trafficking in human beings for the purpose of sexual exploitation

The recommendation condemns trafficking in human beings, which cannot be compatible with the principles or application of the texts mentioned above.

In accordance with their terms of reference (see footnote 5), the drafters concentrated on trafficking in women and minors. This corresponds to the statistics available (above all thanks to the work of the NGOs that support and assist the victims), which show that, while men and boys may be victims of trafficking, the phenomenon affects mainly women and girls.

## Appendix to the recommendation

### I/II Basic principles, notions and general measures

Together with the general measures, the basic principles and notions set out in the recommendation form the guidelines that underlie the action taken by governments to combat trafficking.

#### Paragraphs 1, 2, 3, 4 and 5

**The context:** it is difficult to define trafficking because it is not an unequivocal notion, even, and perhaps especially, when it is a matter of trafficking for the purpose of sexual exploitation. The various international instruments that deal with it and the national texts, where they exist, define this form of trafficking more or less broadly according to whether they cover all human beings or only the most vulnerable, and according to whether their aim is enforcement or not.

Trafficking for the purpose of sexual exploitation is a many-faceted phenomenon with no uniformity. There are many variables: the number of people involved, the type of traffickers, victims and “clients” or “consumers”, and also the degree of organisation on which it is based and its extent, according to whether trafficking remains within national frontiers or extends to different States or even continents.

**A violation of human rights:** the drafters chose to take a comprehensive approach to trafficking in human beings for the purpose of sexual exploitation. Without denying the specific forms of trafficking in women or the particular vulnerability of child victims of trafficking for the purpose of sexual exploitation, which may call for different measures, it is in the first place a matter of condemning this phenomenon in general as a flagrant violation of human rights and an offence to the dignity and integrity of the human being.

**Setting up a framework for action:** beyond this condemnation of principle, the recommendation proposes to States a basis and methods for taking action against trafficking. The text lists a number of priority actions that governments are encouraged to take in the various stages of preventive measures, assistance to and protection of victims and the punishment and treatment of perpetrators, without forgetting the very necessary dimension of international co-operation.

It is in this context and taking account of this objective that the definition of trafficking adopted for the purpose of this recommendation was drafted. It seeks to reconcile the need to ensure the respect of the rights, dignity and integrity of the victims of trafficking in human beings with the diversity of the legislation existing in the Council of Europe member States confronted with this complex phenomenon.

**The definition adopted** seeks to cover the whole chain of behaviours, which lead to the exploitation of the victims. This includes the “**recruitment**” of the future victims, the organisation of their transport, and the final stage, which constitutes their **sexual exploitation** proper. The expressions “and/or” and further on “*inter alia*” reflect the drafters’ desire to enumerate the various possible stages, trafficking being able to take place without all of them necessarily being involved.

**Elements of the definition:** the definition includes the notion of organising the relocation of the victims in the term “**transport**” or “**migration**”. This includes the crossing of a frontier and calls for specific measures, both national and international, in both the prevention and enforcement stages.

The transport or migration may be “**legal or illegal**”: in some cases of trafficking, the persons are taken to the country illegally or without a valid residence permit, but in other cases the persons enter the country in a legal manner, including as tourists, fiancées, artists, servants, au-pair girls and applicants for political

refugee status, depending on the legislation in the various States. There can be cases of trafficking while the conditions of the border crossing or the stay are legal. The trafficking rings know the laws of the various States and they find legal means to organise the traffic. This is why the drafters, in defining traffic, did not take into account the legality or illegality of the entry to or stay in the country of destination.

The drafters considered that transport or migration of persons may occur even with the consent of these persons.

The debate on the question of consent is not new and was raised at length by the drafters. It is not easy to determine where free choice ends and constraint begins. In the case of trafficking, some persons do not know what is in store for them, but others know perfectly well that they are bound for prostitution. Some researchers and experts believe that, strictly speaking, there is no trafficking when the persons know what they are exposing themselves to and still wish to emigrate. However, although a person may voluntarily emigrate to work and possibly prostitute her/himself, this does not mean that he/she consents to suffer violence or be abused in one way or another.

For the purposes of the recommendation, the drafters decided to apply the concept of “consent” to the procurement phase. “Even with their consent” refers to the fact that persons may or may not have consented to the transport or migration: the situation qualifies as trafficking in both cases. At the beginning of the process, the absence or the presence of consent are not determining factors, quite apart from the difficulty of establishing their existence.

The drafters also discussed the relevance of introducing the notion of sexual exploitation for “gainful” purposes.

Some experts were of the opinion that trafficking was defined as an action carried out in order to force a human being into prostitution or inducing her/him to supply sexual services to another person with the aim to obtain financial gain.

Following in-depth discussions, the drafters recognised that financial gains were a key element as they were both the origin and the outcome of trafficking (it should also be mentioned that trafficking in human beings and money-laundering seem to be closely related). However, it was decided that this element was not to be included directly in the text of the Recommendation in order not to limit the concept of sexual exploitation. The Recommendation addresses all sexual services rendered under conditions of coercion or constraint, regardless of whether these services are regarded as work, whether they are paid or not.

For the purposes of the recommendation, “**coercion**” can include sequestration, beatings, rape, threats, violence through the abuse of a dominant position, i.e. the act of obtaining from a person, through taking advantage of his/her vulnerability resulting from her/his precarious or illegal administrative situation, from her/his position of economic dependency or precarious state of health, the supply of sexual services.

Regarding the **perpetrators of trafficking**, these may be individuals such as recruiters, smugglers, accomplices abusing their position in the public services of the States concerned, and also legal entities taking part in trafficking, such as “sex shops”, “live shows”, brothels and other sex enterprises, or again certain hotel and entertainment companies, and tourism, video and publishing companies in the case of child pornography.

In the case of minors,<sup>1</sup> all sexual acts are punishable. In some European legislation, consent of a minor can be examined above the age of what is called “sexual maturity”. Above this age appreciation is left to the judges to evaluate whether the minor was able to express his/her consent.

The **victims of trafficking** are:

- persons having been subjected to *violence, abuse of authority or threats* which are at the origin of their entry into the process leading to their sexual exploitation, or during it;

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1. The term “minor” is understood as “every human being below the age of eighteen”, as defined in the UN Convention on the Rights of the Child (1989).

- persons who were *deceived* by the organisers/traffickers and believed they had an attractive contract for work unconnected with the sex industry or simply an ordinary job;
- persons who were aware of the true intentions of the organisers/traffickers and agreed in advance to this sexual exploitation because of the *vulnerable situation* in which they found themselves. Abuse of the *vulnerability* of the victims is thus expressly included as a component of trafficking. A situation of vulnerability of the victims means *any kind of vulnerability*, whether *psychological, affective, family, social or economic*. In short, it covers all of the situations of distress that may lead a human being to accept sexual exploitation. The persons abusing such a situation commit a flagrant violation of human rights and of the dignity and integrity of the person, which cannot be validly renounced.

The situations thus envisaged are very diverse: it may be a matter of the abduction of women for the purpose of sexual exploitation, the seduction of children in order to use them in paedophile or prostitution rings, violence committed by pimps to keep prostitutes under control, abuse of the vulnerability of an adolescent or adult, victim of sexual assault or not, or more simply abuse of the precariousness and poverty of an adult hoping to improve the situation for herself or himself and the family. But these different cases are more a difference of degree than of the nature of a phenomenon which can always be termed trafficking and which is based on the use of such methods.

Investigation and prosecution must be targeted at traffickers and not at the victims of such practices. The readiness of the victims involved to report to the police and act as a witness is a critical condition for effective investigation and prosecution of traffickers. Practice shows that victims often refrain from reporting to the public authorities, as they are faced with possible arrest, detention and expulsion as illegal aliens and/or prostitutes. Therefore, there is a need for measures to encourage and assist victims to report to the police against their offenders and to act as a witness, and ensure the appropriate “fair treatment” response on the part of the criminal justice system.

Trafficking in human beings may have major consequences for the victims involved, both material and non-material, which are not accommodated by the criminal investigation and prosecution of the offenders. Appropriate assistance and support for victims who wish to co-operate as witnesses by disclosing information can serve to remove or redress the consequences of trafficking and can contribute to the prevention and deterrence of trafficking.

### III. Basis for action and methods

#### *Paragraphs 6 and 7*

Trafficking for the purpose of sexual exploitation is an international crime perpetrated by organised networks which are characterised by being mobile and adapting rapidly to change (for example, changes in a State’s legislation) by redeploying their structures. Thus it has turned out that certain organisations involved in trafficking provide for a system of rotation of the women they exploit from one country to another in order to avoid possible surveillance. To be effective therefore, action against such organisations must be co-ordinated. The text of the recommendation stresses the need for this co-ordination, both as regards the actors and the levels of intervention.

Paragraph 6 proposes a multidisciplinary approach involving all the sectors whose action is essential to counter the activities of traffickers or assist the victims. These include the immigration, customs, police, social, health, judicial and administrative authorities as well as NGOs.

All levels must be alerted, both national and international. The aim of paragraph 7 is to encourage international co-operation between national authorities and NGOs in order to permit in particular the effective exchange of information and the implementation of co-ordinated actions. Several methods can be used to achieve this end, such as networking and police co-operation.

The recommendation encourages in particular the use of bilateral and multilateral agreements. These are particularly suitable instruments in so far as the parties themselves draft the clauses, which can be very precise and can be modified as time goes on. Furthermore, a given trafficking network normally concerns only a limited number of countries and an agreement between these countries can considerably

the enhance the efficacy of measures introduced at national level (for example, such an agreement could be between neighbouring countries such as Austria, Slovakia and Hungary).

#### Paragraph 8

The drafters wished to call on governments to support research connected with the fight against trafficking, a vital factor in developing effective measures to prevent and combat the phenomenon.

Three fields of research are mentioned in particular, but these are only indicative<sup>1</sup>

*– The influence of the media and above all new information and communication technologies on trafficking in human beings for the purpose of sexual exploitation*

The stereotyped images of the sexes conveyed by the media often tend to reinforce the inequality between women and men. The drafters highlighted the fact that the approach of certain media which convey misleading, or even degrading images of women (for example: the trivialisation of women's sale of their bodies, which implies the loss of self-respect and dignity) could have an influence on trafficking in human beings, by making certain women more vulnerable.

The development of the new information technologies has added a further dimension to the phenomenon of trafficking. The Internet offers unprecedented opportunities and the traffickers have been quick to seize them. Trafficking in human beings is now often effected in the form of job offers or under the cover of marriage bureaux by e-mail, the sale of pornographic material and prostitution services. According to the drafters, the study of these phenomena is now a matter of urgency in view of the speed at which they are developing.<sup>2</sup>

*– The clients of the sex trade: trends in demand and their consequences for trafficking in human beings for the purpose of sexual exploitation*

This is certainly one of the prime causes of the existence of trafficking in human beings, a phenomenon that meets a precise demand on the part of "clients" whose behaviours closely follow the evolution of European societies. It therefore appears that the clients of the sex trade play a vital role in trafficking (traffickers' endeavour above all to satisfy this "demand").<sup>3</sup>

Very few studies have been made on these issues, although Swedish and Norwegian researchers have collected some statistics and identified and classified some of the motives that induce men to buy sex services.<sup>4</sup>

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1. In addition to the fields of research mentioned in the recommendation, the drafters also recommended that studies be carried out in future on specific issues such as the close connections existing between trafficking in human beings and trafficking in drugs; money-laundering connected with sexual exploitation; sex tourism; trafficking and sexual exploitation of minors. See the final activity report of the multisectoral group on action against trafficking in human beings for the purpose of sexual exploitation (EG-S-TS), document EG-S-TS(99)8.

2. See in this connection the Council of Europe contribution to the study of these phenomena: Proceedings of the Workshop on "good" and "bad" practice concerning the image of women in the media: the case of trafficking in human beings for the purpose of sexual exploitation, organised in Strasbourg on 28 and 29 September 1998.

3. The proliferation of trafficking networks corresponds to different types of demand. Thus while networks have been "supplying" Asian women to the western market for a long time, in 1998 the Thai press reported the recent organisation of a network trafficking in Slav women (Russian and Ukrainian) for Asian male clients with a preference for women with certain physical characteristics (pale skin, blond hair, blue eyes).

4. See in particular the studies by Sven-Axel MANSSON, Lund University, Social Sciences School (Sweden), and PRIØR and TAKSDAL (Norway) on "The man in the sex trade". On the basis of several series of interviews with men who buy sex, Mansson identifies three sets of motives for this behaviour: curiosity, sexual variation and convenience; loneliness and problem with making contacts; problems in the relationship with the life partner. A study by the Norwegian researchers Priør and Taksdal places buying sex in the present context of relations between men and women. According to them, while in the past men's purchase of sex was a confirmation of male dominance, now, given the changes that have taken place in society, this purchase may appear to be an attempt to win back this lost dominance. They consider that the reasons for buying sex have changed. The fact remains that women, placed in a situation similar to that of men, do not react in the same way and are not inclined to turn to buying sex.

Quite apart from the existing studies, many carried out in Scandinavia, the fact is that the (essentially male) client of the sex trade remains anonymous or entirely invisible, whereas his demand is one of those that guides the traffickers and their networks. Taking up the conclusions of Council of Europe Groups of Specialists who have analysed this,<sup>1</sup> the drafters wished to encourage governments to initiate or pursue research on trends in the pattern of demand as a structural cause of trafficking in human beings for the purpose of sexual exploitation.

– *The origin of the phenomenon of trafficking and the methods used by traffickers*

Still concerned with the development of strategies to prevent and combat trafficking, it is important to understand the way in which the phenomenon starts and develops. Several techniques are used, especially as regards the “recruitment” of women and girls<sup>2</sup> and it is essential to know them fully before in order to be able to undertake effective action against trafficking, such as information campaigns (see the recommendation’s provisions under *Prevention*).

*Paragraphs 9 and 10*

Up to now, the lack of reliable data or statistics has prevented to measure the magnitude of the phenomenon and to act effectively against trafficking in human beings. It is important to improve data collection and adopt methods that allow both national and international comparisons. Furthermore, continuous monitoring, control and evaluation of research activities are necessary to ensure their efficacy.

Governments are invited to take steps in this direction, if possible by creating research units or other entities specialising exclusively in these tasks. Set up on a multidisciplinary basis, these bodies could work in co-operation with the police, legal institutions and NGOs, as well as with the international organisations concerned (for example, Europol, Interpol, IOM, etc.).

#### **IV. Prevention**

A distinction has been made between short and medium-term prevention measures on the one hand (paragraphs 11 to 22) and long-term measures on the other (paragraphs 23 to 25).

##### **i. Awareness raising and information**

*Paragraph 11*

Information campaigns are important short-term prevention measures. Based on the concept of equality of the sexes, these actions can have an important effect in the countries of origin. *The fact is that in these countries, the public, and in particular the women, have little information about the real conditions they would be living in the destination country. The images conveyed by the western media, who may be exaggerated or taken out of context, often mislead people wishing to emigrate, and certain professions appear to have financial advantages and prestige, which are not always found in reality.*<sup>3</sup> The people involved in trafficking networks often take advantage of this lack of objective information to lure their victims with promises of easy money and a much better lifestyle.

In these circumstances, the recommendation stresses the need to organise information campaigns reaching all those likely to be concerned, especially women tempted by emigration and their families and friends.

It is a matter of informing them about the possibilities for legal emigration and their limits, drawing attention to the risks of exploitation associated with illegal emigration, and the negative effects of trafficking

1. See the final report of the Group of Specialists on trafficking in women and forced prostitution, Council of Europe, Strasbourg, December 1993, and the final report of the Multisectoral Group on Action against Trafficking in Human Beings for the Purpose of Sexual Exploitation, Council of Europe, Strasbourg, March 1999.

2. While the most widespread practice is to place advertisements in the press offering fictitious jobs abroad (Ukraine), some traffickers do not hesitate to abduct girls or women, that simply disappear without trace (Albania).

3. By way of example, a survey carried out in 1998 among Muscovite grammar school girls revealed that the two professions they were most interested in for later on were “model” and “prostitute”.

in human beings. These campaigns should aim at permitting potential victims to take their decisions in full knowledge of the facts and to be able to ask for help in the case of abuse. The people concerned could also be given information about places where they can obtain assistance once they are in the destination country and the addresses and telephone numbers of reception centres in these countries, where they exist.

The text stresses the need to provide specific information for women refugees, who often find themselves in very vulnerable situations: speaking the language of the host country very badly if at all, separated from their family, sometimes without any identity documents, they may be tempted to accept the proposals or offers of jobs abroad made by traffickers and thus become victims of trafficking.

#### *Paragraph 12*

The drafters deemed it useful to draw attention to the need to organise information campaigns to discredit sex tourism. Targeted information can be made available (in the form of leaflets and videos, and on Internet sites for example) to travel agencies, consulates, at the customs service in the context of the formalities necessary to obtain visas and in aircraft on flights to certain destinations.

#### *Paragraph 13*

With a view to greater efficiency, the text identifies the actors who may be in contact with potential victims of trafficking and thus play a key role in prevention. The governments of member States are invited to provide these persons and/or institutions with information adapted to their specific role.

In this connection the NGOs have a particularly important role to play in alerting public opinion to the dangers associated with trafficking in human beings, whether in general through providing information or in the context of the education system, among young people or among people applying for visas and work permits.

The text specifically mentions humanitarian NGOs, thus making reference to conflict situations. In this context, the humanitarian NGOs, which are in direct contact with refugees, can provide them with information on the risks associated with trafficking (the drafters had in mind in particular the critical situation of the Kosovo refugees who had left their country as a result of the crisis of March 1999).<sup>1</sup>

#### *Paragraph 14*

Concerning health, the governments of member States are invited to disseminate as widely as possible information on the health risks associated with sexual exploitation. It is clear that the victims of trafficking run a higher than average risk of unwanted pregnancy and contamination by sexually transmitted diseases, including HIV/AIDS.

#### *Paragraph 15*

The text of this paragraph is in response to a phenomenon, which has developed over the past few years. The upsurge and expansion of trafficking in human beings have aroused the interest of the media, which have started to deal with this issue (this is true of both the press and radio and television). In many cases a "sensationalist" approach is taken, stressing the aspects connected with the sex trade without explaining the true reasons that incite the women involved to want to leave their countries of origin. Concerned mainly with profitability and the need to sell their products, certain media concentrate on these aspects. This is also due to the partial image that the media sometimes give of women, often reducing them to sex objects.

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1. On the role of NGOs in the fight against trafficking in human beings for the purpose of sexual exploitation, see the Proceedings and Conclusions of the International Seminar organised by the Council of Europe in Strasbourg on 29 and 30 June 1998 (reference EG/NGO/SEM (98) 8).

What is more, it is often the media that convey information that gives people wanting to emigrate the impression that they will easily be able to find well paid work abroad.<sup>1</sup>

To try to alleviate these problems, this paragraph encourages the governments of member States to organise actions which, while respecting the freedom of the press<sup>2</sup> make media professionals more aware of issues relating to trafficking in human beings for the purpose of sexual exploitation and the problems that this phenomenon brings both for the victims and for European societies as a whole.

## ii. Education

The measures to prevent trafficking in human beings can never be fully effective without the dissemination of information and its integration in the education system, right from the earliest schooling. The victims of trafficking are getting younger and younger, often being minors, and the dissemination of appropriate information is of great importance for prevention.

### *Paragraphs 16, 17 and 18*

Recommendation No R (91) 11 of the Committee of Ministers to the member States of the Council of Europe concerning sexual exploitation, pornography and prostitution of, and trafficking in, children and young adults contains measures concerning education and information for children and young adults on the dangers of trafficking.

The text of the present recommendation consolidates this approach, inviting the governments of member States to promote equality between the sexes and the respect of human rights in school curricula. Better assimilation of these concepts by pupils would make them less likely later on to become victims of phenomena such as trafficking, based on an unequal balance of forces between men and women, between traffickers and victims, constituting a flagrant violation of several human rights.

Information on the risks of trafficking and sexual exploitation run by children and young adults should be disseminated as widely as possible and a particular effort should be made to reach marginalised people (children, adolescents and young adults outside the education system could be reached in youth reception centres, for example).

In conformity with the provisions foreseen in international texts (United Nations Convention on the Rights of the Child (1989) and Council of Europe Convention on the Exercise of Children's Rights (1996)) the measures envisaged in this field must respect the rights of the child as well as the rights and obligations of the parents or any other legally responsible person.

## iii. Training

### *Paragraph 19*

The main aim here is to make all the groups concerned aware of the existence of trafficking and of the consequences it may have in their field of activity. This is essential to gain an understanding of all aspects of the phenomenon and become able to recognise cases of trafficking. States are asked to organise "special training", i.e. training relating specifically to trafficking issues. It should be noted, however, that the terms used in the recommendation are of a general nature to enable each State to organise training according to its own needs and structures.

### *Paragraphs 20, 21 and 22*

The drafters wished to emphasise the importance of training programmes for police personnel and for immigration officials and frontier police. These categories of personnel clearly play a crucial preventive role, as they are the first to come into contact with the victims. They must be able to recognise the victims

1. On the influence of the media in the field of against trafficking in human beings for the purpose of sexual exploitation, see the Proceedings of the Seminar organised by the Council of Europe on 28 and 29 September 1998.

2. In pursuance of article 10 of the European Convention for the Protection of Human Rights and Fundamental Freedoms and the relevant case law.



of trafficking and take the necessary measures, where appropriate in co-operation with specialist NGOs. Some drafters envisaged the possibility of setting up specialist units within the police to deal with trafficking issues, and of providing continuing training (trafficking being a constantly evolving phenomenon, it is important to monitor changes in networks and identify the routes followed).

#### iv. Long-term action

##### *Paragraphs 23 and 24*

A whole range of factors contribute to the development of trafficking in human beings, whose underlying causes may be described without any hesitation as “structural”. In particular, mention should be made of the following:

- *Disparities between countries in terms of economic development*, which prompt people to leave their country of origin to look for better-paid work elsewhere;
- *Gradual changes in migration flows*: in the past, women tended to come with the children to join the family head who had emigrated to a wealthier country, but there are currently signs of a change. Many women have themselves become family heads and seek to emigrate in order to find work and be able to send money home to their children and family; more generally, women no longer hesitate to look for jobs abroad;
- *The status of women*: the status of women in both the countries of origin and the countries of destination is another factor in trafficking. In the countries of origin, women do not always have the same professional or economic opportunities as men and are more severely affected by poverty, which can prompt them to seek to emigrate. In the countries of destination, the attitudes of some sections of the male population play a role: sexist prejudices, sometimes combined with a racist outlook, actually create a demand in some countries for women from other countries, because they are thought to be “submissive”, “unsophisticated” or “exotic” (see footnote 11).
- *Crisis and/or conflict situations*: any situation of this kind creates a situation of lawlessness (breakdown or absence of traditional legal structures) which is particularly conducive to the development of trafficking of all kinds, including trafficking in human beings.<sup>1</sup>

Governments are asked to take account of trafficking in human beings and its consequences in their efforts to combat poverty and assist development.<sup>2</sup>

##### *Paragraph 25*

Improving the economic and social situation in the countries of origin is considered to be the most effective way of preventing trafficking and discouraging those who hope to improve their lot by accepting the traffickers’ offers. In the present state of affairs, however, it would be desirable for persons wishing to emigrate to be fully informed about legal migration possibilities, which would enable them to identify traffickers’ offers more easily and, if possible, avoid accepting them.

#### V. Assistance to, and protection of, victims

Under the heading of assistance and protection the recommendation provides for four types of action in favour of and rights for victims.

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1. The drafters were thinking in particular of post-conflict situations in which trafficking and sexual exploitation have taken on considerable proportions, as in Bosnia and Herzegovina after the 1995 Dayton Agreement.

2. In this connection, see the Platform for Action adopted at the 4th World Conference on Women (Beijing, 4-15 September 1995), and in particular Chapter IV.A and F.

## **i. Victim support**

### *Paragraph 26*

It is a matter of providing support for victims of trafficking in order to favour their reintegration into society. The text encourages the creation or development of reception centres or other facilities where victims can benefit from various services essential for their reintegration into society.

This reintegration may be envisaged either in the country of origin or the host country, since the social measures mentioned apply to victims in the countries of origin as well as the right to return and reintegration (see iii. and iv. below).

Besides specialised reception centres, all of the existing administrative, medico-social and legal infrastructure, including partnership with associations, should be able to contribute to this support, insofar as these services are able to integrate the specific dimension of the problems of the victims of trafficking for the purpose of sexual exploitation.

The support measures in general (information for victims on their rights, psycho-medico-social and administrative assistance) are the concrete expression of the need for multidisciplinary highlighted in section III, *Basis for action and methods*.

### *Paragraph 27*

The text draws attention to the importance in providing assistance in the victims' mother tongue. This provision is essential to ensure the effectiveness of access to the law, a necessary precondition for victims' access to justice. This is different from the right to the assistance of an interpreter in legal proceedings.

## **ii. Legal action**

### *Paragraph 28*

Where possible, States are invited to provide victims of trafficking, in particular children, and witnesses with special facilities for reception and questioning (audio and video recording), in order to avoid as far as possible, the repetition of hearings and certain confrontations, and thus attenuate the traumatising effects of legal proceedings. In recent years, many States have developed the use of these technical resources in the legal context, where necessary adapting the rules of procedure applicable to the recording of evidence and the questioning of victims. This is the case in particular for the victims of sexual assault. However, on the one hand, this is not yet the case in all Council of Europe member States, and on the other, the victims of trafficking are far from benefiting from such protection measures, even in countries where the validity of these methods is recognised by the national legal system.

### *Paragraphs 29, 30 and 32*

As set out in the general principles, trafficking should be considered a form of organised crime and thus calls for corresponding treatment and action. Paragraphs 29 to 32 draw the appropriate conclusions calling upon States to take steps, particularly in the case of criminal networks, to protect victims, witnesses and their families to avoid acts of intimidation and reprisals. It is a matter of making victim and witness protection programmes available to the judicial services, which implies having effective ways of combating real threats to the safety of these people in both the host country and the country of origin.

When it comes to protecting the people concerned in a country other than that where the proceedings are taking place, co-ordination and co-operation measures as envisaged under section VII below are also essential. The recommendation also encourages States to extend, if necessary, these protection programmes to the members of associations or organisations assisting the victims during civil or criminal proceedings, who may be particularly exposed to criminal networks.

In paragraph 32, the drafters stressed the role of victim defence organisations in this respect. As well as their traditional role of providing assistance, these organisations can sometimes, in the respect of national

legal principles and traditions, be empowered to institute legal action (as is the case in certain member States of the Council of Europe).

#### *Paragraph 31*

In some cases, victims hesitate to bring legal proceedings in the country of destination because of the threat of reprisals by the traffickers against family members who have remained in the country of origin. To facilitate legal action, it is important therefore, in some cases, to be able to provide protection for the families of victims.

This calls for close co-operation between the victim's country of origin and country of destination, which could be instituted, for example, through the signing of bilateral and/or multilateral agreements between the countries concerned. The drafters were aware of the difficulties involved in setting up such machinery, but wished nevertheless to stress its importance given that it is a guarantee enabling victims to take legal action. Governments are invited to bear this factor in mind and take the necessary measures where possible.

#### *Paragraph 33*

The compensation aspect appears here and is intended to ensure that victims can obtain monetary compensation for the prejudice they have suffered. In the case where the criminal courts handling proceedings against traffickers do not have the power to also pronounce on the civil liability of the accused with respect to the victims, it is necessary to ensure that the victims can also take their claim to civil courts which are competent to rule on this point and award them compensatory damages.

#### *Paragraphs 34 and 35*

These paragraphs extend the above guarantees, dealing with the temporary status of victims during legal proceedings. Being most of the time illegal residents in the country of destination, the victims of trafficking are often treated as such and are in danger of being expelled before being able to file any legal action. In order to avoid this, the Recommendation encourages destination countries, if necessary and in conformity with the national legislation in force, to grant temporary residence permits to enable the victims to testify against the offenders. These testimonies are essential in order to charge the traffickers, as they often constitute the only tangible proof against them.

The text recommends that, during their temporary period of residence, victims have access to any necessary medical and social assistance. Given the extremely precarious conditions in which many victims find themselves, destination countries are also encouraged, if necessary, to consider providing victims with the more protective status of temporary resident on humanitarian grounds. This may be necessary for example in cases when the victim has been threatened by the offenders (before, during or after the judicial proceedings) and when her/his life or her/his family's are in danger in case of return in the country of origin.

### **iii. Social measures for victims of trafficking in countries of origin**

#### *Paragraphs 36 and 37*

Some victims of trafficking will prefer to return to their country of origin, and others may be forced to do so (should they fail to obtain a residence permit in the country of destination). Whatever the case, victims may require support of various kinds (social assistance, occupational reintegration, etc.) which may be provided by reception facilities and, above all, by non-governmental organisations, which play a key role in this area.

#### **iv. Right of return and rehabilitation**

##### *Paragraph 38*

In keeping with the approach adopted by the drafters from the outset, which was to give priority to aspects relating to protection of the victims, the text calls on governments to make it possible for victims of trafficking to decide to return to their country of origin. In view of the nature of the trauma suffered, such a decision must be accompanied by a number of measures (detailed in the following paragraphs) whose implementation calls for close co-operation between the countries of origin and destination, as already emphasised in the previous section.

##### *Paragraphs 39, 40 and 41*

The return of victims to their country of origin and their reintegration call for several obstacles to be overcome.

From a purely financial point of view, victims have often taken out loans in order to advance large sums of money for the administrative formalities, which their “employers” were to complete for them. These debts often constitute one of the main barriers to reintegration in the country of origin. Another practical problem is the cost of the return journey.

Above and beyond the material aspects, sexual exploitation can harm victims of trafficking both physically and mentally for the rest of their lives. It must also be borne in mind that, upon their return, victims run the risk of being rejected by their family or the community, of being unable to find viable employment, of becoming outcasts from society, of being subjected to harassment, reprisals or persecution by the traffickers, etc.

To obviate these difficulties, the drafters have drawn up a series of measures, which are set out in paragraphs 39, 40 and 41. These are minimum measures. If necessary, governments may add to them. For instance:

- In addition to financial assistance to cover the cost of the return journey and a sum of money to aid reintegration, victims could be provided with the means of settling their debts, in the form of a compensation scheme or any other suitable system for settling debts (possibly based on confiscation of the proceeds from trafficking, as provided for in paragraph 44);
- The social support provided upon their return to the country of origin could include access to counselling services and specialised medical care (social workers responsible for dealing with victims upon their return should be familiarised with trafficking issues);
- Occupational reintegration measures upon their return to the country of origin could include, in particular, training courses and help with finding employment.

#### **VI. Penal legislation and legal co-operation**

Although victim protection was expressly made the main focus of the recommendation, which explains the priority given to prevention and assistance measures, there can be no effective fight against trafficking without appropriate legislation, enforcement and legal co-operation.

As we have seen, there are great differences in the legislation on this subject in Council of Europe member States and what is more the phenomenon of trafficking goes far beyond the limits of the European continent.

##### *Paragraph 42*

Certain member States have legislation under which not all of the activities defined and condemned by this recommendation are criminal offences. The recommendation therefore invites the countries concerned to introduce or strengthen their legislation and where necessary criminalise specific activities.

It is not necessarily a matter of adopting a specific mode of criminalisation of the activities involved by creating an offence of “trafficking for the purpose of sexual exploitation”, but rather of ensuring that

criminal proceedings can be instituted against all of the acts or offences concerned. This can be achieved by means of offences already existing in the national criminal legislation, where necessary by eliminating certain conditions of the said offences which may constitute a legal obstacle to criminalisation, or on the contrary by adding to the definition of existing offences a description of the corresponding activities, in order to clarify the conditions in which they apply. It is also possible to introduce specific offences, this possibility being expressly intended by the drafters, accompanied by the expression “where necessary”.

#### *Paragraphs 43 and 47*

Besides the criminalisation of the activities in question, these paragraphs address the matter of penal sanctions and have two objectives.

First, it is a matter of introducing or increasing existing penal sanctions in order to make them proportional to the seriousness of the offences. Offences against individuals, criminal acts associated with the phenomenon of trafficking should, as solemnly reaffirmed in the recommendation, be considered flagrant violations of human rights and an offence to the dignity and integrity of the human being, and should be treated as such in the legislative arsenal.

Second, it is a matter of ensuring that the sentences that can be imposed permit effective international legal co-operation and the extradition of prosecuted or convicted persons. Because of the transnational dimension of trafficking, examining magistrates in one country should be able to make international requests for information, in order to be able to pursue their investigations in one or more other countries, have witnesses heard, searches carried out, seizures made, etc. Similarly, when the suspects or convicted individuals are within the jurisdiction of a State other than the prosecuting State, it is important that the latter, in the respect of the principles and provisions applicable, should be to obtain their extradition. Before they will comply with such requests for assistance or extradition, certain States require that the sentence faced by a suspect or pronounced for a convicted individual should be above a threshold set by their domestic law. It is therefore important that this threshold should at least be taken into account when fixing the sentences for the various offences connected with trafficking in human beings.

On the question of the extradition of traffickers, paragraph 43 should be seen in relation to paragraph 47, which encourages States to provide for measures permitting the extradition of traffickers, in compliance with the international rules in force, preferably to a country where evidence of the offences can be found. The jurisdiction criteria in force may indicate several States where evidence of the said offences may be found: countries where the victims are “recruited”, transit countries, countries where they are exploited, countries where the perpetrators are domiciled or where companies involved are registered, etc. It is therefore the likelihood of finding evidence that should be the criterion.

#### *Paragraph 44*

While recommending the adoption of provisions authorising the seizure and confiscation of the instruments and proceeds of trafficking, the drafters have taken care to recall the need to preserve the rights of third parties of good faith. In the case of the dismantling of trafficking networks, as in the case of organised crime in general, the origin of the disputed goods and funds is often difficult to establish. Companies and individuals engaged in perfectly legal activities might unknowingly find themselves used in the labyrinth of a network as part of the perpetrators’ efforts to cover their traces. In this way the rights of third parties of good faith may be violated.

Besides the necessary prudence of the administrative or legal authorities who have to proceed to the confiscation of the goods in question, it is necessary to have legal provisions permitting third parties of good faith whose goods have been confiscated or seized to retrieve them or at least be compensated for their loss in conformity with the right to enjoyment of possessions set out in Article 1 of Protocol No. 1 to the ECHR.

*Paragraph 45*

Whether the national legislation authorises the existence of the establishments in which the victims of trafficking generally exploited or not, such establishments do exist and can be identified by the police. It is therefore necessary to facilitate police investigation and surveillance of the establishments concerned and organise their closure if necessary.

*Paragraph 46*

As indicated in the definition of trafficking adopted, traffickers sometimes act through legal persons. The text encourages States to provide for rules governing the liability of such entities, together with specific penalties. It may obviously be a matter of the civil liability of these legal persons but, in the case of States whose legal system includes a system of criminal liability for such entities, provision should be made for its application to offences connected with trafficking.

*Paragraph 48*

States are invited to adopt rules governing extra-territorial jurisdiction to permit the prosecution and conviction of persons who have committed offences connected with trafficking, regardless of the country the offences were committed in, including when the acts constituting the offence were perpetrated in several different countries. Extra-territorial jurisdiction is a particularly necessary legal tool in the fight against forms of crime extending across frontiers or using them, such as trafficking for the purpose of sexual exploitation.

Rules governing extra-territorial jurisdiction facilitate the prosecution of the perpetrators of offences. Recommended in the action plan adopted by States at the Stockholm congress on action against the sexual exploitation of children for commercial purposes, they were also introduced in the joint action adopted in the European Union in 1997. It is important that Council of Europe member States, which have not yet incorporated such rules in their penal arsenal, or only for certain offences, should consider it and extend it to all criminal acts connected with trafficking.

*Paragraph 49*

The last weapon in the fight against trafficking is the creation and continuous updating of systems such as computerised databases and files to assist investigations and the prosecution of the perpetrators of the said offences. Like other forms of organised crime and sex offences in general, action against trafficking in human beings for the purpose of sexual exploitation is a field in which the use of such methods is particularly necessary. In the use of information technologies however, it is necessary to comply with the national legislation on the protection of personal data as well as with the relevant international texts (such as the Council of Europe Convention for the protection of individuals with regard to the automatic processing of personal data, 1981).

## **VII. Co-ordination and co-operation measures**

As stressed by the drafters throughout the text, trafficking is a multiform and intersectoral phenomenon, the implications of which concern several branches of society. In view of the nature of the phenomenon, if action against trafficking is to be effective it has to be co-ordinated at both national and international level.

### **i. At the national level**

#### *Paragraphs 50, 51 and 52*

Specifically, the text recommends the establishment of a national mechanism to serve as both:

- the centre for defining a national strategy to combat trafficking;
- the centre for liaison with other countries or entities involved in the fight against trafficking.

The form that the national mechanism may take is to be decided by each State. Some countries have already taken steps in this direction (by way of example, we may mention the Netherlands where, pursuant

to the decisions taken at the Ministerial Conference of the Hague of 24 and 26 April 1997, the appointment of a national rapporteur responsible for matters relating to trafficking is being prepared; the rapporteur will be an independent person responsible for reporting to the government).

**ii. At the international level**

*Paragraphs 53, 54 and 55*

On the international level too, the co-ordination of the actions undertaken by the different actors is essential. As was described in detail at the beginning of this explanatory memorandum, several organisations have taken action to combat trafficking (United Nations, Interpol, Union European, Council of Europe, etc.). While acknowledging the usefulness of these different actions, the drafters wished to stress the need to ensure their co-ordination by setting up a specialised international body to be responsible for several tasks specifically concerned with the fight against trafficking.

*Paragraphs 56 and 57*

The recommendation invites the governments to sign and ratify, if they have not already done so, or to take account of, a number of relevant international instruments concerning the fight against trafficking in human beings for the purpose of sexual exploitation.

**Recommendation Rec(2002)5  
of the Committee of Ministers to member states  
on the protection of women against violence<sup>1</sup>**

*(adopted by the Committee of Ministers on 30 April 2002  
at the 794th meeting of the Ministers' Deputies)*

The Committee of Ministers, under the terms of Article 15.b of the Statute of the Council of Europe,  
Reaffirming that violence towards women is the result of an imbalance of power between men and women  
and is leading to serious discrimination against the female sex, both within society and within the family;

Affirming that violence against women both violates and impairs or nullifies the enjoyment of their  
human rights and fundamental freedoms;

Noting that violence against women constitutes a violation of their physical, psychological and/or sexual  
integrity;

Noting with concern that women are often subjected to multiple discrimination on ground of their gender  
as well as their origin, including as victims of traditional or customary practices inconsistent with their  
human rights and fundamental freedoms;

Considering that violence against women runs counter to the establishment of equality and peace and  
constitutes a major obstacle to citizens' security and democracy in Europe;

Noting with concern the extent of violence against women in the family, whatever form the family takes,  
and at all levels of society;

Considering it urgent to combat this phenomenon which affects all European societies and concerns all  
their members;

Recalling the Final Declaration adopted at the Second Council of Europe Summit (Strasbourg, 1997), in  
which the heads of state and government of the member states affirmed their determination to combat  
violence against women and all forms of sexual exploitation of women;

Bearing in mind the provisions of the European Convention on Human Rights (1950) and the case-law of  
its organs, which safeguard, *inter alia*, the right to life and the right not to be subjected to torture or to  
inhuman or degrading treatment or punishment, the right to liberty and security and the right to a fair trial;

Considering the European Social Charter (1961) and the revised European Social Charter (1996), in par-  
ticular the provisions therein concerning equality between women and men with regard to employment,  
as well as the Additional Protocol to the European Social Charter providing for a system of collective  
complaints;

Recalling the following recommendations of the Committee of Ministers to member states of the Council  
of Europe: Recommendation No. R (79) 17 concerning the protection of children against ill-treatment;  
Recommendation No. R (85) 4 on violence in the family; Recommendation No. R (85) 11 on the position  
of the victim within the framework of criminal law and procedure; Recommendation No. R (87) 21 on  
assistance to victims and the prevention of victimisation; Recommendation No. R (90) 2 on social measures  
concerning violence within the family; Recommendation No. R (91) 11 concerning sexual exploitation,

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1. In conformity with Article 10.2c of the Rules of Procedure of the Ministers' Deputies, Sweden reserved its right to comply or  
not with paragraph 54 of this recommendation.



pornography and prostitution of, and trafficking in, children and young adults; Recommendation No. R (93) 2 on the medico-social aspects of child abuse, Recommendation No. R (2000) 11 on action against trafficking in human beings for the purpose of sexual exploitation and Recommendation Rec(2001)16 on the protection of children against sexual exploitation;

Recalling also the Declarations and Resolutions adopted by the 3<sup>rd</sup> European Ministerial Conference on Equality between Women and Men held by the Council of Europe (Rome, 1993);

Bearing in mind the United Nations Declaration on the Elimination of Violence against Women (1993), the United Nations Convention on the Elimination of All Forms of Discrimination against Women (1979), the United Nations Convention against Transnational Organised Crime and its Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children (2000), the Platform for Action adopted at the Fourth World Conference on Women (Beijing, 1995) and the Resolution on Further actions and initiatives to implement the Beijing Declaration and Platform for Action adopted by the United Nations General Assembly (23<sup>rd</sup> extraordinary session, New York, 5-9 June 2000);

Bearing in mind the United Nations Convention on the Rights of the Child (1989), as well as its Optional Protocol on the sale of children, child prostitution and child pornography (2000);

Also bearing in mind the International Labour Organisation Convention No. 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour (1999) and Recommendation (R 190) on the Worst Forms of Child Labour (1999);

Recalling the basic principles of international humanitarian law, and especially the 4<sup>th</sup> Geneva Convention relative to the protection of civilian persons in time of war (1949) and the 1<sup>st</sup> and 2<sup>nd</sup> additional Protocols thereto;

Recalling also the inclusion of gender-related crimes and sexual violence in the Statute of the International Criminal Court (Rome, 17 July 1998),

Recommends that the governments of member states:

- I. Review their legislation and policies with a view to:
  1. guaranteeing women the recognition, enjoyment, exercise and protection of their human rights and fundamental freedoms;
  2. taking necessary measures, where appropriate, to ensure that women are able to exercise freely and effectively their economic and social rights;
  3. ensuring that all measures are co-ordinated nation-wide and focused on the needs of the victims and that relevant state institutions as well as non-governmental organisations (NGOs) be associated with the elaboration and the implementation of the necessary measures, in particular those mentioned in this recommendation;
  4. encouraging at all levels the work of NGOs involved in combating violence against women and establishing active co-operation with these NGOs, including appropriate logistic and financial support;
- II. Recognise that states have an obligation to exercise due diligence to prevent, investigate and punish acts of violence, whether those acts are perpetrated by the state or private persons, and provide protection to victims;
- III. Recognise that male violence against women is a major structural and societal problem, based on the unequal power relations between women and men and therefore encourage the active participation of men in actions aiming at combating violence against women;
- IV. Encourage all relevant institutions dealing with violence against women (police, medical and social professions) to draw up medium- and long-term co-ordinated action plans, which provide activities for the prevention of violence and the protection of victims;
- V. Promote research, data collection and networking at national and international level;

- VI. Promote the establishment of higher education programmes and research centres including at university level, dealing with equality issues, in particular with violence against women;
- VII. Improve interactions between the scientific community, the NGOs in the field, political decision-makers and legislative, health, educational, social and police bodies in order to design co-ordinated actions against violence;
- VIII. Adopt and implement the measures described in the appendix to this recommendation in the manner they consider the most appropriate in the light of national circumstances and preferences, and, for this purpose, consider establishing a national plan of action for combating violence against women;
- IX. Inform the Council of Europe on the follow-up given at national level to the provisions of this recommendation.

## **Appendix to Recommendation Rec(2002)5**

### **Definition**

1. For the purposes of this recommendation, the term “violence against women” is to be understood as any act of gender-based violence, which results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion, or arbitrary deprivation of liberty, whether occurring in public or private life. This includes, but is not limited to, the following:
- a.* violence occurring in the family or domestic unit, including, *inter alia*, physical and mental aggression, emotional and psychological abuse, rape and sexual abuse, incest, rape between spouses, regular or occasional partners and cohabitants, crimes committed in the name of honour, female genital and sexual mutilation and other traditional practices harmful to women, such as forced marriages;
  - b.* violence occurring within the general community, including, *inter alia*, rape, sexual abuse, sexual harassment and intimidation at work, in institutions or elsewhere trafficking in women for the purposes of sexual exploitation and economic exploitation and sex tourism;
  - c.* violence perpetrated or condoned by the state or its officials;
  - d.* violation of the human rights of women in situations of armed conflict, in particular the taking of hostages, forced displacement, systematic rape, sexual slavery, forced pregnancy, and trafficking for the purposes of sexual exploitation and economic exploitation.

### **General measures concerning violence against women**

2. It is the responsibility and in the interest of states as well as a priority of national policies to safeguard the right of women not to be subjected to violence of any kind or by any person. To this end, states may not invoke custom, religion or tradition as a means of evading this obligation.
3. Member states should introduce, develop and/or improve where necessary, national policies against violence based on:
- a.* maximum safety and protection of victims;
  - b.* empowerment of victimised women by optimal support and assistance structures which avoid secondary victimisation;
  - c.* adjustment of the criminal and civil law including the judicial procedure;
  - d.* raising of public awareness and education of children and young persons;
  - e.* ensuring special training for professionals confronted with violence against women;
  - f.* prevention in all respective fields.
4. In this framework, it will be necessary to set up, wherever possible, at national level, and in co-operation with, where necessary, regional and/or local authorities, a governmental co-ordination institution or body in charge of the implementation of measures to combat violence against women as well

as of regular monitoring and evaluation of any legal reform or new form of intervention in the field of action against violence, in consultation with NGOs and academic and other institutions.

5. Research, data collection and networking at national and international level should be developed, in particular in the following fields:

- a. the preparation of statistics sorted by gender, integrated statistics and common indicators in order to better evaluate the scale of violence against women;
- b. the medium- and long-term consequences of assaults on victims;
- c. the consequence of violence on those who are witness to it, *inter alia*, within the family;
- d. the health, social and economic costs of violence against women;
- e. the assessment of the efficiency of the judiciary and legal systems in combating violence against women;
- f. the causes of violence against women, i.e. the reasons which cause men to be violent and the reasons why society condones such violence;
- g. the elaboration of criteria for benchmarking in the field of violence.

#### *Information, public awareness, education and training*

Member states should:

6. compile and make available to the general public appropriate information concerning the different types of violence and their consequences for victims, including integrated statistical data, using all the available media (press, radio and television, etc.);
7. mobilise public opinion by organising or supporting conferences and information campaigns so that society is aware of the problem and its devastating effects on victims and society in general and can therefore discuss the subject of violence towards women openly, without prejudice or preconceived ideas;
8. include in the basic training programmes of members of the police force, judicial personnel and the medical and social fields, elements concerning the treatment of domestic violence, as well as all other forms of violence affecting women;
9. include in the vocational training programmes of these personnel, information and training so as to give them the means to detect and manage crisis situations and improve the manner in which victims are received, listened to and counselled;
10. encourage the participation of these personnel in specialised training programmes, by integrating the latter in a merit-awarding scheme;
11. encourage the inclusion of questions concerning violence against women in the training of judges;
12. encourage self-regulating professions, such as therapists, to develop strategies against sexual abuse which could be committed by persons in positions of authority;
13. organise awareness-raising campaigns on male violence towards women, stressing that men should be responsible for their acts and encouraging them to analyse and dismantle mechanisms of violence and to adopt different behaviour;
14. introduce or reinforce a gender perspective in human rights education programmes, and reinforce sex education programmes that give special importance to gender equality and mutual respect;
15. ensure that both boys and girls receive a basic education that avoids social and cultural patterns, prejudices and stereotyped roles for the sexes and includes training in assertiveness skills, with special attention to young people in difficulty at school; train all members of the teaching profession to integrate the concept of gender equality in their teaching;

16. include specific information in school curricula on the rights of children, help-lines, institutions where they can seek help and persons they can turn to in confidence.

#### *Media*

Member states should:

17. encourage the media to promote a non-stereotyped image of women and men based on respect for the human person and human dignity and to avoid programmes associating violence and sex; as far as possible, these criteria should also be taken into account in the field of the new information technologies;

18. encourage the media to participate in information campaigns to alert the general public to violence against women;

19. encourage the organisation of training to inform media professionals and alert them to the possible consequences of programmes that associate violence and sex;

20. encourage the elaboration of codes of conduct for media professionals, which would take into account the issue of violence against women and, in the terms of reference of media watch organisations, existing or to be established, encourage the inclusion of tasks dealing with issues concerning violence against women and sexism.

#### *Local, regional and urban planning*

Member states should:

21. encourage decision-makers in the field of local, regional and urban planning to take into account the need to reinforce women's safety and to prevent the occurrence of violent acts in public places;

22. as far as possible, take all necessary measures in this respect, concerning in particular public lighting, organisation of public transport and taxi services, design and planning of car parks and residential buildings.

#### *Assistance for and protection of victims (reception, treatment and counselling)*

Member states should:

23. ensure that victims, without any discrimination, receive immediate and comprehensive assistance provided by a co-ordinated, multidisciplinary and professional effort, whether or not they lodge a complaint, including medical and forensic medical examination and treatment, together with post-traumatic psychological and social support as well as legal assistance; this should be provided on a confidential basis, free of charge and be available around the clock;

24. in particular, ensure that all services and legal remedies available for victims of domestic violence are provided to immigrant women upon their request;

25. take all the necessary measures in order to ensure that collection of forensic evidence and information is carried out according to standardised protocol and forms;

26. provide documentation particularly geared to victims, informing them in a clear and comprehensible manner of their rights, the service they have received and the actions they could envisage or take, regardless of whether they are lodging a complaint or not, as well as of their possibilities to continue to receive psychological, medical and social support and legal assistance;

27. promote co-operation between the police, health and social services and the judiciary system in order to ensure such co-ordinated actions, and encourage and support the establishment of a collaborative network of non-governmental organisations;

28. encourage the establishment of emergency services such as anonymous, free of charge telephone help-lines for victims of violence and/or persons confronted or threatened by situations of violence;

regularly monitor calls and evaluate the data obtained from the assistance provided with due respect for data protection standards;

29. ensure that the police and other law-enforcement bodies receive, treat and counsel victims in an appropriate manner, based on respect for human beings and dignity, and handle complaints confidentially; victims should be heard without delay by specially-trained staff in premises that are designed to establish a relationship of confidence between the victim and the police officer and ensure, as far as possible, that the victims of violence have the possibility to be heard by a female officer should they so wish;

30. to this end, take steps to increase the number of female police officers at all levels of responsibility;

31. ensure that children are suitably cared for in a comprehensive manner by specialised staff at all the relevant stages (initial reception, police, public prosecutor's department and courts) and that the assistance provided is adapted to the needs of the child;

32. take steps to ensure the necessary psychological and moral support for children who are victims of violence by setting up appropriate facilities and providing trained staff to treat the child from initial contact to recovery; these services should be provided free of charge;

33. take all necessary measures to ensure that none of the victims suffer secondary (re)victimisation or any gender-insensitive treatment by the police, health and social personnel responsible for assistance, as well as by judiciary personnel.

#### *Criminal law, civil law and judicial proceedings*

##### *Criminal law*

Member states should:

34. ensure that criminal law provides that any act of violence against a person, in particular physical or sexual violence, constitutes a violation of that person's physical, psychological and/or sexual freedom and integrity, and not solely a violation of morality, honour or decency;

35. provide for appropriate measures and sanctions in national legislation, making it possible to take swift and effective action against perpetrators of violence and redress the wrong done to women who are victims of violence. In particular, national law should:

- penalise sexual violence and rape between spouses, regular or occasional partners and cohabitants;
- penalise any sexual act committed against non-consenting persons, even if they do not show signs of resistance;
- penalise sexual penetration of any nature whatsoever or by any means whatsoever of a non-consenting person;
- penalise any abuse of the vulnerability of a pregnant, defenceless, ill, physically or mentally handicapped or dependent victim;
- penalise any abuse of the position of a perpetrator, and in particular of an adult *vis-à-vis* a child.

##### *Civil law*

Member states should:

36. ensure that, in cases where the facts of violence have been established, victims receive appropriate compensation for any pecuniary, physical, psychological, moral and social damage suffered, corresponding to the degree of gravity, including legal costs incurred;

37. envisage the establishment of financing systems in order to compensate victims.

##### *Judicial proceedings*

Member states should:

38. ensure that all victims of violence are able to institute proceedings as well as, where appropriate, public or private organisations with legal personality acting in their defence, either together with the victims or on their behalf;
39. make provisions to ensure that criminal proceedings can be initiated by the public prosecutor;
40. encourage prosecutors to regard violence against women and children as an aggravating or decisive factor in deciding whether or not to prosecute in the public interest;
41. take all necessary steps to ensure that at all stages in the proceedings, the victims' physical and psychological state is taken into account and that they may receive medical and psychological care;
42. envisage the institution of special conditions for hearing victims or witnesses of violence in order to avoid the repetition of testimony and to lessen the traumatising effects of proceedings;
43. ensure that rules of procedure prevent unwarranted and/or humiliating questioning for the victims or witnesses of violence, taking into due consideration the trauma that they have suffered in order to avoid further trauma;
44. where necessary, ensure that measures are taken to protect victims effectively against threats and possible acts of revenge;
45. take specific measures to ensure that children's rights are protected during proceedings;
46. ensure that children are accompanied, at all hearings, by their legal representative or an adult of their choice, as appropriate, unless the court gives a reasoned decision to the contrary in respect of that person;
47. ensure that children are able to institute proceedings through the intermediary of their legal representative, a public or private organisation or any adult of their choice approved by the legal authorities and, if necessary, to have access to legal aid free of charge;
48. provide that, for sexual offences and crimes, any limitation period does not commence until the day on which the victim reaches the age of majority;
49. provide for the requirement of professional confidentiality to be waived on an exceptional basis in the case of persons who may learn of cases of children subject to sexual violence in the course of their work, as a result of examinations carried out or of information given in confidence.

### **Intervention programmes for the perpetrators of violence**

Member states should:

50. organise intervention programmes designed to encourage perpetrators of violence to adopt a violence-free pattern of behaviour by helping them to become aware of their acts and recognise their responsibility;
51. provide the perpetrator with the possibility to follow intervention programmes, not as an alternative to sentence, but as an additional measure aiming at preventing violence; participation in such programmes should be offered on a voluntary basis;
52. consider establishing specialised state-approved intervention centres for violent men and support centres initiated by NGOs and associations within the resources available;
53. ensure co-operation and co-ordination between intervention programmes directed towards men and those dealing with the protection of women.

### **Additional measures with regard to sexual violence**

*A genetic data bank*

Member states should:

54. consider setting up national and European data banks comprising the genetic profile of all identified and non-identified perpetrators of sexual violence in order to put in place an effective policy to catch offenders, prevent re-offending, and taking into account the standards laid down by domestic legislation and the Council of Europe in this field.

#### **Additional measures with regard to violence within the family**

Member states should:

55. classify all forms of violence within the family as criminal offence;
56. revise and/or increase the penalties, where necessary, for deliberate assault and battery committed within the family, whichever member of the family is concerned;
57. preclude adultery as an excuse for violence within the family;
58. envisage the possibility of taking measures in order to:
  - a. enable police forces to enter the residence of an endangered person, arrest the perpetrator and ensure that he or she appears before the judge;
  - b. enable the judiciary to adopt, as interim measures aimed at protecting the victims, the banning of a perpetrator from contacting, communicating with or approaching the victim, residing in or entering certain defined areas;
  - c. establish a compulsory protocol for operation so that the police and medical and social services follow the same procedure;
  - d. promote pro-active victim protection services which take the initiative to contact the victim as soon as a report is made to the police;
  - e. ensure smooth co-operation of all relevant institutions, such as police authorities, courts and victim protection services, in order to enable the victim to take all relevant legal and practical measures for receiving assistance and taking actions against the perpetrator within due time limits and without unwanted contact with the perpetrator;
  - f. penalise all breaches of the measures imposed on the perpetrators by the authorities.
59. consider, where needed, granting immigrant women who have been/are victims of domestic violence an independent right to residence in order to enable them to leave their violent husbands without having to leave the host country.

#### **Additional measures with regard to sexual harassment**

Member states should:

60. take steps to prohibit all conducts of a sexual nature, or other conduct based on sex affecting the dignity of women at work, including the behaviour of superiors and colleagues: all conduct of a sexual nature for which the perpetrator makes use of a position of authority, wherever it occurs (including situations such as neighbourhood relations, relations between students and teachers, telephone harassment, etc.), is concerned. These situations constitute a violation of the dignity of persons;
61. promote awareness, information and prevention of sexual harassment in the workplace or in relation to work or wherever it may occur and take the appropriate measures to protect women and men from such conduct.

#### **Additional measures with regard to genital mutilation**

Member states should:

62. penalise any mutilation of a woman's or girl's genital organs either with or without her consent; genital mutilation is understood to mean sewing up of the clitoris, excision, clitoridectomy and infibulation;

63. penalise any person who has deliberately participated in, facilitated or encouraged any form of female genital mutilation, with or without the person's consent; such acts shall be punishable even if only partly performed;
64. organise information and prevention campaigns aimed at the population groups concerned, in particular immigrants and refugees, on the health risks to victims and the criminal penalties for perpetrators;
65. alert the medical professions, in particular doctors responsible for pre- and post-natal medical visits and for monitoring the health of children;
66. arrange for the conclusion or reinforcement of bilateral agreements concerning prevention, and prohibition of female genital mutilation and the prosecution of perpetrators;
67. consider the possibility of granting special protection to these women as a threatened group for gender-based reasons.

#### **Additional measures concerning violence in conflict and post-conflict situations**

Member states should:

68. penalise all forms of violence against women and children in situations of conflict, in accordance with the provisions of international humanitarian law, whether they occur in the form of humiliation, torture, sexual slavery or death resulting from these actions;
69. penalise rape, sexual slavery, forced pregnancy, enforced sterilisation or any other form of sexual violence of comparable gravity as an intolerable violation of human rights, as crimes against humanity and, when committed in the context of an armed conflict, as war crimes;
70. ensure protection of witnesses before the national courts and international criminal tribunals trying genocide, crimes against humanity and war crimes, and provide them with legal residence at least during the proceedings;
71. ensure social and legal assistance to all persons called to testify before the national courts and international criminal tribunals trying genocide, crimes against humanity and war crimes;
72. consider providing refugee status or subsidiary protection for reasons of gender-based persecution and/or providing residence status on humanitarian grounds to women victims of violence during conflicts;
73. support and fund NGOs providing counselling and assistance to victims of violence during conflicts and in post-conflict situations;
74. in post-conflict situations, promote the inclusion of issues specific to women into the reconstruction and the political renewal process in affected areas;
75. at national and international levels, ensure that all interventions in areas which have been affected by conflicts are performed by personnel who have been offered gender-sensitive training;
76. support and fund programmes which follow a gender-sensitive approach in providing assistance to victims of conflicts and contributing to the reconstruction and repatriation efforts following a conflict.

#### **Additional measures concerning violence in institutional environments**

Member states should:

77. penalise all forms of physical, sexual and psychological violence perpetrated or condoned by the state or its officials, wherever it occurs and in particular in prisons or detention centres, psychiatric institutions, etc;
78. penalise all forms of physical, sexual and psychological violence perpetrated or condoned in situations in which the responsibility of the state or of a third party may be invoked, for example in boarding schools, retirement homes and other establishments.



### **Additional measures concerning failure to respect freedom of choice with regard to reproduction**

Member states should:

79. prohibit enforced sterilisation or abortion, contraception imposed by coercion or force, and pre-natal selection by sex, and take all necessary measures to this end.

### **Additional measures concerning killings in the name of honour**

Member states should:

80. penalise all forms of violence against women and children committed in accordance with the custom of "killings in the name of honour";

81. take all necessary measures to prevent "killings in the name of honour", including information campaigns aimed at the population groups and the professionals concerned, in particular judges and legal personnel;

82. penalise anyone having deliberately participated in, facilitated or encouraged a "killing in the name of honour";

83. support NGOs and other groups which combat these practices.

### **Additional measures concerning early marriages**

Member states should:

84. prohibit forced marriages, concluded without the consent of the persons concerned;

85. take the necessary measures to prevent and stop practices related to the sale of children.

**Explanatory Memorandum  
of the Recommendation No. R (2002) 5  
of the Committee of Ministers to member states  
on the protection of women against violence**

**I. Introductory remarks**

**A. Background**

1. Violence against women was for many years an unexplored or even taboo subject. Even though the new prominence given to human rights and the introduction of machinery to protect them certainly served as a launch pad for the campaign against abuse, violence against women, unlike other aspects of gender inequality, only began to be acknowledged in Europe in the 1970s and 80s. The gradual disclosure of the existence and scale of the problem coincided with recognition of the principle of equality between women and men in law (*de jure*).<sup>1</sup>
2. Spurred by feminist groups and non-governmental organisations,<sup>2</sup> public awareness of the problem grew: through a combination of practical support measures and public campaigns, these organisations helped to put combating violence against women on the authorities' agenda.
3. The measures taken by governments and international organisations emphasised the universal nature of the problem. The United Nations, the Council of Europe, the European Union and, more recently, other organisations such as the Organisation for Security and Co-operation in Europe have all introduced broadly based policies and strategies.
4. Following extensive consultation, coalitions of women's organisations from each continent lobbied the United Nations World Conference on Human Rights (Vienna, June 1993) to have gender violence formally recognised as a fundamental violation of women's human rights. This position was reinforced in the Platform for Action adopted by the UN's Fourth World Conference on Women (Beijing, 4-15 September 1995), which called upon governments to take integrated measures to prevent and eliminate violence against women (see Chapter VI.D of the Platform for Action).
5. In 1994, the United Nations appointed a Special Rapporteur on Violence against Women, its Causes and Consequences, who was responsible for documenting and analysing the issue worldwide. In some regions, International Conventions on violence against women have already been introduced, e.g. the 1984 Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women.
6. Violence against women has only recently come to light, and research in this field and the quest for solutions continue to draw attention in most member states of the Council of Europe.

**B. The main features: a universal, multifaceted problem**

7. Violence against women is a topic that has still not been adequately explored. The emergence of these questions and social responses to them vary, moreover, across the Council of Europe's member states. Some countries are just embarking on the process whereas others have over two decades of experience in attempting to develop new ways of combating violence. There are also differences between countries in terms of which particular forms of violence have been the focus of legal reform, assistance and media interest.
8. There is, then, a "hidden side" to violence, in that it appears from the research carried out in the various countries that, for all forms of violence, the number of cases reported and recorded is significantly lower than the actual number.
9. On the basis of the studies carried out and the data collected, a number of broad features would seem to emerge. The first is the universal nature of the problem: violence against women occurs in all

1. See the chronology in Appendix I.

2. Thanks mainly to their work in the field, such as the setting-up of information centres, shelters for victims, etc.

countries and all sections of society. It affects people of all ages, ethnic origins and religions, irrespective of their professional background or personal circumstances, or whether they belong to a particular national minority.

10. Violence can take different forms: verbal, physical, sexual, psychological, economic or emotional. It can be perpetrated within the family or domestic unit, or in the wider community. Certain economic problems (causing unemployment or poverty), political crises and armed conflicts (triggering large-scale migration) can have an aggravating effect, in that women, who often find themselves in precarious situations, become prime targets.<sup>1</sup>

### **C. Legislative differences between Council of Europe member states**

11. There are major legislative differences between Council of Europe member states. Two examples which have a particular impact in this area are: whether the legal system is adversarial or inquisitorial; and whether there is a constitution that safeguards Human Rights. The former affects legal procedure more than the form and content of legislation. The existence of a constitution, or international obligations which may or may not be part of domestic law, will help determine whether or not acts of violence against women are a violation of Human Rights and fundamental freedoms.

12. The other significant difference is that some countries have introduced specific legislation and/or legal procedures, thereby sending out a clear message that violence against women will no longer be tolerated.

13. While it is still early to be talking about legislative trends, recent data indicates a new willingness on the part of member states to tackle violence, with some states introducing innovative measures such as restraining orders which prohibit the perpetrator from entering the victim's home and/or other premises.<sup>2</sup>

### **D. Origins of the recommendation: the Council of Europe's work<sup>3</sup>**

14. Starting in the late 1970s, the Council of Europe and in particular its first Committee for the promotion of equality between women and men, took a series of initiatives to promote the protection of women against violence.

15. Recommendations were drawn up on the rights of victims of violence to assistance, the legal remedies open to them and the respect due to them in all criminal proceedings. The need for prevention and education was also stressed. Other surveys were carried out, and proposals formulated,<sup>4</sup> which led to the 3rd European Ministerial Conference on Equality between Women and Men (Rome, 21-22 October 1993) on: "Strategies for the elimination of violence against women in society: the media and other means". The Declaration and Resolutions<sup>5</sup> adopted by the ministers at that conference contained an outline of the Plan of Action that was to be expanded upon later.

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1. On the various forms of violence, see Appendix II.

2. See the study on "Legislation in the member states of the Council of Europe in the field of violence against women", published in January 2001 (document EG(2001)3 prov.)

3. This chapter contains a short summary of the Council of Europe's previous work in combating violence against women. It should be noted, however, that major efforts have also been made to combat trafficking in human beings for purposes of sexual exploitation, which are not included here. For more information on this point, see in particular Recommendation No. R (2000) 11 of the Committee of Ministers to member states on action against trafficking in human beings for the purpose of sexual exploitation and its explanatory report, or contact the Council of Europe, Division Equality between Women and Men – DG II, F-67075 Strasbourg Cedex, tel: (00) (33) 3 88 41 2966; fax: (00) (33) 3 88 41 27 05, <http://www.humanrights.coe.int/equality/>.

4. Up to 1993, the Council of Europe's work on violence against women produced the following documents:

– report on sexual violence against women, by Mrs A Snare, presented at the 15th Criminological Research Conference (Strasbourg, 22-25 November 1982) (PC-CRC 582) 2 rev);

– proceedings of the colloquy on violence within the family: measures in the social field (Strasbourg, 25-27 November 1987);

– Recommendation No. R (90) 2 of the Committee of Ministers to member states on social measures concerning violence within the family (15 January 1990);

– Sexual violence against women: contribution to a strategy for countering the various forms of such violence in the Council of Europe member states (EG(91)1);

– Communication from the Committee of Ministers on the practice of systematic rape in Bosnia-Herzegovina (9 December 1992).

5. Document MEG-3(93)22. Readers needing further details should write to the Council of Europe, F-67075 Strasbourg, Cedex.

16. This work continued, and in 1997 a Group of specialists working under the auspices of the Steering Committee for Equality between Women and Men (CDEG) finalised a Plan of Action for Combating Violence against Women.<sup>1</sup>

17. On the basis of that plan, a number of activities were organised. These mainly took the form of conferences and research seminars:

- Seminar on “Promoting Equality: a common issue for men and women” (Strasbourg, 17-18 June 1997);
- Information Forum on “Ending domestic violence: action and measures” (Bucharest, 26-28 November 1998);
- Seminar on “Men and Violence against Women” (Strasbourg, 7-8 October 1999).<sup>2</sup>

The following reference documents have also been published:

- “Violence against Women. Compilation of Council of Europe texts since 1995” (document EG(99)14);
- “Legislation in the member states of the Council of Europe in the field of violence against women” (document EG(2001)3).

18. The Council of Europe Parliamentary Assembly’s Committee on Equal Opportunities for Women and Men also held a seminar on “Violence against Women: from Domestic Abuse to Slavery” (Bari, Italy, 4-6 November 1999). The Assembly itself has recently adopted two texts:

- Recommendation 1450 (2000) on violence against women in Europe;
- Resolution 1212 (2000) on rape in armed conflicts.

## **E. The authors of the recommendation and their approach**

19. These studies showed that violence is still a major problem in all the Council of Europe member states and a persistent obstacle to the promotion and advancement of women’s rights. In spite of recent progress, national and international legal instruments remain inadequate, while violence against women is still rife in all sections of the community.

20. The Council of Europe’s Committee of Ministers and the CDEG accordingly felt that it was important to build on the work already done by devising guidelines for the introduction of a comprehensive system to combat violence. To this end, a Group of Specialists for the Protection of Women and Young Girls against Violence (EG-S-FV) was set up under the authority of the CDEG.<sup>3</sup> The EG-S-FV comprised 9 experts from various Council of Europe member states.<sup>4</sup> It began work in June 1998 and completed its task in June 2000. During that period, it held five working meetings.

21. The Group’s aim was to prepare a legal reference text, which governments could use as a basis for supplementing, amending, adjusting or drafting legislation to successfully combat violence against women in each member state. To assist it in its task, the Group consulted the Council of Europe’s earlier

1. Document EG-S-VL (97) 1. See also the summary of the action plan, document EG-S-VL (98)1.

2. The proceedings of these seminars are available from the Council of Europe, Division Equality between Women and Men – DG II, F-67075 Strasbourg Cedex, tel: (00) (33) 3 88 41 29 66, fax: (00) (33) 3 88 41 27 05, <http://www.coe.int/equality/fr/>.

3. The EG-S-FV’s terms of reference were as follows:

On the basis of the work already done in this area by the CDEG, and particularly the Group of Specialists for Combating Violence against Women (EG-S-VL), and bearing in mind the work done by other international institutions, in particular the Special Rapporteur of the United Nations and the Platform for Action of the 4th World Conference on Women (Beijing, 4-15 September 1995), as well as existing legal texts, the Group is responsible for: drafting, particularly on the basis of the Plan of Action drawn up by the EG-S-VL and a preparatory study, and taking into account Article 3 of the European Convention for the Protection of Human Rights and Fundamental Freedoms, a draft recommendation containing guidelines for developing national legislation aimed at combating violence against women and young girls, particularly by identifying the various forms of violence, the measures to be taken, the remedies which should be open to victims – and any other provision which the Group may deem useful.

4. The Group comprised nine specialists from various Council of Europe member states, appointed by the CDEG in a manner which ensured fair geographical distribution between states and balanced representation of the various legal systems. The members had to be people with experience of drafting legislation at national level and a thorough knowledge of areas of law (civil, criminal, etc.) relevant to combating violence against women, or who had served on national committees responsible for examining legislation in this field. They came from the following states: Austria, Belgium, France, Iceland, Italy, Romania, the Russian Federation, Spain and Turkey.

texts and work, Article 3 of the European Convention for the Protection of Human Rights and its case law, the relevant international texts (particularly the UN texts) and existing national legislation. The Group tried to gather as much documentation as possible, including examples of national laws and systems which had proved effective and, where possible, been evaluated. This enabled it to construct a series of “optimum models” in each area – a list of “best standards and practices” – as a basis for its work. The Recommendation gives member states a list of measures which may help to protect victims’ interests in practice, safeguard their rights and prevent all forms of violence against women.

22. These measures provide a set of guidelines which states may decide to apply, according to national circumstances.

## II. Comments on the recommendation

### A. Personal scope of application: definition of the persons involved

23. The authors began by looking at the scope of the recommendation. The issue of male victims of violence was examined on the basis of studies conducted in certain states on male victims of violence perpetrated by women.<sup>1</sup> Conscious of the fact that, statistically speaking, such cases are still in the minority, and bearing in mind the exact terms of reference assigned to them (see footnote No. 10), the authors of the recommendation defined those involved in violence as follows.

24. Women: in keeping with their terms of reference, the authors decided to concentrate on violence against women. The recommendation deals with violence perpetrated against women throughout their lifetime, from birth to death, and includes girls. This choice was made for several reasons:

- the particular characteristics of violence against women, which differentiate it from other forms of violence. Violence against women is an expression of the domination by one sex over the other and it is often more tolerated by society. Violence against girls is often a demonstration of cultural or religious traditions which reproduce the same models;
- the terms of reference and competence of the CDEG, which relate to questions concerning women’s rights and equality between women and men.

25. It was for these reasons that the drafters decided to deal mainly with violence against women without, however, totally excluding young boys, particularly in the case of violence committed within the family or domestic unit. Various parts of the text therefore refer to measures aimed at children who are victims of violence.<sup>2</sup>

26. Girls/children: the recommendation is based on the definition provided by the UN Convention on the Rights of the Child:<sup>3</sup> “a child means every human being below the age of eighteen years unless under the law applicable to the child, majority is attained earlier”.

27. Girls experience all the same kinds of violence as those perpetrated against women. Nowadays, they seem to be even more vulnerable owing to the fact that they are under constant pressure, including sexual pressure, to grow up fast. Certain forms of violence are more especially associated with girls: forced

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1. In particular, the authors examined reports according to which, for the past thirty years, discussions on domestic violence have tended to cast men in the role of aggressors and women in the role of victims with the result that today, in the United Kingdom, male victims receive scant attention from both government policy-makers and the community at large. According to these reports, there are over forty-five homes for battered women and their children in England and Wales, but not a single government-funded facility for men, who have no one to turn to, even just for information. It would seem that the great majority of male victims of violence feel that, on the whole, the police and social welfare agencies are unsupportive and, in some cases, downright hostile. On 7 January 1999, a Channel 4 programme (“Dispatches”) featuring a report on a hundred men who had suffered domestic violence revealed how 25% of these men – and not the female partner who had attacked them – had been arrested by the police when they sought help. Only seven of the women had been arrested and of these, none were convicted. See Home Office Research Study 191 on “Domestic Violence: Findings from a new British Crime Survey self-completion questionnaire” by Catriona Mirrles-Black and “The physical aggression of women and men to their partners: A quantitative analysis” by John Archer, University of Central Lancashire, United Kingdom.

2. These are measures foreseen in the appendix concerning mainly criminal law, civil law and judicial proceedings: in these cases, the text extends protection to all children victims of violence, regardless of sex.

3. Adopted by the UN General Assembly in resolution 44/25 of 20/11/89.

marriages and very early marriages; incest; sexual mutilation; violence perpetrated by other young people (gang rape). As far as incest is concerned, the authors have included acts committed by any members of the family as well as persons who share the victim's home on an occasional basis: the term can apply to any adult who abuses his or her authority.

28. All violence perpetrated against girls has very severe repercussions in adulthood and often prevents them from leading a full and satisfying life. Long-term follow-up care should be provided to help girls come to terms with the abuse they have suffered. The cost of such treatment should be borne by society.

29. In the course of their work, the authors acknowledged the fact that violence also hits boys who, like girls, are victims of, or have to cope with the consequences of, domestic violence as well as violence perpetrated outside the family (violence in school, paedophilia, sexual exploitation, etc.).

30. The victims: although there is no such thing as a typical victim profile, surveys<sup>1</sup> have shown that women, whatever their social background, experience all forms of violence.<sup>2</sup> For the victims, any violence has an impact on their physical and/or mental well-being, and some forms of abuse can be ongoing or continue over their lifetime. Victimisation at an experiential level often involves combinations of various forms of violence and abuse and, while there is nothing preordained about the process, women who have suffered physical abuse in childhood are more likely to suffer violence in later life.<sup>3</sup>

31. The perpetrators: in the vast majority of cases, abuse of women and children is perpetrated by men. While assaults and abuse by women do occur, and need to be addressed, the authors were anxious that this minority of cases should not detract from the central issue – i.e. that male violence against women is endemic in most societies. International research has also shown that women are more likely to experience violence from men they know, especially relatives and partners. In some cases, however, the men in question are either acquaintances or strangers.<sup>4</sup>

32. Violence against women is committed in a wide range of relationships and locations. Abuse is perpetrated by: family members, current and former sexual partners, other relatives and friends, acquaintances (including colleagues and clients), those in various positions of authority (including bosses and superiors in the hierarchy, doctors, therapists, carers, clergy/religious leaders, teachers, police, military, institutional staff) and strangers. The assaults usually involve one assailant, although multiple offenders are not uncommon.

33. The state: the authors felt that the state was a key player in combating violence, and that governments have a responsibility to create a climate of zero tolerance of violence, by taking the appropriate measures and instituting a system of protection and prevention. To this end, and on the basis of European examples,<sup>5</sup> the recommendation specifies a series of measures and suggests initiatives that member state governments might consider adopting and implementing.

## B. Preamble

34. The preamble briefly charts the events leading up to the outlawing of all forms of violence against women and girls, as reflected in the various international instruments referred to.

1. See in particular the Enveff survey conducted in 2000 in France, commissioned by the Department of Women's Rights and the State Secretary for Women's Rights (monthly bulletin of the Institut national d'études démographiques, No. 364, January 2001).

2. The Enveff survey showed that violence, in particular domestic violence, is closely related to age: young women (20-24 years) are twice as likely to suffer violence as older women.

3. Such women are five times more likely to suffer physical violence (11% as against 2% of women who have not been abused) and four times more likely to suffer sexual violence from their spouse (4% as against 1%). Source: Enveff survey.

4. This particularly applies to groups of women who do not live with men, e.g. lesbians, disabled women or elderly women who live alone.

5. Notable examples include the two policy memoranda issued by the Netherlands in 1982 and 1990, which were concerned with Human Rights and addressed legislation, law enforcement, preventive measures, research and victim support. A series of action programmes were initiated in Norway in 1983 to combat violence against women, in 1986 with specific reference to domestic violence and in 1992-93 on child sex abuse. An independent committee was set up by the Irish Ministry of Justice to review the legal framework for women and girls reporting crimes of violence against them. In 1997, Switzerland launched its first national campaign to raise awareness about violence against women. In 2000, France conducted an in-depth survey (see previous notes) and in January 2001 held a second national conference on violence against women.

### *Paragraphs 1-5*

35. The preamble sets out the basic principles on which the entire recommendation is based. It embodies the very essence of the text, pointing out that the Committee of Ministers ranks violence against women as a most serious factor preventing the enjoyment of Human Rights. This principle is now recognised by the international community.

36. As regards the universal nature of the phenomenon and the various forms that violence can take, see also the comments above (under "introductory remarks").

### *Paragraphs 6-7*

37. Apart from the basic principles, the preamble emphasises that violence against women concerns society at large. It involves the basic family unit and, particularly in its extreme forms, such as trafficking in human beings, poses a threat to democracy as a whole.

38. This statement is based partly on the heavy cost of violence against women, which only a few countries are beginning to recognise. The brunt is borne by women, but there are also significant costs to the state. They include: criminal and civil investigations and proceedings, healthcare costs (in terms of physical and mental health); lost days at work; provision of temporary and permanent rehousing and academic failure among children whose lives have been disrupted by domestic violence. Methods for calculating the financial cost of violence are beginning to be developed.<sup>1</sup>

The figures obtained provide only a rough guide, however.

39. At a more fundamental level, the authors stressed that it was impossible to calculate the extent of the loss to society of women not being free, equal and safe; nor was it possible to gauge all the ramifications of living with the threat and reality of gender violence.

### *Paragraphs 9 to 18*

40. After briefly describing the context in which violence against women and girls occurs in Europe, the preamble refers to the main international instruments in this area.

41. It is worth recalling firstly that in the Final Declaration adopted at the second Council of Europe Summit (Strasbourg, 1997), the Heads of State and Government of the Council of Europe affirmed their determination to combat violence against women and young girls and all forms of sexual exploitation.

42. In their work, the authors repeatedly referred to the principles embodied in the European Convention on Human Rights (1950) and the Convention bodies' case law, the European Social Charter (1961) and Revised Social Charter (1996), the additional protocol to the European Social Charter providing for a system of collective complaints (1995), and the European Convention on the Exercise of Children's Rights (1996), which are fundamental to the Council of Europe's activity. They also took account of the principles derived from the UN texts, in particular the UN Declaration on the Elimination of Violence against Women (1993) and the Platform for Action adopted at the Fourth World Conference on Women (Beijing, 1995), and the follow-up thereto (see the measures adopted at the special session of the UN General Assembly in order to further implement the Platform for Action).<sup>2</sup>

43. The preamble also lists a series of recommendations adopted by the Council of Europe's Committee of Ministers and Parliamentary Assembly, to which reference was made when preparing the text.

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1. Estimates compiled in Australia provide an idea of the figures involved: the annual expenditure related to domestic violence is 1.5 billion dollars in New South Wales; in Queensland, the annual cost of domestic violence is put at 557 million dollars, and that of rape and sexual assault at 63 million dollars. See also the study on "The Price of violence – The costs of Men's Violence against Women in Finland", Statistics Finland and Council for Equality, Helsinki, 2001. This study gives the figure of more than 50 million Euros as an evaluation of the cost of men's violence against women in Finland for the year 1998.

2. 23rd special session, New York, 5-9 June 2000.

### C. Provisions of the Recommendation

44. The recommendation is aimed at the member states and urges them to incorporate the principles enshrined therein into the appropriate national legislation, amending it where necessary. In keeping with the spirit of the text, the following provisions must constitute the basic principles of government action in combating violence.

#### *Point I*

##### *Paragraph 1*

45. The text draws on both Article 3 of the UN Declaration on the Elimination of Violence against Women and on Articles 2, 3, 5, 6 and 14 of the European Convention on Human Rights. Indeed, the rights that states must ensure the respect of are a mandatory part of the European Convention on Human Rights – and all Council of Europe member states have adhered to this legally binding text. This paragraph recalls the principle that is based on legal texts.

##### *Paragraph 2*

46. The authors wished to stress the importance of economic and social rights in combating violence and particularly the difficulties that women lacking economic autonomy face in order to put an end to a violent situation, especially by ceasing cohabitation with the perpetrator of the violence. In general, studies on this subject show that better protection of women's economic and social rights constitute a major tool to prevent violence.<sup>1</sup> "Economic and social rights" are to be understood as the rights listed in the main relevant international legal texts, such as the International Covenant on Economic, Social and Cultural Rights (1966), the European Social Charter (1961) and the Revised European Social Charter (1996).

##### *Paragraphs 3 and 4*

47. The action states take will involve various groups and authorities. Criminal law reform, recognition and compensation of victims, and punishment of offenders will thus be a matter for the ministry of justice; information, awareness-raising and training for the police and for medical and social service staff will be dealt with by three other ministries; international action will be the responsibility of the foreign affairs ministry, while equal opportunity, employment and education measures will be handled by yet other ministries. The ministries will also have to work with employers' organisations, trade unions and non-governmental organisations. This requires a high degree of co-ordination between the authorities, state institutions and NGOs, with the latter playing a very important role on the ground. The idea will be to facilitate co-operation and co-ordination between all the agencies concerned. The support given to NGOs should enable them to pursue an ongoing strategy, something that requires sustained funding.

#### *Point II*

48. This short paragraph deals with a complex issue, still not fully developed: the responsibility of states with regard to violence.

49. The aim of the authors was to envisage the extremely serious cases of violence against women and children perpetrated by the state, or its agents, (i.e. law enforcement officials or other security or military personnel) which are an especially grave violation of human rights, now recognised as torture or even as crimes against humanity if perpetrated systematically (see below "Additional measures concerning violence in conflict and post-conflict situations"). The European Court of Human Rights considered in the case of *Aydin v. Turkey*<sup>2</sup> that the rape and ill-treatment of a female detainee by an official of the state amounted to torture in breach of Article 3 of the Convention.

1. For example, the Enveff survey conducted in France in 2000 showed that domestic violence is more common among unemployed women and women receiving the "minimum integration income" (RMI) (14%) than among women who are gainfully employed or housewives (9%).

2. 57/1996/676/866.



50. A similar logic can be applied in relation to violence that is or that could be perpetrated in institutions, and particularly in prisons.

51. Beyond this, a problematic area appears when envisaging state responsibility arising out of acts of private individuals.

52. The trend towards holding states responsible for acts perpetrated by certain private actors is based on the unequal *de facto* protection accorded by legal provisions to women subjected to violence. Article 2(e) of the Convention on the Elimination of all forms of Discrimination Against Women states that states parties are required "to take all appropriate measures to eliminate discrimination against women by any person, organisation or enterprise." Article 16 explicitly refers to discrimination in the family and General Recommendation No. 19 of the Committee on the Elimination of Discrimination Against Women (CEDAW) includes family violence in its scope. In Recommendation No. 19, it is emphasised that: "States may also be responsible for private acts if they fail to act with due diligence to prevent violations of rights or to investigate and punish acts of violence, and providing compensation."

53. The participants at the 3rd European Ministerial Conference on equality between women and men (Rome, 21-22 October 1993), organised by the Council of Europe, adopted a Declaration in which they noted that "the responsibility of states is engaged with regard to acts of violence carried out by public officials and that it may also be engaged with regard to private acts of violence if the state does not take action with sufficient diligence to prevent the violation of rights or investigate acts of violence, to sanction them and provide support for the victims". Seven years after, this was reiterated in the Final Outcome Document on further actions and initiatives to implement the Beijing Declaration and Platform for Action, adopted by the United Nations General Assembly (New York, 5-9 June 2000).

#### *Point III*

54. The recommendation underlines the structural reasons for violence against women. The authors felt that violence against women needed to be understood in a social context, and not as a series of individual unconnected events. It is the result of a social construction of a particular form of masculinity (aggressive masculinity) – the set of traditions, habits and beliefs – which permit the perpetrators (mainly men) to assume the right to use violence as a means of exercising their dominance and control. That is not to say, however, that men are not individually responsible for their actions. Members of all communities have a collective duty to condemn the use of violence against women and give paramount importance to the safety of victims of violence. Everyone, everywhere must refuse to tolerate violence against women and uphold the belief that no woman deserves violence and that the use of violence is a crime.<sup>1</sup>

#### *Point IV*

55. Two elements were held by the authors to be of particular importance: the preparation of action plans containing concrete measures to be implemented at national, regional and local levels, and the involvement of all the appropriate institutions and professions to put these action plans into practice. The information and knowledge acquired through the exchange of experiences and practices between states and NGOs which have set up certain European programmes (such as the DAPHNE programme) can be used when preparing such action plans.

#### *Points V, VI and VII*

56. The authors wished to urge governments to support research into combating violence, as a key factor in achieving a better understanding of the problem and introducing more effective means of preventing and dealing with it. The aim is for this research to form the basis for concrete action. To that end, links between research and other sectors must be strong and co-ordinated: the authors observed that violence against women is a subject that has only been partially explored and wanted to stress that co-operation between researchers and decision-makers is essential in order to carry out efficient action.

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1. See in particular the conclusions of the seminar held by the Council of Europe in Strasbourg in 1999 on "Men and Violence against Women", and those of the Forum held in Romania in 1998 "Ending domestic violence: actions and measures".

*Point VIII*

57. Because of the major legislative differences between Council of Europe member states, some of the measures listed in the recommendation may not apply to all of them. It will be up to each state to select the measures needed to supplement or amend their policies on women and young girls subjected to violence.

**III. Appendix to the recommendation****Definitions***Paragraph 1*

58. Defining violence against women is not easy, for it is a concept that admits of more than one interpretation. The various international instruments and national texts on the subject define violence against women in more or less broad terms. International policy seems to be giving growing emphasis to domestic violence, and its impact on all the members of the family, including children. While including this type of violence within their field of inquiry, the authors wished to adopt the broad, comprehensive approach favoured by the United Nations, encompassing all forms of violence.<sup>1</sup>

59. The chosen definition covers all forms of gender-based violence, regardless of where and by whom it is perpetrated, and whatever the circumstances. The list of acts contained in a), b), c) and d) is not exhaustive.<sup>2</sup> Appendix II to this report contains extracts from the Plan of Action for combating violence against women, which the authors used as a basis for preparing the recommendation.

**General measures concerning violence against women***Paragraph 2*

60. It is the responsibility of states to make sure that the fundamental rights referred to in paragraph 18 are not violated. Bearing in mind the reasons sometimes cited in order to justify certain practices such as genital mutilation, killings in the name of honour, early marriages or "ritual abuse",<sup>3</sup> the authors were anxious to exclude any exception to this rule, which may on no account be broken for reasons related to custom, religion, tradition, etc. Reference can be made here to the Platform for Action adopted at the Fourth World Conference on Women, Strategic objective D.1, paragraph 124 a.

*Paragraphs 3 to 5*

61. The drafters wanted to reiterate and make clearer the basic principles set out in the provisions of the recommendation (see in particular points I, IV, V, VI and VII). These paragraphs thus explain in more detail the elements that should constitute national policies against violence (paragraph 3), the modalities needed to coordinate measures to combat violence (paragraph 4) and the principal sectors where research should be developed (paragraph 5).

**Information, public awareness, education and training***Paragraphs 6 to 13*

62. Information and awareness-raising are the two main tools for prevention. Information gathering (preferably through the creation of databases) is vital for introducing an effective awareness-raising policy. At European level, it is important to establish criteria for collecting comparable data, in order to

1. See the UN Declaration on the Elimination of Violence against Women (1993) and the Platform for Action adopted at the Beijing Conference (chapter IV.D).

2. Specific measures have been provided for in the recommendation concerning particular forms of violence.

3. In the Report by the Canadian study group (Canadian Panel on Violence against Women, *Changing the Landscape: Ending Violence – Achieving Equality*, 1993, Ministry of Supplies, Ottawa) ritual abuse is defined as "a combination of severe physical, sexual, psychological and spiritual abuse used systematically and in combination with symbols, ceremonies and/or group activities that have a religious, magical or supernatural connotation. Victims are terrorised into silence by repetitive abuse over time and indoctrinated into the beliefs and practices of the cult or group" (p. 45).

be able to raise public awareness not only nationwide but also across Europe. Information campaigns should seek to inform and educate the public in general, and victims in particular.<sup>1</sup>

63. In addition, the recommendation advocates creating or developing national initiatives for members of all the professions concerned. These need to be understood in the broad sense as including: judges, prosecutors, court welfare officers, police, probation officers, prison guards, social workers, psychologists, psychiatrists, doctors and in particular paediatricians, nurses, midwives, accident and emergency staff, teachers, youth workers, counsellors, interpreters, crisis workers including those working in emergency housing, public housing workers, social security staff, refugee workers, immigration officials, clergy, disability workers, government officials and policy-makers.

64. These training courses should comprise a common core focusing on the definition, forms and scale of violence against women, its impact on the victims, the way perpetrators deny and deflect responsibility, and the financial and social costs of violence. The needs and experiences of particular groups of women should also be included. Specific additional elements should address the particular role each group can play in developing zero tolerance.

65. These curricula should become required elements in vocational qualifications and training courses and regular refresher sessions on new research and policies should be available. Awareness of violence against women and the link with equality issues should be a formal rating factor in staff performance appraisals.

#### *Paragraphs 14 to 16*

66. Education also has a key role to play in combating violence against women and children, whether in the short term, through awareness-raising, or in the longer term, by challenging the assumptions and attitudes that lie at the root of, and help to perpetuate, structural inequalities. Clearly, educators in every context and at every level have a responsibility to participate fully in this effort, while governments have a duty to establish the general framework within which this education is delivered, as well as the necessary facilities.

### **Media**

#### *Paragraphs 17 to 20*

67. The media form an influential group in modern societies. They relay information in various ways (press, TV and radio, advertising, cinema, the Internet, the telephone, books and conferences) and their influence in the matter of violence against women and girls can be complex – negative when they encourage violence by peddling stereotypes, positive when they inform the public and raise awareness. While respecting press freedom, governments might consider taking measures to make the media aware of the extent of their influence in both cases, with a view to enlisting their co-operation.

68. To this end, the recommendation stresses that media self-regulation could contribute to a better understanding by media professionals of the problems related to violence against women.

### **Local, regional and urban planning**

#### *Paragraphs 21 and 22*

69. According to studies carried out by criminologists, local, regional and urban planning can help to improve security in cities or at least reduce the sense of insecurity. The recommendation refers to a series of measures which, although they come under local and regional planning and/or town planning, are nevertheless factors in ensuring better security for the public in general and women in particular. They include: reducing or eliminating high-risk (poorly lit and monitored) areas; not concentrating offices in particular districts, which are deserted after 5 pm; siting public transport stops (bus, metro, railway) in

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1. The "Action Plan to combat violence against women" (document EG-S-VL (97)1) contains examples of successful information campaigns, such as the "Zero Tolerance" campaign in Edinburgh, Scotland (United Kingdom) (chapter VII and appendix I).

secure areas; stepping up security patrols; developing community policing; setting up local points and centres to assist the public in emergencies; setting up neighbourhood committees; trying to keep people in the cities, and so avert a situation where they live in dormitory suburbs and town centres become deserted after hours; making cities more human.<sup>1</sup>

### **Assistance for, and protection of, victims (reception, treatment and counselling)**

#### *Paragraphs 23 to 33*

70. The provisions of the recommendation are directly based on existing best practice in Europe. They describe a protocol that should be followed by professionals who come into contact with victims of violence (especially sexual abuse). These are specific procedures the primary purpose of which is to ensure that victims receive the proper care and attention and that evidence is gathered with a view to possible legal action without causing further distress (known as “secondary victimisation”).

71. The authors referred in particular to the operating procedure adopted by the Rape Trauma Centre in Reykjavik (Iceland). Another notable example is the Sexual Assault Kit (SAK) used in Belgium.<sup>2</sup> The authors wished to point out that victims must be able to benefit from the measures listed in the recommendation without any discrimination (paragraph 44). An indicative (and non-exhaustive) list of motives for discrimination was drawn up. These are: age, sex, sexual orientation, level of education, language, religion, physical and mental capacity, cultural and ethnic origin of the victims. Other forms of discrimination could also be prohibited depending on the case.

### **Criminal law, civil law and judicial proceedings**

72. This part of the recommendation was extensively discussed by the group of drafters. Confronted with very disparate legislation, they made it their goal to put protection of victims first, and accordingly based their approach on the most recent and innovative legislation adopted in Europe.<sup>3</sup>

### **Criminal law**

#### *Paragraphs 34 and 35*

73. “By studying certain classes of offences, it is possible to identify acts treated by law as contrary to social norms at a given time, and to measure, in terms of the penalty prescribed, the importance which society attaches to the values protect.”<sup>4</sup> The drafters followed this penological orientation and made it their first concern to point out that provisions relating to violence must be legitimised by the bodily or sexual harm inflicted on individuals. The aim above all is to protect their physical and sexual integrity, and not solely to uphold the moral order; this must constitute the foundation for criminal law measures.

1. See the pilot project conducted in 9 different towns in Italy: “URBAN Cities Anti-violence Network-Italy”, financed by the European Regional Development Fund under the auspices of the European Commission.

2. “The SAK is a means of ensuring that judicial enquiries are properly conducted in cases where sexual offences are reported. It is designed to prevent victims from being victimised a second time by ensuring that they are properly dealt with by the police, police surgeons and public prosecutors. In addition to recommendations and instructions to the above authorities, the SAK is a medical kit, containing a whole range of items which are carefully chosen and specially designed to test for all signs of sexual violence. These signs can provide scientific proof of the offence, as well as evidence of the suspect’s guilt or innocence. This gives victims effective means of proof, and so greatly strengthens their position. The examination follows a standard course, which means that it cannot be challenged and removes the need for victims to undergo a second examination. Another advantage is that victims need to give evidence less frequently in court. The data in the police report, the results of the medical examination and analysis of the prints together provide sufficient information. The police and police surgeons are given standard instructions, requiring them to treat victims of sexual violence with respect and understanding – which represents an important step forward.” Source: Bilan de dix ans de lutte contre la violence physique et sexuelle à l’égard des femmes et des enfants, Miet Smet, Belgian Minister of Employment and Labour, responsible for the equal opportunities policy for men and women, 1996.

3. See in particular the legislation applicable in Austria, Belgium, Spain, Iceland and Sweden, and the French Penal Code which came into force in 1994, cf. compendium of Legislation of Council of Europe member states on violence against women, document EG (2001) 3, volumes I and II.ed.

4. Source: “Des atteintes aux mœurs et à la pudeur aux agressions sexuelles” (conceptualisation of sexual offences and indecent assault as sexual assault) by Luc-Michel Nivose, auxiliary judge of the French Court of Cassation, *Chroniques de Droit Pénal* series, May 1995, pp. 1-3.

74. The drafters in fact challenged the view of sexual offences as being primarily breaches of society's good order and of public morality. Even though these offences can still be considered contrary to public morality, it must be unequivocally set down that the principal effect of violence, and specifically its sexual forms, is serious harm to the victim, whose protection is the prime obligation of the law.

75. Proceeding on this principle, the drafters examined a number of concepts whose meaning has evolved markedly with time and according to differing national contexts. The text of the recommendation is not restrictive and leaves each state in control of defining criminal offences within the domestic legal framework: it indicates guidelines or basic principles whose adaptation to the national context will rest with each member state.

76. Over and above the peculiarities of each domestic legal system, the following explanations relate to a series of points which the drafters wished to highlight.

### **Rape**

77. While the definition of rape and sexual violence is entirely a matter for domestic legislation, it should be noted that the recommendation plainly advocates criminalising rape between spouses or partners.

### **Consent**

78. Under the legislation of most countries, the act is punishable only if performed without the passive partner's consent. This is normally for the court to determine. The drafters nevertheless wanted to emphasise that lack of physical resistance does not necessarily signify consent; fear or threat can subdue any inclination to resist, without there being any question of valid consent. Use of force cannot be measured solely according to the degree of resistance put up by the victim.

79. The drafters have made reference to cases where consent may be rendered impossible and where a presumption of absence of consent could be contemplated, for instance in the following cases:

- Where the act is forced upon the victim by violence, threat, coercion or deceit;
- Where the act is made possible because of the victim's vulnerable condition, infirmity or physical or mental impairment (this presumption would apply only to acts made possible precisely because of the victim's infirmity or physical or mental impairment; it is essential to certify that the existence of such infirmity was what enabled the abuser to violate the victim's sexual integrity). The victim's infirmity or impairment must have constituted the means by which the abuser was able to achieve his ends. This is in no way intended to negate the capacity of persons who have an impairment to engage in consenting affective relationships, but rather to protect them against any abuses which could befall them owing to their special situation;
- Where a situation of authority, trust or dependence prevails between abuser and victim; this is a particularly sensitive issue, and cases where the culprits were people such as doctors, psychologists and agents of the state have been recorded;
- Minors must be protected against any assault by family members in the broad sense, whether or not the minors concerned are married. The relationship of authority, trust and affection between minors and the father or mother is usually such as to place the minor in a subordinate position, and in this case consent can never be validly given;
- Situation where the abuser (adult or minor) is a person related to the underage victim in the ascending line, an adoptive parent, a brother or a sister, whether or not living with the victim;
- Situation where the abuser is any adult who regularly or occasionally lives with and holds authority over the victim;
- An adoptive parent is treated as a blood relative in the ascending line;
- A relative in the ascending line or an adoptive parent is a parent, grandparent or great-grandparent by blood or adoption;
- Considering the number of family situations that no longer conform to the traditional categories, the above definitions also include foster parents, half-brothers and sisters, stepfathers, stepmothers and

any person who cohabits with a relative in the ascending line or any other person who may regularly or occasionally live with and hold authority over the minor. The concept of “regularly living with” is a practical one which must take into account the chief place of effective residence, the place where day-to-day life goes on. It need not be the domicile of the minor or the family member. “Occasionally living together”,<sup>1</sup> is likewise a practical concept mainly concerning cases where minors have short stays with one parent. The circumstance of living together and the relationship of authority combine to create a power relationship for the minor.

### **Definition of the age of majority in each state**

80. This raises questions about the role of state authorities in the protection of minors, parental authority, respect for private and family life, and the interests and welfare of minors. The legal age of consent to sexual acts does not always correspond to the age of criminal responsibility; consequently, the drafters use the terms minor and adult with reference to the age of criminal responsibility and leave states free to fix an age below which there exists an irrefutable presumption of lack of consent. Below that age, consent is invalid.

### **The burden of proof**

81. When convicting the suspected perpetrator of violence it is necessary to take all requisite measures available in accordance with the European Convention on Human Rights, and especially its article 6, paragraph 2, which states that “everyone charged with a criminal offence shall be presumed innocent until proved guilty according to law”. The drafters were aware that in the area of civil law and labour law (e.g. sexual harassment at the workplace), the burden of proof can also be put on the employer or the perpetrator. Criminal law does not, however, allow for such a reversal/sharing of the burden of proof.<sup>2</sup>

### **Civil law**

#### *Paragraphs 36 and 37*

82. Here, the drafters used the example of Iceland, where a state-supported financing system has the function of compensating victims for the damage suffered. The state authorities then institute proceedings against culprits to obtain compensation in turn. While the drafters did not recommend such an elaborate system, they did however suggest that states should envisage the establishment of financing systems (in whatever form) whose aim would be to compensate victims.

### **Judicial procedure**

#### *Paragraphs 38 to 49*

83. The procedural rules presented in these paragraphs have the essential purpose of protecting victims, particularly minors. They take account of the United Nations Convention on the Rights of the Child which provides for the capacity of children to take legal action, through a representative if need be.

84. Paragraph 38 refers to Article 6 of the European Convention of Human Rights, and in particular to the following rights:

- the right to fair and equitable treatment, in particular to objective and considerate examination;
- the right to respect for private life, dignity, confidentiality and, among others, the right to a hearing in camera;
- the right to be heard in the best possible conditions so that the damage suffered may be established accurately;

1. Source: « La modernisation du Code pénal dans le cas de violences intrafamiliales physiques et sexuelles » (modernisation of the Penal Code in respect of physical and sexual violence within the family), Prof. Hustebaut, University of Louvain School of Criminology, Belgium, 1996.

2. This question is being researched in certain Council of Europe member states, such as Iceland and Sweden.

- the right to have the legal access to one's file and the right to be informed about the legal proceedings, the handling of the case with regard to court decisions, the execution of the sentence and the date on which the sentences expires;
- the right to legal assistance.

### **Intervention programmes for the perpetrators of violence**

#### *Paragraphs 50 to 53*

85. Many of the suggested intervention programmes are still pilot schemes that seek to prevent recidivism by making perpetrators of violence appreciate the significance of their wrongdoing, teaching them to control their deviant behaviour and to avoid certain critical situations, and instilling social communication techniques that will enable them to express themselves in a non-violent manner.

86. The programmes may take place in state-approved specialised open centres employing specially qualified persons from NGOs that deal respectively with women victims of violence and violent men. It is indeed important that the two types of NGOs work in a co-ordinated fashion for the sake of good mutual understanding. Perpetrators should come to these centres of their own accord, at their request and after serving their sentence, and supervision by a team must be provided to prevent any relapse.<sup>1</sup>

### **Additional measures with regard to sexual violence**

#### *Genetic data bank*

##### *Paragraph 54*

87. Setting up data banks storing the genetic profile of all convicted perpetrators of sexual violence as well as all unknown individuals (unidentified rapists) where a specimen of their biological material has been obtained from the victim would make it possible to determine the profile of attackers by cross-checking and would aid their arrest.

88. While this type of measure has indubitable advantages for police tracking of identified or unidentified abusers, it should be applied taking domestic legislation into account, in conformity with the relevant Council of Europe standards, viz. the Convention for the Protection of Persons with regard to Automatic Processing of Personal Data,<sup>2</sup> the Convention for the Protection of Human Rights and Dignity of the Human Being with regard to the Application of Biology and Medicine: Convention on Human Rights and Biomedicine<sup>3</sup> and Recommendation No. R (92) 1 of the Committee of Ministers to member states on the use of analysis of deoxyribonucleic acid (DNA) within the framework of the criminal justice system.

### **Additional measures with regard to violence within the family**

#### *Paragraphs 55 to 59*

89. The studies carried out in member states all identify the family environment as the scene of the most violence of all types against women and children. Realising the importance of the issue, the drafters wished to envisage specific measures.

##### *Paragraph 55*

90. According to a certain number of practices and/or legal systems, violence committed within the family, and especially domestic violence, is considered to be a private affair that does not require legal treatment. This is why the drafters wanted to point to the necessity for member states to classify violent

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1. Programmes of this type are operating in Ireland, Iceland and Norway; see Statement by Mr Per Isdal at the Forum organised by the Council of Europe in Bucharest, Romania from 26 to 28 November 1998 on "Ending domestic violence: action and measures" (document EG/BUC (99) 1). Another example is that of the Danish Prison Service which offers teaching in cognitive skills to inmates serving time for violent behaviour, in order to give them the opportunity to change their behaviour. See also programmes set up by the MOVE organisation in Ireland.

2. ETS No. 108.

3. ETS No. 164.

acts committed within the family as penal violations of varying degrees of seriousness according to their nature.<sup>1</sup>

*Paragraphs 56 to 58*

91. The drafters regarded as a potential perpetrator any adult regularly or occasionally living with the victim. The circumstance of living together, even occasionally and even without any specific relationship of authority, nonetheless creates an intimate situation that warrants reinforcement of protection.

92. In this type of situation, police action remains an essential factor. Police forces should be enabled, if a person is in danger, to expel a perpetrator immediately from the dwelling, irrespective of the property relations concerning the residence or of any objections of fellow occupants. The provisions of the recommendation specify injunctions to the abuser to keep away from the victim's dwelling and/or other places, or restraining orders (whereas under conventional legislation the victim was expected to leave home). This type of arrangement, founded on concern to protect victims and spare them the trauma of leaving home, is established in Austria and Finland.<sup>2</sup> As an example, under Austrian law, expulsion carried out by the police force constitutes an administrative order that must consequently be confirmed by a court decision.

*Paragraph 59*

93. The situation of migrant women is distinctive: they may have suffered violence either before emigrating or afterwards. Risks of violence are also linked with their limited knowledge of the host country's language, culture and applicable legal provisions, which lessens their ability to avail themselves of aid services. The recommendation concerns those women whose right to reside in a given place depends on staying married to a violent man. The intention is to remedy the difficulty that, for women in such circumstances, any attempt to put a stop to the violence carries a risk of expulsion.

**Additional measures concerning sexual harassment**

*Paragraphs 60 and 61*

94. In this area, direct reference should be made to the texts adopted in the European Union framework (Council of the European Communities Resolution of 25 May 1991 on the protection of the dignity of women and men at work, calling on member states to institute positive measures in the public sector, in keeping with national legislation, to serve as an example for the private sector; European Commission Recommendation of 27 November 1992 on the protection of the dignity of women and men at work, requesting member states to take measures in the public sector to implement the code of practice on measures to combat sexual harassment), and to Convention No. 111 of the International Labour Organisation on Discrimination (Employment and Occupation).

95. Situations of sexual harassment are unacceptable if: a) such conduct is unwanted, unreasonable and offensive to the recipient; b) in the workplace, a person's rejection of, or submission to, such conduct on the part of employers or workers is used explicitly or implicitly as a basis for employment decisions concerning this person; c) such conduct creates an intimidating, hostile or humiliating environment for the recipient.

1. The UK Government is fully committed to all action to increase the safeguards afforded to women and children to protect them from violence, and is therefore content with paragraph 55. However, the UK Government does not consider that this paragraph applies to the proportionate and reasonable physical chastisement of a child by its parents. UK law allows parents to use physical punishment to discipline their children as long as the punishment amounts to "reasonable chastisement". If a parent is charged with assaulting their child and claims that they were exercising "reasonable chastisement" Courts have to take certain factors into account when considering whether the punishment did indeed amount to reasonable chastisement. The factors are:  
 – the nature and context of the treatment;  
 – its duration;  
 – its physical and mental effects; and, in some instances,  
 – the sex, age and state of health of the victim.

2. Federal Act on protection against violence in the family, which came into force in Austria in May 1997. In 1999, 2,076 injunctions of this kind were made in Austria. Act on Restraining Orders, which came into force in Finland on 1 January 1999.



## **Additional measures with regard to genital mutilation**

### *Paragraphs 62 to 67*

96. Several international instruments have condemned genital mutilation (United Nations General Assembly Resolution 48/104 adopting a Declaration on the Elimination of Violence against Women, World Health Organisation Resolution of 10/05/94 on maternal and child health and family planning: traditional practices harmful to the health of women and children, Convention on the Rights of the Child, Article 24.3).

97. Bulgaria, Norway, Sweden, Switzerland and the United Kingdom have enacted specific criminal law provisions against injuring the sexual organs, injury to the female genital organs being generally targeted except in the Bulgarian provisions.

98. The recommendation encourages member states to enact national legislation which reaffirms the principles set forth in the relevant international instruments.

99. Mutilation refers to complete or partial removal of an organ, and specifically the practices of female circumcision, excision or infibulation.<sup>1</sup>

## **Additional measures concerning violence in conflict and post-conflict situations**

### *Paragraphs 68 to 76*

100. Reference should be made to the Statute of the International Criminal Tribunal adopted in Rome in July 1998. Article 7 of the Statute defines rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilisation or any other form of sexual violence of comparable gravity, as crimes against humanity. Furthermore, Article 8 of the Statute defines rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilisation or any other form of sexual violence as a serious breach of the Geneva Conventions and as war crimes.

101. In preparing the recommendation, the drafters monitored the detection of cases of rape in a war situation, forced pregnancies and acts of "ethnic cleansing" occurring in the former Yugoslavia. They addressed the issue of the organised violence committed against women by members of the armed forces and police. The prevalence of this form of violence has not yet been properly studied. Also considered

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1. A report to the Council of Europe Parliamentary Assembly by the Committee on Equal Opportunities for Women and Men, describes these practices in detail (document AS/EQ (2000) 20 of 18 October 2000):

- The two most widespread types of mutilation are excision (80%) and infibulation (15%).
- Excision involves ablation of a large part of the clitoris and the labia minora. This form of mutilation is practised above all by tribes in West Africa. It might be compared with sectioning the penis of boys.
- Infibulation involves excision of the clitoris and labia minora and sectioning of the labia majora, the two remaining flaps being brought together in such a way that only a tiny opening remains for evacuation of urine and menstrual flow. The place of the vulva is taken by heavy scar tissue, which must be cut at marriage and childbirth. Infibulation is characteristic of East Africa.
- One type of infibulation peculiar to West Africa entails leaving the labia majora intact but drawing the reduced labia minora together so that the vagina is closed off almost entirely.
- There are still other forms of excision, including vaginal introcision, the introduction of corrosive substances or plants into the vagina in order to cause bleeding or reduce its size, pricking or perforation of the clitoris and cauterisation by burning the clitoris.
- These operations, which last some fifteen or twenty minutes, are generally carried out by a traditional excisor, usually the community headwoman, with crude instruments and without anaesthetic. Among the wealthier classes they are sometimes performed in hospitals by qualified staff.
- The age at which mutilation is carried out varies according to ethnic group and locality. It may concern babies no more than a few days old or girls between four and ten years of age. Sometimes it is delayed until adolescence, and on occasion it takes place at marriage or during the first pregnancy.
- All these forms of mutilation are irreversible and damaging to health, and they all have lifelong consequences.

are cases of individuals who have used the powers attaching to offices conferred on them by the state as a means of access and of inflicting certain forms of violence on women.<sup>1</sup>

### **Additional measures concerning violence in institutional environments**

#### *Paragraphs 77 and 78*

102. The specific characteristics of confinement or isolation and the authority brought to bear by the personnel over the individuals in an institutional environment, may lead to a greater vulnerability of the latter in situations of violence. If these characteristics make it difficult to detect this kind of violence, they must be the object of active prevention policies and court proceedings.

### **Additional measures concerning failure to respect freedom of choice with regard to reproduction**

#### *Paragraph 79*

103. This concerns the interferences with women's freedom of choice and physical integrity which can occur in a variety of situations (for example, the practice of pre-natal selection by sex). In Europe, these interferences have been particularly brutal in situations of overt or latent conflict.<sup>2</sup>

### **Additional measures concerning killings in the name of honour**

#### *Paragraphs 80 to 83*

104. Murders to clear the family honour are still committed in certain parts of Europe. This form of violence involves the brutal murder of young women by members of their family – usually young men who are often below the age of criminal responsibility – for apparent departures, perceived as “dishonouring”, from the behaviour patterns expected of women. The drafters examined a number of cases of such murders in Turkey, as well as anecdotal testimonies to cases in other regions.<sup>3</sup> Although the phenomenon is not very widespread, it was considered most important that the recommendation should mention these practices and prescribe measures for their prohibition.

### **Additional measures concerning early marriages**

#### *Paragraphs 84 and 85*

105. The drafters recommended that the age of consent (especially for marriage) should be determined by national legislation.

1. See the proceedings of the Seminar “Rape is a war crime. How to support the survivors. Lessons from Bosnia – Strategies for Kosovo”, organised by the European Commission (Vienna, 18-20 June 1999), and the proceedings of the seminar on “Men and violence against women” organised by the Council of Europe, Strasbourg 1999 – EG/SEM/VIO (99) 11 (report on male violence against women and children in wartime by Dubrovka Kocijan Hercigonja).

2. The most recent cases in Europe were recorded during the Yugoslav conflict.

2. The following examples illustrate these practices. Rabia (age 25) (August 1995). Rabia fell in love with a young man and wanted to marry him, but her family objected. She eloped with him and they spent the night in a cemetery where they had sexual intercourse; next morning she had regrets and went to the police station. The family was summoned and the father said that, since his daughter had gone with the man of her own free will, he had nothing against the man and consented to their marriage. She was sent home on the strength of that statement. However, her angry father and brothers kept repeating that they would never again be able to look the neighbours in the eye; the family was disgraced. The following day, Rabia was taken away by car with her mother, who was dropped along the way. Suspecting that she was to be killed, the girl jumped out and hid in a shop. She was chased by her brother, dragged out by the hair, and thrown under the wheels of a passing tractor. He later declared that it was an accident. The court held that murder had been committed, on the same grounds as in previous cases: according to local custom, the family of a girl who elopes is shunned by society unless they kill the girl. The family was placed under strong social pressure. Each of the accused was sentenced to twelve years and six months imprisonment. Between 1994 and 1998, five girls were killed for reasons of honour at Sanli Urfa, a town in south-eastern Turkey. Such murders are common in the region and among its former residents living in major cities.

## **Appendix I**

### **Chronology**

Violence against women is a phenomenon which has constantly evolved with the passage of time but which remains more present than ever within our societies, whatever their nature.

From the 18th century onwards, successive industrial and social revolutions have afforded a number of women access to the world of work and education, though without granting them equivalent rights to men in keeping with their role or function.

Not until the 20th century were they able to claim equal rights, which were secured at least in law only towards its close. In practice, women are still subjected to discrimination in social, occupational and family life; they are the first to be affected by economic and political crises; they are the prime targets, the hostages and the first victims of conflicts in all parts of the world.

1945: the principle of equality between women and men was enshrined in the United Nations Charter; this major legal event of the post-war period concerned 50 nations, asserting "the determination to reaffirm faith in fundamental human rights, in the dignity and worth of the human person, and in the equal rights of men and women and of nations large and small". Accordingly, the Charter entitles women to full realisation of their fundamental rights and places the member states of the United Nations under a legal obligation to strive to eliminate all forms of discrimination against women.

1946: formation of the Commission on the Status of Women.

1975: in order to protect the status of women, too often flouted in the world at large, the UN proclaimed 1975 "International Women's Year" and organised the first World Conference on the International Women's Year in Mexico City.

1976-1985: United Nations General Assembly Resolution 3250 (XXX): proclaimed the decade 1975-85 the "Decade For Women: Equality, Development and Peace".

1979: Following this proclamation, the Council of Europe set up a "Committee on the status of women" whose primary responsibility was to establish a Council of Europe programme aimed at promoting equality between the sexes. On completing its terms of reference, the Committee considered that the Council of Europe should have a permanent structure to examine all aspects in this field, and suggested setting up a "Committee for Equality between Women and Men" (CAHFM), an intergovernmental co-ordinating and consultative body of a multidisciplinary and inter-sectoral nature.

1980: Second World Conference on women's issues in Copenhagen.

1982-86: The Council of Europe Committee for Equality between Women and Men (CAHFM) had the main function of evaluating and stimulating the Organisation's action in favour of equality between women and men, and promoting measures suitable for adoption at the level not only of the Council of Europe but also of the member states.

1985: Third World Conference to review and appraise the achievements of the United Nations Decade for Women: Equality, Development and Peace in Nairobi (15-26 July 1985).

1987: On the expiry of the CAHFM's terms of reference, a new committee was set up, the European Committee for Equality between Women and Men (CEEG). Its functions were extended to promoting European co-operation for the attainment of real equality between women and men, and promoting measures suitable for adoption at the level not only of the Organisation but also of the member states.

1988: The Declaration of the Committee of Ministers, dated 16 November 1988, was a landmark in the Council's policy on equality between women and men. It affirms that the principle of equality of the sexes is an integral part of human rights, and that sex-related discrimination is an impediment to the exercise of fundamental freedoms. Its eradication is a sine qua non of democracy and an imperative of social justice.

1989: In pursuance of this policy, the European Committee was transferred from the field of social and economic affairs to that of human rights, which is one of the prime areas of the Council of Europe's work.

1992: The setting up of the current Steering Committee for Equality between Women and Men (CDEG) was a further important step in Council of Europe policy measures to promote equality. Its advancement to the status of a steering committee, which increased its importance and prerogatives (including the right to set up subordinate structures), demonstrated that equality between women and men constituted a priority for the Council of Europe.

1995: Fourth World Conference on Women in Beijing, 4-15 September 1995. The Platform for Action adopted at this conference contains several chapters partly or entirely relating to the issue of violence against women (IV.C on women and health; IV.E on women and armed conflicts).

2000: The Special Session of the United Nations General Assembly (New York, 5-9 June 2000) "Women 2000: Gender Equality, Development and Peace for the Twenty-first Century", celebrating the 5th anniversary of the Beijing Conference, adopted a series of "Further actions and initiatives to implement the Beijing Declaration and Platform for Action" (see document A/S-23/10/Rev.1 – General Assembly, 23rd Special Session, Supplement No. 3). This text contains innovative provisions on violence, in that it identifies killings in the name of honour and marital rape as practices to be condemned.

## **Appendix II**

### **Defining violence against women and girls**

#### **Excerpts from the Plan of action for combating violence against women (document EG-S-VL (97) 1)**

The information presented below was obtained by circulating a series of questionnaires to governmental organisations, NGOs and other bodies.

Some illustrations of the types of behaviour which the drafters include in the ambit of the term “violence against women”:

#### *Physical violence*

Pushing, shoving, hair-pulling, hitting, beating, kicking, burning, biting, strangling, stabbing, genital mutilation, torture, murder. Severity of injury ranges from minimal tissue damage, broken teeth and bones to permanent injury and death.

#### *Sexual violence*

Any non-consensual sexual activity including sexual taunts and jokes, staring and leering, unwelcome comments, indecent exposure, offensive phone calls, unwanted sexual propositions, forced viewing of or participation in pornography, unwanted touching, coerced sex, rape, incest, performance of sexual acts which the woman finds painful or humiliating, forced pregnancies, trafficking in women, and their exploitation by the sex industry.

#### *Psychological violence*

Taunts, jeers, spiteful or humiliating comments, threats, isolation, contempt, bullying, public insult. This kind of behaviour is usually experienced as damaging to self-image and self-confidence, especially if it is persistent.

#### *Economic violence*

Inequitable control over access to shared resources, for example denying/controlling access to household money, preventing the partner’s access to employment or further education, or denial of the wife’s right to property.

#### *Structural violence*

This form of violence is closely related to economic violence, and comprises nonvisible and non-tangible barriers against the realisation of women’s potential options and basic rights. These obstacles are grounded and reproduced daily in the very fabric of society, i.e. the power differentials and power relations (structures) which generate and legitimise inequality.

#### *Spiritual violence*

Behaviour that erodes or destroys a woman’s cultural or religious beliefs by ridiculing or penalising them or forcing her to adhere to a different belief system. The majority of instances of violence against women are combinations of physical, sexual and psychological violence, underpinned by structural violence, and sometimes also include economic and spiritual violence.

#### *Rape and sexual assault*

This paragraph discusses reported cases of rape and sexual assault. Direct comparisons were impossible since the available data covered various combinations of reported rapes, prosecuted cases and/or convictions for rape and associated crimes. Several general points emerge from an analysis of the information:

- the levels of reporting vary greatly between European countries, being comparatively high in some and comparatively low in others. While prevalence can indeed vary, some of the variation is due to differing levels of taboo, awareness and women's confidence in the police and other agencies;
- in many countries an increase in reported rapes has been registered over the last decade, and the figures are larger each year. This is probably a reflection of liberation from taboo and increasing confidence in the criminal justice system;
- in some countries this increased faith in the criminal justice system has not been borne out in practice since, while reporting has increased, the proportion of cases which result in convictions has decreased.<sup>1</sup>

Only two prevalence surveys on rape were reported to the drafters; by asking women about their experiences, these surveys allowed some estimate of the extent of under-reporting. In both, 20-25% of women reported rape or attempted rape. Their husbands or partners were usually the culprits and, where rape occurred in the context of a settled relationship, it was very likely to be a recurrent experience.

This finding raises a number of issues: the wide variations in reporting of rape between, and probably also within, countries; the "attrition" of reported cases as they are processed through the departments of the criminal justice system; the limited research data on rape in Europe.

#### *Domestic violence*

The information supplied to the drafters clearly demonstrates increased reporting and recording of domestic violence over the last decade. It also appears that more research has been conducted on this issue than on many of the others covered by this report. The increase in reporting of cases was particularly marked in the 1990s, as illustrated by the figures received from different countries and different types of organisation. In other words, more women were contacting the police, availing themselves of refuges/shelters and turning to other women's organisations.

Domestic homicide, i.e. men killing female partners and ex-partners, and women killing their abusers, form a useful indicator of the levels and seriousness of domestic violence, and such figures should be regularly collected. The figures published for Russia, 5,300 women's deaths in 1991 and 14,000 in 1993, greatly alarmed the Group of Specialists. If the Interior Ministry figures are correct, they point to a rate 20 times that of the United States.<sup>2</sup>

The present report is confined to reported cases of domestic violence. In many countries, domestic violence made up a significant proportion of crimes against the person, in a range from 66% to 10%. Some countries also provided information from hospitals, where the proportion of injuries due to assault by a partner was surprisingly high. Another indication of prevalence was the proportion of women alleging violence or cruelty in divorce petitions, the highest figure in this respect being 70%.

The drafters were informed of six prevalence studies on domestic violence, and collected data on four more. There was astonishing consistency between the results, as all studies concluded that 25% of women suffered domestic violence and between 6% and 10% of women suffered violence in a given year.

Although the number of complaints of violence to law enforcement authorities varied, it would appear the rates were more consistent than for rape, and that the results of the prevalence surveys agreed sufficiently to suggest that at least one in four women in Europe suffers some form of violence at the hands of a male partner or ex-partner.

1. The proportion of reported rapes leading to a conviction in the UK fell from 34% in 1977 to less than 10% in 1994 (Home Office figures). These percentages should be compared with figures from the Polish Ministry of Justice indicating verdicts of guilty in two-thirds of reported rape cases in 1994. The Home Office announced in late 1996 that it would conduct an inquiry into the decrease in conviction rates for rape cases.

2. Source: The Economist 12.8.95.

### *Sexual violence against children, especially girls*

The information collected demonstrates that sexual violence against children and girls has become an issue of increasing concern over the last decade. Violence against all children needs to be taken seriously, but this report focuses on girls since they are more likely to be sexually abused than boys, especially by a family member. The likelihood of girls being constantly victimised is far greater where childhood experiences are compounded by harassment and assaults in adulthood.

This paragraph discusses reported cases of child sexual abuse. Here again, reporting has increased over time but the overall figures are lower than for rape or domestic violence. It is plainly harder for children and young people to report offences to the authorities than for women. Although the drafters received only limited information on prosecutions, the facts disclosed would suggest that very few cases reach that stage, so that very few abusers are punished for their wrongdoing.

Slightly more information was found concerning the prevalence of sexual violence, and this showed the extent of under-reporting. The findings of these studies vary considerably, with a minimum of 8% and a maximum of 59% of girls reporting some form of sexual violence in childhood. The variation is largely due to difference in the methods used by the researchers, for example the time when the study was conducted (before or after liberation from taboos), definitions of childhood (ending at 14, 15, 16 or 17), and the definitions of sexual violence (whether it includes “noncontact” forms and abuse by peers as well as adults). These substantial differences in methodology mean that it is impossible to determine whether there are variations in prevalence between countries.

While a significant proportion of sexual violence is committed by family members (father, stepfather, brother, grandfather or uncle) and a smaller proportion by strangers, the intermediate grouping of adults and peers known to victims also needs to be considered. This group includes, for example, family friends, male peers, teachers, sports coaches, neighbours, religious leaders and institutional staff.

### *Sexual harassment*

The drafters received far less information about reported cases of sexual harassment or studies of it.

Some countries have recorded an increase in the number of reported cases, whereas others stated that no official report had been prepared. It was not clear from the information received whether there were distinct official data collection channels, since in many countries sexual harassment is not a criminal offence. The drafters had only very limited data on prosecuted cases and could not establish whether the reason was the fewness of cases or rather the absence of data-gathering mechanisms.

Estimates made from six European studies place the proportion of women experiencing workplace sexual harassment at between 45% and 81%, and those reporting it at between 5% and 22%.

Studies of sexual harassment tend to focus on the workplace. The harassment encountered by women in public places is seldom studied. Recent high-profile cases of “stalking” in the United Kingdom (repeated harassment which includes being followed in the street, receiving telephone calls and letters, and face-to-face contact), committed by men whom the victims scarcely knew, have highlighted the extent of the problem and the limited legal and protective remedies available to victims.

Other research data from the United Kingdom reveal the importance of other “neglected” forms of violence against women: 63% of women report at least one experience of flashing (exhibitionism);<sup>1</sup> 2 in 3 women have received abusive/obscene phone calls;<sup>2</sup> 1 in 10 women receive at least one such phone call per year.<sup>3</sup>

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1. Source: Sandra McNeill (1988) “Flashing – its effect on women” in: *Women, Violence and Social Control*, London.

2. Source: Glasgow Women’s Support Project (1990).

3. Source: Obscene, threatening and other troublesome telephone calls to women in England and Wales: 1982-1992 (1995) Research and Planning Unit Paper 92, London. Home Office.

A substantial proportion of women interviewed during a survey in Merseyside (between 50% and 80% depending on the activity) said that they avoided certain activities<sup>1</sup> (walking alone at night, going out at night, attending evening classes/ leisure activities, going on holiday alone) because of fears for their safety.

#### *Female genital mutilation*

Very few European countries have collected statistics on this issue, with the exception of the United Kingdom. No prevalence study which includes or directly addresses it is available anywhere. In fact (see comparative legal study) many countries asserted, on sparse and unsubstantiated evidence, that they were not affected by the problem. The United Kingdom organisation FORWARD, committed to studying the problem of female genital mutilation, estimates that in the United Kingdom alone, at least 10,000 girls and young women are at risk.

#### *Trafficking and the sex industry*

Several countries have noted an increase in trafficking within Europe and into Europe from elsewhere in the world. This increase in turn reflects the growth of sexual exploitation in Europe where new forms are emerging, including those which use technology such as telesex, virtual sex and computer pornography.

The increase in trafficking between European countries evidently stems from Eastern Europe and is directed at Western Europe. It takes various forms ranging from kidnapping to bogus marriage bureaux and misleading women as to their destination and future employment.

In this matter, reference should be made to Recommendation No. R (2000) 11 of the Committee of Ministers to member states on action against trafficking in human beings for the purpose of sexual exploitation and the explanatory report thereto, and other relevant publications.<sup>2</sup>

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1. M Foley and K Cook (1995), Women's Safety Survey, unpublished.

2. Recommendation No. R (2000) 11 of the Committee of Ministers to member states on action against trafficking in human beings for the purpose of sexual exploitation, adopted on 19 May 2000.





**Recommendation Rec(2003)3  
of the Committee of Ministers to member states  
on balanced participation of women and men  
in political and public decision making**

*(adopted by the Committee of Ministers on 12 March 2003  
at the 831st meeting of the Ministers' Deputies)*

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

Bearing in mind that women make up more than half of the population and the electorate in its member states, but continue to be seriously under-represented in political and public decision making in a large part of its member states;

Bearing in mind that, in spite of the existence of *de jure* equality, the distribution of power, responsibilities and access to economic, social and cultural resources between women and men is still very unequal due to the persistence of prevailing traditional gender roles;

Mindful that the functioning of electoral systems and political institutions, including political parties, may hamper women's participation in political and public life;

Considering that balanced participation of women and men in political and public decision making is a matter of the full enjoyment of human rights, of social justice and a necessary condition for the better functioning of a democratic society;

Considering that the realisation of balanced participation of women and men in political and public decision making would lead to better and more efficient policy making through the redefinition of political priorities and the placing of new issues on the political agenda as well as to the improvement of quality of life for all;

Considering that balanced participation of women and men in political and public decision making is needed for the development and construction of a Europe based on equality, social cohesion, solidarity and respect for human rights;

Recalling the declaration adopted at the 2nd Summit of the Council of Europe (October 1997) at which the heads of state and government of the Council of Europe stressed "the importance of a more balanced representation of men and women in all sectors of society, including political life", and called for "continued progress with a view to achieving effective equality of opportunities between women and men";

Bearing in mind the Convention for the Protection of Human Rights and Fundamental Freedoms (1950) and its Protocols;

Bearing in mind the European Social Charter (1961), the revised European Social Charter (1996) and the Additional Protocol to the European Social Charter providing for a System of Collective Complaints (1995);

Bearing in mind the texts adopted at the European Ministerial Conference on Human Rights held in Rome in 2000;

Bearing in mind the following Recommendations of the Committee of Ministers to member states of the Council of Europe: Recommendation No. R(85)2 on legal protection against sex discrimination; Recommendation No. R(96)5 on reconciling work and family life and Recommendation No. R(98)14 on gender mainstreaming;

Bearing in mind the following texts adopted by the Parliamentary Assembly: Recommendation 1229 (1994) on equality of rights between women and men; Recommendation 1269 (1995) on achieving real progress in women's rights as from 1995 and Recommendation 1413 (1999) on equal representation in political life;

Bearing in mind the United Nations Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights;

Recalling the United Nations Convention on the Elimination of all forms of Discrimination Against Women (CEDAW, 1979), especially its Articles 7 and 8;

Recalling also the commitments in the Beijing Platform for Action as well as in the Agreed Conclusions of the Special Session of the UN General Assembly in 2000 (Beijing +5);

Considering that democracy can no longer afford to ignore the competence, skills and creativity of women but must become gender sensitive and include women with different backgrounds and of different age groups in political and public decision making at all levels;

Mindful of the high priority the Council of Europe gives to the promotion of democracy and human rights,

Recommends that the governments of member states:

- I. commit themselves to promote balanced representation of women and men by recognising publicly that the equal sharing of decision-making power between women and men of different background and ages strengthens and enriches democracy;
- II. protect and promote the equal civil and political rights of women and men, including running for office and freedom of association;
- III. ensure that women and men can exercise their individual voting rights and, to this end, take all the necessary measures to eliminate the practice of family voting;
- IV. review their legislation and practice, with the aim of ensuring that the strategies and measures described in this recommendation are applied and implemented;
- V. promote and encourage special measures to stimulate and support women's will to participate in political and public decision making;
- VI. consider setting targets linked to a time scale with a view to reaching balanced participation of women and men in political and public decision making;
- VII. ensure that this recommendation is brought to the attention of all relevant political institutions and to public and private bodies, in particular national parliaments, local and regional authorities, political parties, civil service, public and semi-public organisations, enterprises, trade unions, employers' organisations and non-governmental organisations;
- VIII. monitor and evaluate progress in achieving balanced participation of women and men in political and public life, and report regularly to the Committee of Ministers on the measures taken and progress made in this field.

### **Appendix to Recommendation Rec(2003)3**

For the purpose of this recommendation, balanced participation of women and men is taken to mean that the representation of either women or men in any decision-making body in political or public life should not fall below 40%.

On this basis, the governments of member states are invited to consider the following measures:

#### *A. Legislative and administrative measures*

Member states should:

1. consider possible constitutional and/or legislative changes, including positive action measures, which would facilitate a more balanced participation of women and men in political and public decision making;
2. adopt administrative measures so that official language reflects a balanced sharing of power between women and men;
3. consider adopting legislative reforms to introduce parity thresholds for candidates in elections at local, regional, national and supra-national levels. Where proportional lists exist, consider the introduction of zipper systems;
4. consider action through the public funding of political parties in order to encourage them to promote gender equality;
5. where electoral systems are shown to have a negative impact on the political representation of women in elected bodies, adjust or reform those systems to promote gender-balanced representation;
6. consider adopting appropriate legislative measures aimed at restricting the concurrent holding of several elected political offices simultaneously;
7. adopt appropriate legislation and/or administrative measures to improve the working conditions of elected representatives at the local, regional, national and supra-national levels to ensure more democratic access to elected bodies;
8. adopt appropriate legislative and/or administrative measures to support elected representatives in the reconciliation of their family and public responsibilities and, in particular, encourage parliaments and local and regional authorities to ensure that their timetables and working methods enable elected representatives of both sexes to reconcile their work and family life;
9. consider adopting appropriate legislative and/or administrative measures to ensure that there is gender-balanced representation in all appointments made by a minister or government to public committees;
10. ensure that there is a gender-balanced representation in posts or functions whose holders are nominated by government and other public authorities;
11. ensure that the selection, recruitment and appointment processes for leading positions in public decision making are gender sensitive and transparent;
12. make the public administration exemplary both in terms of a gender-balanced distribution of decision-making positions and in equal career development for women and men;
13. consider adopting appropriate legislative and/or administrative measures to ensure that there is gender-balanced representation in all national delegations to international organisations and fora;
14. take due account of gender balance when appointing representatives to international mediation and negotiating committees, particularly in the peace process or the settlement of conflicts;
15. consider taking legislative and/or administrative measures aiming at encouraging and supporting employers to allow those participating in political and public decision making to have the right to take time off from their employment without being penalised;
16. set up, where necessary, support and strengthen the work of the national equality machinery in bringing about balanced participation in political and public life;
17. encourage parliaments at all levels to set up parliamentary committees or delegations for women's rights and equal opportunities and to implement gender mainstreaming in all their work;

*B. Supportive measures*

Member states should:

18. support, by all appropriate measures, programmes aimed at stimulating a gender balance in political life and public decision making initiated by women's organisations and all organisations working for gender equality;
19. consider the setting up of a data bank of women willing to serve in political and public decision-making positions;
20. support and develop women's political action by providing the opportunity for women elected representatives to network at the local, regional, national and international levels;
21. develop and support mentoring/work-shadowing programmes, confidence building, leadership and media training for women considering entering political and public decision making;
22. encourage training for women candidates and elected representatives in the use of information and communication technologies;
23. incorporate into school curricula education and training activities aimed at sensitising young people about gender equality and preparing them for democratic citizenship;
24. promote the participation of young people, especially young women, in associations to enable them to acquire experience, knowledge and capacities which are transferable to the field of institutional, and especially political, participation;
25. encourage youth organisations to ensure a balanced participation of women and men in their decision-making structures;
26. encourage greater involvement of ethnic and cultural minorities, and especially women from these minorities, in decision making at all levels;
27. inform political parties of the different strategies used in the various countries to promote the balanced participation of women and men in elected assemblies; encourage them to implement one or more of these strategies and to promote balanced participation of women and men in positions of decision making within the party structures;
28. support programmes initiated by the social partners (employers' and workers' organisations) to promote balanced participation of women and men in positions of responsibility and decisionmaking, within their own ranks and in the context of collective bargaining;
29. encourage enterprises and associations to ensure balanced representation of women and men in their decision-making bodies, in particular those subsidised for providing public services or implementing public policies;
30. promote campaigns aimed at the general public in order to raise its awareness of the importance of gender-balanced representation in political and public decision making as a prerequisite for genuine democracy;
31. promote campaigns aimed at encouraging the sharing of responsibilities between women and men in the private sphere;
32. promote campaigns aimed at specific groups, in particular politicians, social partners and those who recruit and nominate political and public decision makers, in order to raise their awareness of the importance of gender-balanced representation in political and public decisionmaking;
33. organise interactive seminars on gender equality for key people in society, such as leaders and top officials, to make them aware of the importance of the balanced participation of women and men in all levels of decisionmaking;
34. support non-governmental organisations and research institutes that conduct studies on women's participation in and impact on decision-making and the decision-making environment;
35. carry out research on the distribution of votes according to opinion polls in order to determine the voting patterns of women and men;

36. promote research on the obstacles which prevent women's access to political and public decision-making at the different levels and publish the results;
37. promote research on women's participation in social and voluntary sector decision-making;
38. promote gender-sensitive research on the roles, functions, status and working conditions of elected representatives at all levels;
39. promote balanced participation in decision-making positions in the media, including management, programming, education, training, research and regulatory bodies;
40. support training and awareness-raising for students of journalism and media professionals on questions linked to gender equality and how to avoid sexist stereotypes and sexism;
41. encourage media professionals to ensure that women and men candidates and elected representatives receive equal visibility in the media, especially during election periods.

### *C. Monitoring*

Member states should:

42. consider establishing independent bodies, such as a parity observatory or a special independent mediation body, with a view to following governmental policy in the field of balanced participation of women and men in political and public life, or entrust national equality machineries with this task;
43. consider setting up and applying indicators for the monitoring and evaluation of the balanced participation of women and men in decision making on the basis of internationally comparable gender segregated data;
44. consider adopting the following indicators for measuring progress in the field of political and public decision-making:
  - i. the percentage of women and men elected representatives in parliaments (supra-national/national/federal/regional) and local assemblies according to political party;
  - ii. the percentage of women and men elected representatives in parliaments (supra-national/national) compared to the number of candidates according to political party (the success rate);
  - iii. the percentage of women and men in national delegations to nominated assemblies such as the Council of Europe's Parliamentary Assembly and Congress of Local and Regional Authorities of Europe and to international organisations and fora;
  - iv. the percentage of women and men in national, federal and regional governments;
  - v. the number of women and men senior/junior ministers in the different fields of action (portfolios/ministries) of the national, federal and regional governments of the member states;
  - vi. the percentage of the highest ranking women and men civil servants and their distribution in different fields of action;
  - vii. the percentage of women and men judges in the supreme court;
  - viii. the percentage of women and men in bodies appointed by the government;
  - ix. the percentage of women and men in the decision-making bodies of political parties at national level;
  - x. the percentage of women and men members of employer, labour and professional organisations and the percentage of women and men in their decision-making bodies at national level;
45. submit, every other year, reports to their national parliaments on the measures taken and progress made according to the indicators listed above;
46. publish, every other year, reports on the measures taken and progress made in women's involvement in decision-making and disseminate these reports widely;

47. publish and make readily accessible, statistics on candidates for political office and on elected representatives containing information on sex, age, occupation, occupational sector (private/public), education;
48. encourage the regular analysis of the visibility and portrayal of women and men in national news and current affairs programmes, especially during election campaigns.

## ***Explanatory memorandum***

### **I. Introduction**

#### **A. Historical and legal background**

The concept of representation is at the heart of modern democracy, which means that the general interests of the people are expressed through democratically elected representatives. In this tradition, the right to be represented and the right to choose a representative have become universal and fundamental rights to be constitutionally guaranteed. However, universal suffrage, introduced progressively, was at first reserved for men.

The right to vote and to stand for all elections was the primary demand of women's rights movements throughout the nineteenth century and the first half of the twentieth century. In Europe at the end of the nineteenth century and the beginning of the twentieth century, women obtained the right to vote only in a few countries. After the first world war, this right was extended to a number of other European countries; yet others had to wait until after the second world war and even until the 1970s and 1980s.<sup>1</sup>

Despite the existence of formal equal political rights between women and men, political activities and public decision-making remain male-dominated areas.<sup>2</sup> Men set political priorities, and political culture continues to be highly male-oriented. A number of obstacles make it difficult for women to enter political and public decision-making:

- the fact that the place of most women in society is not conducive to political and public participation (models and values conveyed by the different components of society, such as the family, school, media);
- cultural and ideological factors (representation of feminine and masculine roles that lead to a gendered ideology and condition society's expectations of each individual, as well as of each person's expectations in relation to his or herself);
- factors linked to the organisation of social life (social division of work leaving little space for the participation of women, organisation of the labour market, insufficient support for families or their inability to adjust to the requirements of participation).

Women's access to representative bodies also depends greatly on factors linked to the notion and organisation of political life itself. The rhythms and rituals associated with political life, as well as the selection process and selection criteria within political parties can be very unfavourable to women and contribute to their exclusion. There is a strong relationship between electoral systems and the number of women in national parliaments.

The Universal Declaration of Human Rights is the founding text of both the United Nations and the major conventions on human rights ratified during the second half of the twentieth century. Even if it does not address political participation from a gender perspective, it affirms, in its preamble, the equal rights of men and women as fundamental human rights, and seeks to secure their effective recognition and observance by the people and governments of member states.

Article 21 of the Declaration stipulates that everyone has the right to take part in the government of his (sic) country, directly or through freely chosen representatives. In addition, according to Article 7,

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1. For more information on dates concerning women's right to vote and to stand for election, see the website of the Inter-Parliamentary Union: <http://www.ipu.org/>.

2. See for example *Women in Politics 1945-2000*, series "Reports and Documents" No. 37, Inter-Parliamentary Union, Geneva 2000, the *United Nations World's Women Trends and Statistics* and *Women in politics in Council of Europe member states*.



all persons are equal before the law and are entitled to equal protection of the law and against any discrimination in violation of the Declaration. These main human rights principles are also stated in the International Covenant on Civil and Political Rights (ICCPR), which entered into force in 1976. The ICCPR also provides for the equal right and equal opportunity of men and women to vote and to be elected (Article 25, paragraph b).

Neither the Declaration nor the ICCPR lay responsibility on states to promote gender equality and ensure equal participation of women and men in all spheres of society. They ensure rights, protection of the law and protection against discrimination as laid down in the declaration and the covenant, irrespective of sex. The state is responsible for ensuring equal opportunities but not for guaranteeing results. Defining gender equality as a basic human right in the middle of the twentieth century was both progressive and based on future visions for the world. But for many that was not considered enough.

The United Nations General Assembly declared the period 1975 to 1985 a decade for women's rights. In 1979, the United Nations Convention on the Elimination of all Forms of Discrimination Against Women (the CEDAW Convention) was opened for signature. For the first time, the role and responsibility of governments to use all appropriate measures to ensure women's equal participation in political and public decision-making was stated in an international convention. Many countries in the world, including some European countries, have entered reservations to specific articles of the CEDAW Convention. However, no European country has entered reservations to Article 7 on equal representation in political decision-making or Article 8 on the equal opportunity of men and women to represent their governments at the international level and to participate in the work of international organisations.<sup>1</sup>

It can therefore be assumed that the European states have an obligation to ensure equal participation of women and men in political and public decision-making. Given that the traditional liberal notion of equality of opportunity has evolved to a demand for equality of results, states now have an obligation to ensure equality of outcomes, not only equal opportunities between women and men. This means that European states are obliged to ensure an equal representation of women and men in decision-making.

## **B. Democracy – new demands**

More than twenty-five years have passed since the beginning of the United Nations decade for women. For many women in the world, not least in Europe, immense changes have taken place and progress has been made to ensure that women enjoy their basic human rights. Today, in general, women are more educated and have greater opportunities to participate in the labour market. Steps have been taken in some countries to help women and men reconcile family and working life. In sum, the changes in the status of women have made it increasingly difficult to justify the continued low participation of women in political and public decision-making.

At the same time, the democratic tradition, based on the separation of the power of the state into legislative power, executive power and independent judiciary, is being challenged as being too limiting. A democratic state, defined solely as the supremacy of a people where free and fair elections are held periodically by secret ballot, governed by the rule of law and respect for human rights, is not necessarily seen as a guarantee for genuine democracy today. Stronger demands take the form of a need for transparency in governmental decisions, a right of public access to official information, an emphasis on good governance and support for independent ombudsmen in ensuring good governance and just use of power, thus making governments more accountable for their decisions and actions. These demands also include an expectation that power will be shared in an equal way between women and men. Government commitments to these new dimensions and visions have been declared at several European high-level conferences, such as the 2nd Summit of Heads of State and Government of the Council of Europe held in Strasbourg in 1997, the 4th European Ministerial Conference on equality between women and men held in Istanbul in 1997 and the European Ministerial Conference on Human Rights held in Rome in 2000.

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1. Belgium, Luxembourg, Spain and the United Kingdom of Great Britain and Northern Ireland have entered restrictions to Article 7 as regards the hereditary transmission of the Crown, and Germany and Switzerland as regards national military legislation prohibiting women from performing functions involving armed conflict.

Statistics on women's participation in the labour market and in political and public decision-making are often used as indicators of the level of gender equality attained by a country. Gender disaggregated statistics on participation in political and public decision-making in a democratic state show the level of influence women have in their society, where and to what extent women and men are sharing power. It is generally acknowledged that women need to reach a critical mass of at least one-third of the seats of a legislative body in order to be able to exert a real influence on the decisions taken by this body.

### **C. The origins of the recommendation: the work of the Council of Europe**

In order to promote genuine democracy and human rights in its member states, one of the Council of Europe's priorities in the field of equality between women and men is to ensure a more balanced participation of both sexes in political and public decision-making.

For many years now, the Organisation has paid particular attention to the subject of equality and democracy. The concept of parity was first discussed at the seminar "The democratic principle of equal representation – 40 years of Council of Europe activity" (Strasbourg, 6-7 November 1989). As a follow-up to that seminar, a group of specialists began work on a report on parity democracy, which was published at the beginning of 1995. Besides giving an explanation of the concept, this report puts forward strategic guidelines aiming at enabling women to become full actors in society, both as contributors and beneficiaries, with the same rights and responsibilities as men. These strategic guidelines include the setting of parity thresholds and target figures in the various organs of the state as well as in political parties.

The participation of women in political decision-making has often been discussed by the European Ministers responsible for equality between women and men. The theme of the first ministerial conference (Strasbourg, 4 March 1986) was: "Participation of women in the political process – Policy and strategies to achieve equality in decision-making". One of the texts adopted by the second ministerial conference (Vienna, 4-5 July 1989) dealt with "Political strategies for the achievement of real equality of women and men". At the fourth conference (Istanbul, 13-14 November 1997) the Ministers adopted a Declaration on equality between women and men as a fundamental criterion of democracy, together with multidisciplinary strategies aiming at the balanced representation of women and men in all walks of life, including political life.

The adoption of the Istanbul Declaration constituted a major step towards the acceptance by European societies that gender-balanced representation is crucial for achieving democracy, social equality and transparent administration. The preparation of the present recommendation constitutes a logical follow-up to the Istanbul Conference. Moreover, the Parliamentary Assembly of the Council of Europe has, over the last few years, repeatedly invited the Committee of Ministers to undertake this task. More recently, the European Ministerial Conference on Human Rights, held in Rome in 2000, expressed its concern about the continuing inequalities affecting women and welcomed the work carried out by the Council of Europe in order to overcome them.

## **II. Comments on the recommendation**

### **A. The preamble**

In the preamble, the main international conventions and recommendations concerning equal rights of women and men in political and public decision-making are listed, along with declarations and international commitments made by the governments of the member states of the Council of Europe. In spite of *de jure* equality and the fact that women make up more than half of the population in Europe, women are still seriously under-represented in political and public decision-making. The governments of the European states have on numerous occasions acknowledged and declared that the sharing of power between women and men is a prerequisite for genuine democracy and a better functioning of a democratic society. The preamble recalls this fact and points to why balanced participation is beneficial for the development of society and ultimately, for democracy.

The preamble also makes some reference to the process of construction of a united, democratic Europe, in which both new and old member states of the Council of Europe are currently engaged. Such a process,

if it is to be truly democratic and protect and promote human rights, must make every effort to ensure, *inter alia*, the balanced participation of women and men in political and public decision-making. The Committee of Ministers of the Council of Europe, which is the home of human rights and democracy, logically encourages the member states to work towards reaching this balanced participation, which is understood as being a part of the democratic reforms under way in many countries.

## B. Provisions of the recommendation

### *Paragraph I*

Governments play a key role in promoting a gender balance in decision-making, both in political and public life. By ratifying the human rights conventions and by adopting the various recommendations mentioned in the preamble, they have obliged themselves to work for gender equality and genuine democracy in their society. By stating a public commitment, governments both reaffirm and highlight their obligations in this field. Such a statement could also potentially influence and remind other sectors of society of their obligations, such as political parties and governmental institutions. In this respect, governments can play an important role by setting an example to follow. The ministers of the states participating in the 4th European Ministerial Conference on equality between women and men held in Istanbul in 1997, declared that the goal to achieve is a democracy where women and men are equal, and that it must be pursued, *inter alia*, through specific, multidisciplinary strategies concerning political and public life. In order to inform and to sensitise the public opinion, the ministers agreed to “table a political statement explaining that the equal sharing of decision-making power between women and men strengthens and enriches democracy and commit themselves to the goal of gender balance”.

In giving effect to this recommendation at national level, it is of great importance that each government makes a public commitment to promote equal sharing of decision-making power between women and men.

### *Paragraphs II and III*

The right to vote and the right to take part in the government of one's country and to engage in political activities are basic human rights and fundamental criteria for democracy. This applies also to the right to freedom of association with others. As all human rights, these are individual rights. The International Covenant on Civil and Political Rights and the European Convention on Human Rights guarantee these rights, as does the United Nations Declaration on Human Rights. The State Parties to the Conventions and to the Declaration not only undertake to respect and to ensure every citizen those rights without unreasonable restrictions, they also undertake to ensure the equal right of women and men to enjoy these rights.

Recent examples in Europe of so-called “family voting” in elections are therefore serious violations of these rights. “Family voting” means a male family member accompanying one or more women relatives into a polling booth, family groups voting together, or a male family member voting on behalf of one or more women relatives.<sup>1</sup> Persisting cultural beliefs and attitudes prevent women, e.g. from some minority groups, exercising their civil and political rights such as the right to vote. It can be assumed that these same cultural beliefs and attitudes also prevent women from engaging in all political activities in their country. It is therefore vital that governments address this problem and protect and promote the rights of women to engage in political life, which includes voting, running for office and freedom of association. Information targeted at particular groups of people in society and awareness-raising are useful means of addressing this problem, along with the measures proposed in the following paragraphs. The Beijing Platform for Action addresses this breach of women's human rights in a similar fashion.

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1. The Congress of Local and Regional Authorities of Europe (CLRAE) adopted a recommendation on this subject at its June 2002 Session: Recommendation 111 (2002) on women's individual voting rights: a democratic requirement. See document CG (9) 7 presented by Ms Diane Bunyan, rapporteur.

*Paragraph IV*

Revision of national legislation and practice is a prerequisite for the implementation of the recommendation.<sup>1</sup> But this does not mean that governments should limit themselves to adopting laws or publishing political statements. Balanced participation of women and men in political and public decision-making implies defining and adopting concerted strategies as well as a global and transparent intervention involving not only the government, but also a wide range of actors. The actors concerned by the consequences of the under-representation of women in decision-making – equality machineries, NGOs, researchers, political post-holders at local, regional, national and supra-national level – must cooperate and develop concerted action.

*Paragraph V*

Various projects and temporary, special measures implemented in the member states of the Council of Europe in order to promote gender balance in decision-making positions have proven to be very valuable. Some of these projects are described in the Council of Europe's report on positive action in the field of equality between women and men,<sup>2</sup> and in the report written by Professor Alison Woodward.<sup>3</sup> Paragraph V is a general recommendation to governments to promote and support special measures in this field. Chapter 3 of the guide for balancing decision-making gives examples of measures and encourages governments to adopt them along with all other necessary measures considered of value. Chapter B of this recommendation also contains several measures of this kind.

*Paragraph VI*

The importance of time-bound targets is stressed both in public employment and in political appointments to decision-making posts. Experience has shown that defined aims and pre-decided time targets are important instruments for guaranteeing results and ensuring the necessary evaluation of the policy adopted.

Besides, it is a strong sign of government desire to create a gender balance in decision-making.

A great number of appointed bodies exist within the sphere of influence of governments, such as advisory councils, boards of public authorities, commissions and committees, with appointed or delegated members. In these bodies, women have long been under-represented and have had little means to actually have an impact on decision-making. Some countries have adopted the use of targets in order to achieve gender-balanced representation in appointed bodies. Depending on the actual percentage of posts held by women and men and the target fixed by a government to redress the situation, a certain time-span may be necessary to gradually reach the target. For example, in the United Kingdom, the Government is taking action to increase women's representation on the boards of public bodies. Out of 30000 public appointments, 34% are currently held by women and the expectation is that, by the end of 2005, women will hold 45%-50% of the posts (see further information in Appendix I, p. 50).

Some governments are also working actively to increase the number of women holding public appointments at national level by using a system of targets (see example in Appendix II, p. 50).

*Paragraph VII*

Although governments play a vital role in promoting a gender balance in decision-making both in political and public life, other actors are also involved. As described in the recommendation, national parliaments, local and regional authorities, political parties, civil service, public and semi-public organisations, enterprises, trade unions, employers' organisations and non-governmental organisations are major actors in this

1. Legislation on the following should be reviewed: electoral system, employment, civil service, labour-related rights (maternity leave, etc.), elected representatives, gender equality (including positive measures). The following practices should be reviewed: working methods of political parties, methods for advertising vacant posts, procedures for nominations and promotions.

2. Final report of activities of the Council of Europe's Group of specialists on positive action in the field of equality between women and men, EG-S-PA (2000) 7.

3. Going for gender balance, Council of Europe Publishing 2002, ISBN 92-871-4901-1.

field and have a special responsibility in this regard. It is therefore important that the recommendation is brought to the attention of all relevant bodies in society (see, in this respect, Chapter C of the Appendix to the Recommendation, especially the part on indicators, p. 11). The recommendation names some of the most important bodies but does not limit the responsibility to those mentioned.

### *Paragraph VIII*

The need for monitoring is crucial for the implementation of the recommendation and here governments play an important role. Monitoring requires governments to regularly provide sex-segregated statistics on the participation of women and men in decision-making positions and evaluate the progress made at national level based on the proposals of this recommendation. Chapter C of the recommendation contains proposals for concrete indicators to measure progress.

Countries that have ratified or acceded to the United Nations Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) are legally bound to put its provisions into practice. They are also committed to submit national reports, at least every four years, on measures they have taken to comply with their treaty obligations. These include measures ensuring women's equal access to, and equal opportunities in, political and public life – including the right to vote and to stand for election.

At the 4th European Ministerial Conference on equality between women and men (Istanbul, 1997), the ministers agreed on a range of multidisciplinary strategies aiming to ensure a gender balance in political and public life. Part of the work of the Council of Europe's Steering Committee for equality between women and men (CDEG) involves preparing studies and collecting data on gender-related issues in the member states. For example, it regularly updates a document containing statistics on the number of women holding government posts, the percentage of women in elected positions at national, regional and local level and measures designed to facilitate women's participation in political life.<sup>1</sup> The CDEG reports directly to the Committee of Ministers and can therefore play an important role in disseminating information and statistics, including on the Internet.

## **III. Appendix to the recommendation**

### **Introduction**

Balanced participation of women and men in political and public decision-making is defined in this recommendation as a minimum 40% representation of each sex in any decision-making body in political and public life. The 40% minimum is in accordance with the European Parliament resolution of 18 January 2001 on the balanced participation of women and men in decision-making.<sup>2</sup>

It is clear that political life and public life are related and interdependent. Decisions affecting the lives of individuals and groups in a society are taken in these spheres. The nature of these decisions has immediate and long-term consequences for communities, groups and individuals. As the political and public decision-making arenas together constitute the infrastructure of governance, it is important that the views, concerns and interests of women are fully represented in these spheres. At a more fundamental level, women's presence in political and public decision-making is now a standard measure of democracy in a society.<sup>3</sup> In recent years, modest progress regarding the increased participation of women in political life has been observed in some member states of the Council of Europe. Unfortunately, the same cannot be said for public decision-making, except in a tiny minority of European countries. Yet, the increased role of international and supra-national organisations and parliaments over national authorities has increased the role and authority of the public sector at national level. Therefore, it is of paramount importance that the participation of women in public decision-making is addressed at the same time as women's participation in political life.

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1. Women in politics in Council of Europe member states, <http://www.coe.int/equality/>.

2. This resolution pertains to the European Commission report on the implementation of Council Recommendation 96/694 of 2 December 1996.

3. IDEA and Charter 88, Handbook on Democracy Assessment, Stockholm: IDEA, 2002.

For the purposes of this recommendation, it is recognised that political and public decision-making is an activity of those (acting as sole persons or as members of a collectivity) elected or appointed to political or public office. Political decision-makers hold positions in government, may hold advisory posts within a government, and are elected representatives at all levels of power. Political decision-makers also include senior decision-makers within political parties. Public decision-making is concerned with setting and influencing priorities for public policy. Public decision-makers include governments, the senior civil service, higher levels of the judiciary, senior diplomats, leaders in public occupations, those serving on committees established by government and individuals appointed by government to attend to specific public policy matters. Public decision-makers are also persons holding senior positions within enterprises and associations which provide public services and leading positions within trade union and employer organisations.

### **A. Legislative and administrative measures**

In this chapter, several proposals are made for governments to consider in order to reach the aim of the recommendation. Although the list is far from complete, it covers areas such as use of language, funding of political parties, working conditions of elected representatives, public appointments, equality machinery, and education. National research is also important since it will define the problem at a national level and give guidelines for governments as to what legal and administrative measures should be adopted.

#### *Paragraph 1*

Paragraph 1 is a general clause on legislation, including positive action. Legislation that allows for positive measures to be taken in the various sections of society is vital, in that it will have a direct effect on promoting balanced participation in political and public life. Such legislation should include provisions for introducing and/or developing gender mainstreaming at policy level as well as positive action measures, so as to ensure genuine substantive equality between women and men.

In many countries in Europe, gender equality is stated in the constitution as a basic human right. This has, to a very limited extent, led to an equal sharing between women and men in decision-making. In two European countries, Belgium and France, political parties are obliged by law to observe parity between candidates in political elections (see Appendix III, p. 51).

The example of France is particularly interesting as far as constitutional reform is concerned. A constitutional reform carried out in 1999 allows Parliament to pass legislation providing for measures of positive action which will not be liable to censure by the Constitutional Council as they were in 1982.<sup>1</sup>

On the basis of this example, governments should consider legislative and/or constitutional changes in order to facilitate a more balanced representation of women and men in elected bodies.

#### *Paragraph 2*

Language, the symbolism of which is important, must not consecrate the hegemony of the masculine model. Language must be gender neutral (for example "person") or refer to both sexes ("his/her"). The Committee of Ministers of the Council of Europe, as early as in 1990, adopted Recommendation No. R (90) 4 to member states on the elimination of sexism from language. A clear evolution towards the elimination of sexism from language can be seen when comparing, on the one hand, the European Convention on Human Rights (ECHR) and on the other the Charter of Fundamental Rights of the European Union. To give an example, in the ECHR, the systematic use of the pronoun "his" has been replaced in the Charter with "his or her".

In France, the Prime Minister published a circular (dated 8 March 1998) which invites ministers to use feminine titles for names of professions, functions and grades. In 1993, the Government of Switzerland

1. On 18 November 1982, the Constitutional Council invalidated an article of the municipal law of 1982 which introduced a 25% quota for the representation of each gender (max 75% representatives of each sex) on lists of candidates for municipal elections. The decision was justified in the name of the equality of citizens before the law, guaranteed by Article 3 of the 1958 Constitution and Article 6 of the Declaration of the Rights of Man and the Citizen of 1789.

decided that the administration should use non-sexist language; for the German language, the Chancellery developed a guide *Leitfaden zur sprachlichen Gleichbehandlung im Deutschen* (Berne, 1996). Since 2001, Austria has an agreement of ministers on gender-sensitive use of language. In Germany, in accordance with the federal law on equality between women and men (which came into force on 5 December 2001), there is an obligation to pay attention to gender-sensitive language in legislation and official correspondence.

### Paragraph 3

The term “parity thresholds” is defined in the final report of the Council of Europe’s Group of specialists on equality and democracy as: “legal/statutory provisions enshrining the rule of parity by fixing a parity threshold, e.g. 40% at least of each sex, in the composition of the consultative organs of the state (councils, commissions, working groups, etc.), in elected assemblies and, if needed, in juries (and other judicial bodies) as well as in the structures of the political parties, trade unions and the decision-making bodies of the media.”

The legislative reform should be introduced into electoral legislation and cover elections at local, regional, national and supra-national level. Such reform would lead to modifying the legislation with the aim of achieving balanced participation of women and men and therefore ensuring genuine democracy. As regards candidate lists, the aim should not only be to guarantee that 40% of the seats are reserved for each sex but that at least 40% of each sex is elected. By “zipper system” is meant that women and men hold every other seat of a candidate list. In countries where the electoral system allows for the crossing out of candidates, other solutions should be found. The CEDAW Convention allows for specific measures, including legislative measures, to be taken with the aim of accelerating *de facto* equality. This applies to balanced participation of women and men in political decision-making according to Article 7 of the Convention, as well as to other fields covered by the Convention.

### Paragraph 4

This paragraph addresses the public funding of political parties and how this can be used to encourage political parties to promote gender equality within their organisations. In some countries a legislative measure would be required, while in others an administrative one would be sufficient. The financial resources could either be taken from the state budget earmarked for gender equality work or a special fund for this purpose only. It varies between the member states of the Council of Europe as to what extent political parties are state funded. In some countries no funds can be allocated to political parties (for example Germany, Sweden and Switzerland). But even in countries where this is not the case, it should be possible for governments to grant financial support earmarked to this purpose to either the political party or to the women’s section within the party.

The use of such financial support by the political parties would of course vary from country to country. Examples of such use are training and leadership programmes and awareness-raising programmes (see also the different measures proposed in paragraphs 20, 21 and 22). What is clear is that most, if not all political parties lack financial support for such activities. Therefore a specific amount earmarked for gender equality work is an important measure for governments to adopt.

An example of incentive to political parties through public funding is that of France. The Law of 6 June 2000 on equal access for women and men to elective office and elective positions includes provision for financial penalties for parties that fail to present 50% of candidates of each sex.

For parliamentary elections, for which the method of voting (double ballot uninominal system) cannot guarantee parity within each constituency, the law provides for a reduction in public funds allocated to a party if the difference between the numbers of its candidates of each sex exceeds 2% of the total number of candidates. Accordingly, a party presenting 49% women and 51% men would not be penalised.

The reduction must not exceed 50% of the amount of the first fraction of such funds. For example, if a party presents only 45% women, the difference is 10% (45/55) and its public funding is reduced by 5%. This financial mechanism avoids threshold effects. It also guarantees receipt of at least 50% of the first

fraction. Reduction of funding for penalised parties cannot benefit the other parties, since the purpose is not to reward parties complying with the parity principle, but to penalise those that fail to do so.

#### *Paragraph 5*

The purpose of paragraph 5 is to emphasise that research and statistics have shown that where proportional representation systems exist, it has often been easier for women to achieve greater representation in political bodies. During the last three decades, there has been a significant increase in women's representation where proportional representation systems exist, whereas only modest advances have been made through plurality-majority systems. This seems to be mostly due to the fact that where there is only one candidate, as is the case in first-past-the-post systems, incumbency is the key factor for choice of a candidate. As today most incumbent candidates are men, it is difficult to refuse their candidature and give their seats to women. This appears to be less problematic where there are party lists, as the party can expect to win several seats in each district. Thus, electoral systems seem to structure party candidate choices to some degree.

Geographical limits in which elections are held can have an impact on whether proportional representation or single member system leads to a more equal representation of men and women. If the proportional voting system is a "local" one, applied to a limited geographical area, it can be just as disadvantageous to women as the single-member system. This was the case in France at the 1986 parliamentary elections in which a proportional system was applied at the level of each *département*. Although there were more women candidates (24.7% compared to 11.9% at the 1981 elections when the single-member system was applied), the proportion of women actually elected was still very low (5.9% compared to 5.3% in 1981). Basing the system on the *département* gave a distinct advantage to candidates with a solid bedrock of local support and hence to outgoing candidates who had already accumulated more than one post (for example combining the functions of member of parliament and mayor or member of parliament and regional councillor). In these circumstances it is more difficult for party leaders to impose women outsiders in electable positions than when the proportional system is applied nationally (as is the case with European elections). All changes or adjustments must therefore be based on national research in this matter.<sup>1</sup>

#### *Paragraph 6*

In some European countries, political participation tends to be "professionalised". This means that a few politicians have a quasi-monopoly, blocking access to political responsibilities for, in particular, women. These politicians often hold two or three political offices simultaneously. Such a "professional" politician can be, at the same time, the mayor of a city, a member of parliament and possibly a member of government.

The fact that the same individual holds more than one post simultaneously prevents renewal in politics and is often an obstacle to obtaining a balanced representation of women and men in political and public decision-making. In addition, it appears increasingly as being incompatible with the development of democracy, as one person would have a limited capacity to represent such large groups of society. Modern democracy implies the involvement and participation of as broad a section of society as possible in political and public decision-making. Restricting the number of offices that can be held simultaneously automatically opens up new possibilities for participation, in particular for women.

Governments are therefore asked to consider appropriate legislative measures in this field, possibly after research on the actual situation in society. The ministers participating in the 4th Ministerial Conference held in Istanbul in 1997 agreed upon this principle and invited political parties to consider adopting such measures. It is important that governments seriously consider passing such legislative restrictions where needed.

1. For further information, see report published by the European Parliament in 1997: Differential impact of the electoral systems on female political representation. Women's Rights Series.



### *Paragraph 7*

This is a general article stressing the importance of improving the working conditions of elected representatives at local, regional, national and supranational level. Even though elected representatives at supra-national level do not have a direct influence on internal affairs, they can propose measures to be taken at local, regional and national level. Although political activities are often very time-consuming, the financial compensation is often very low. In many cases political work, not least at the local level, is more like voluntary work than paid work.

Yet, it is well known that local political activity is often the first step into national politics. The important political work undertaken at local level should be properly rewarded by an appropriate system of financial payment and the enhancement of non-financial supports to local politicians.

Governments should therefore consider adopting appropriate legislation to make the working conditions in political life as similar to those in the labour market as possible, with the exception of the time limit in political life. This should include, for example, financial compensation, pension rights and the right to parental leave, family-friendly scheduling of meetings and structuring of the public service, such as children's care facilities. Such measures would make political life a real option for women as well as for men.

### *Paragraph 8*

Persons with family responsibilities may often hesitate to enter political decision-making because of the changes this will imply for their working conditions. They may have to move house, leave their job without a guarantee of coming back to the same job, they may also lose their pension rights during three or four years.

Furthermore, parliamentarians do not necessarily have the right to take maternity leave and to benefit from family allowances. As women usually have a weaker position in society and more family responsibilities, the absence of clear legislation and a status for elected representatives as well as of logistical services and facilities (e.g. child care) may make it harder for them to accept a political role than for men.

On the other hand, adapting the status and working conditions of elected representatives to the circumstances of modern life will of course also be beneficial to male politicians. Such measures may include not only maternity but also paternity leave schemes, shared equally between fathers and mothers and organised with some flexibility, in order to take into account the interests of both women and men.

The first part of the paragraph focuses on the importance of legislative measures to be taken and therefore the role of governments as to ensuring that the necessary legislation is passed. The second part focuses on the working conditions within the European Parliament, national parliaments and local and regional authorities. Paying attention to the timing of meetings and reorganising working methods so as to facilitate the reconciliation of political work and private life for both women and men is very important for balanced participation.

The importance of comprehensive measures that must be taken in this field has been highlighted at several Council of Europe conferences. They are addressed in the Council of Europe's Recommendation No. R (96) 5 on reconciling work and family life, particularly Principle 5, and the outcome texts of the 4th European Ministerial Conference on equality between women and men (Istanbul, 1997) and the 27th Conference of European Ministers responsible for Family Affairs, held in Slovenia in June 2001.

### *Paragraph 9*

The main arguments for gender-balanced representation in public committees are the following. When governments work on policy-making/legislative reforms in a specific field, they often call upon various organisations, institutes and enterprises to nominate their representatives. The purpose is to ensure that the necessary knowledge and expertise are available, as well as to ensure a social consensus on the

issue. This issue is extensively dealt with in the Council of Europe report on positive action in the field of equality between women and men.<sup>1</sup>

Experience has shown that the public appointments procedure is often discriminatory towards women. Nominating bodies often put forward only one representative, usually a man, which means that when it comes to establishing the committee, the government has no choice but to nominate this person.

In order to counter this phenomenon and ensure gender balance in appointed bodies, boards and councils, several countries have adopted specific legislation. One of the first countries to do so was Norway. Denmark and Finland have also adopted legislation in this area (see Appendix IV, p. 54).

The UN Convention on the Elimination of All Forms of Discrimination Against Women, (CEDAW, 1979), allows for special measures to be taken in this field (see Articles 4 and 7). The Istanbul Declaration stresses the importance of a gender balance in all public committees and recommends to governments to adopt and implement appropriate legislative and/or administrative measures in order to ensure a gender balance in all appointments made by a minister or the government itself to all public committees.

#### *Paragraphs 10, 11 and 12*

These paragraphs focus on the role of the state as an employer and as a political representative of the people. Governments have a double role and obligations in promoting gender equality. They have, as independent states participating in the international community, signed and ratified various international conventions addressing, *inter alia*, gender equality. They have adopted several recommendations, programmes and plans of action in this capacity. The CEDAW Convention and the Beijing Platform for Action should be mentioned in particular. States have the legal obligation to ensure the implementation of these international instruments both in the public and private sector. States are also most often the largest single employer in a country and an important employer for women. Decisions that states take as employers set examples for other employers in the society. In this respect, governments should be role models for other employers. In these paragraphs, states are invited to take measures in order to promote women with the aim of ensuring a more balanced participation of women and men in decision-making positions. The proposals focus on measures to prevent possible discrimination in the selection criteria to decision-making positions, at making recruitment and career advancement within the state more transparent and therefore more democratic, as well as appointments to political and public decision-making positions. The Court of Justice of the European Communities has repeatedly emphasised that transparency in procedures followed by employers is a very important part of the promotion of gender equality.<sup>2</sup>

1. EG-S-PA (2000) 7.

2. Handels Kog Kontorfunktionærernes Forbund i Danmark v Dansk Arbejdsgiverforening (known as Danfoss) C-109/88 [1989] ECR 3199. A claim was brought by a trade union on behalf of female workers who earned on average 7% less than a comparable group of male workers. Though the two groups earned the same basic wage, the employer supplemented the basic rate according to a number of criteria, which the trade union alleged created indirect discrimination against female workers. The ECJ established that where there is a non-transparent pay structure and statistical evidence reveals a difference in pay between male and female workers, the burden of proof shifts to the employers to account for the pay difference by factors unrelated to sex. \par A Danish national collective agreement for staff workers established a basic rate for grades of workers but permitted individual increments on the basis of flexibility, vocational training and seniority. Flexibility was assessed on the basis of quality of work, volume of work and the employee's keenness and initiative. However, employees had no knowledge of how these criteria were applied to them and so could not compare how their pay was made up. Male employees received on average nearly 7% more pay than female employees.

The ECJ described the pay system as being characterised by "a total lack of transparency". It held that for the purposes of Article 141, where an employer applies a pay system which is obscure in operation, and where a female worker establishes that the average pay of female workers is less than their male colleagues, the burden is then on the employer to prove that the pay practice is not discriminatory. \par The ECJ held that, if the criterion "quality of work" results in systematic unfairness to female workers this could only be because the employer had applied the criterion in a discriminatory manner. The ECJ found it "inconceivable" that the work carried out by female workers would generally be of a lower quality than that of male workers. An employer cannot therefore justify the use of a criterion where its application is shown to be systematically unfair to women. Enderby v. Frenchay Health Authority C-127-92, 27 October [1993] ECR I-5535, 5573.

The ECJ ruled that where "significant statistics disclose an appreciable difference in pay between two jobs of equal value, one of which is carried out almost exclusively by women and the other predominantly by men" there is deemed to be "apparent

The measures proposed are based on the 1995 Beijing Platform for Action, as well as on the conclusions of the Special Session of the UN General Assembly from the year 2000 and the Istanbul Declaration from the 4th European Ministerial Conference held in 1997. They cover both political and public decision-making and underline the double role states have as employers and as governments with political responsibilities.

### Paragraph 13

Men by and large dominate the composition of national delegations to international organisations and fora, and in some cases such delegations remain exclusively male. And yet decisions taken at the European and international levels have more impact than before and tend to affect people, women and men, more directly. It is therefore important that such delegations have a balanced representation of women and men.

Some international legal instruments, rules and regulations already contain provisions to this effect, but they have not been properly implemented.

Article 8 of the UN Convention on the Elimination of All Forms of Discrimination against Women (CEDAW, 1979) provides that “States Parties take all appropriate measures to ensure to women, on equal terms with men and without any discrimination, the opportunity to represent their Government at the international level and to participate in the work of international organisations”.

In addition, Article 4 of the CEDAW Convention allows for temporary special measures to be taken by governments with the aim of accelerating *de facto* equality between women and men.

The Charter of the Council of Europe’s Congress of Local and Regional Authorities of Europe (CLRAE), stipulates that: “The membership of each member state’s delegation in the CLRAE shall be such as to ensure: [...] d. equitable representation of women and men on the statutory bodies of local and regional authorities in the member state”. In spite of this, the CLRAE in 2002 was composed of 54 women and 250 men titular representatives, i.e. 17.8% women, whereas the average representation of women in local and regional councils in member states was higher.

### Paragraph 14

Women are generally under-represented in national delegations to international fora. The lack of gender balance on mediation and negotiating committees, particularly in the peace process or the settlement of conflicts, is particularly striking. In spite of Article 8 of the CEDAW Convention, women are hardly ever represented at the negotiating table. And yet, women suffer from armed conflict as much as men, if not more. Furthermore, women have been very active in grassroot movements for peace in regions of conflicts and they participate actively in the reconstruction of society after conflict. It is time that they found their place at the negotiating table and that their perspectives are taken into account when it comes to fixing priorities for the peace process, the settlement of conflicts and the reconstruction of society. Governments should therefore consider enhancing gender balance when appointing representatives to international mediation and negotiating committees.

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discrimination”. Where “apparent discrimination” is established, the onus is on the employer to explain the difference unrelated to factors based on sex. A different history of collective bargaining could not justify wage differentials in segregated employment. The case concerned two separate collective agreements for speech therapists and clinical psychologists, where jobs of equal value received different remuneration. The employer claimed that the fact that women were more numerous in lower paid jobs was not related to any discrimination, since there were no barriers or conditions on them in the other medical professions, and the pay differentials resulted from collective agreements signed between the same employer and the same trade unions. The Court rejected the argument that the existence of a barrier or a condition must be proved in order to determine discrimination: suffice it to show clearly that the existence of separate collective agreements and different pays penalises women more than men. The rule seems sound, because in the case of structural and institutionalised discrimination the requirement of proving the existence of a barrier would make it impossible to strike down indirect discrimination, thereby perpetuating indefinitely unbalanced situations. The Court has nevertheless refrained from broadening the rule to the effect that all “market forces” justification is unacceptable in indirect discrimination cases, limiting it to collective agreements. S.A. Rivara, “Discriminazione, giustificazione ed effettività nella recente giurisprudenza della Corte di giustizia delle Comunità europee”, (1995) *Lavoro e diritto* 79, at 96-98; H. Fenwick, T.K. Hervey, “Sex Equality in the Single Market: New Directions for the European Court of Justice”, (1995) 32 *CML Rev.* 443, at 461-469.

The Council of Europe's Steering Committee for Equality between Women and Men (CDEG) organised a seminar on the participation of women in the prevention and resolution of conflicts in September 2001. The aim of the seminar was to initiate a discussion on various questions regarding women in this respect, women's activities for peace and the reconstruction of post-conflict societies. The role of the seminar was also to prepare the 5th European Ministerial Conference on equality between women and men (Skopje, 22-23 January 2003), the theme of which is "Democratisation, conflict prevention and peacebuilding: the perspectives and the roles of women." The participants in the seminar put forward recommendations highlighting, *inter alia*, the importance of gender-balanced decision-making at all levels of society, including in conflict prevention and resolution mechanisms, where decisions on peace and war are taken, and in the diplomatic services.<sup>1</sup>

#### Paragraph 15

The reasoning behind this recommendation is that women often have weaker positions in the labour-market than men. At the same time, they make up the great majority of those who work in certain professions, such as the teaching and the nursing professions. Employers must therefore consider what measures are necessary to ensure that these women can fully exercise their civil rights and that they do not lose their employment-related rights if they wish to take part in political and/or public decision-making. The paragraph covers both political and public decision-making, although it is more relevant in the former. The recommendation defines public decision-making as including public committees and boards. Often those appointed to such committees and boards need some time off from their employment to be able to accept the appointment.

In some member states there are rules on the rights of employees to take unpaid leave in order to work for international organisations. The rules cover both the procedures between an employee and an employer and state the period of time for which an employee can keep her/his former employment. Another rule existing in some member states covers the rights of employees elected to positions in the trade union to take time off from their work without penalty. Again the rules cover procedure and state the time-limit. Similar rules that would guarantee an employee time off without penalty because of her/his electoral obligations would not only benefit women but also men. They may also facilitate a general participation of women and men in political life.

#### Paragraph 16

Most of the member states of the Council of Europe have set up some kind of national machinery for promoting gender equality. In the Council of Europe's Handbook on national machinery published in May 2001,<sup>2</sup> a national machinery is defined as "an institutional governmental and, in some cases, parliamentary structure set up to promote women's advancement and to ensure the full enjoyment by women of their human rights. Its main function is to monitor and to ensure the implementation of the law, of the principle of non-discrimination and equality between women and men".

The importance of an effective national machinery in the field of gender equality at a highest possible level within the government is emphasised both in the Beijing Platform for Action and the Agreed Conclusions of the Special Session of the General Assembly of June 2000, reviewing the progress made since Beijing.

National machinery plays an important role both as regards informing the general public on the importance of a balanced participation of women and men in political and public decision-making and the main obstacles women face. The national machinery often has the best knowledge and information about successful projects that have been implemented and has active and direct contact with women's nongovernmental organisations. Gathering and disseminating statistics on women and men in decision-making positions, influencing society and implementing the various measures proposed in this recommendation are also examples of projects governments can entrust to the national machinery.

1. See conclusions of the Council of Europe Seminar on the participation of women in the prevention and resolution of conflicts, Strasbourg, 20-21 September 2001 (EG/Sem/Peace (2001) 7).

2. Handbook on national machinery to promote gender equality and action plans, EG (2001) 7.

But national machineries often lack the necessary financial means to fully implement their mandate. It is therefore important that governments support and strengthen the role of their national machinery, both as regards human and financial resources, in order to bring about a more balanced participation of women and men in decision-making.

#### *Paragraph 17*

In some member states of the Council of Europe, special parliamentary committees or delegations for women's rights and equal opportunities have been set up. These committees or delegations constitute an important mechanism in promoting gender equality, not least in mainstreaming gender equality into national legislation and policymaking within the parliament (see examples in Appendix V).

The paragraph does not only address national parliaments. Such parliamentary committees or delegations are also important at local, regional and supranational level (see Appendix V). A committee on equal opportunities between women and men exists within the Parliamentary Assembly of the Council of Europe. In its Recommendation 1413 (1999), the Parliamentary Assembly recommends that national delegations urge parliaments to set up such committees or delegations within the national parliament. Paragraph 17 therefore invites governments to consider supporting such proposals at the international level and encouraging local and regional authorities in setting up such committees.

### **B. Supportive measures**

In this chapter, several of the measures proposed could be implemented by governments directly, while others should be implemented through support to women's organisations or other organisations committed to promoting equality between women and men.

#### *Paragraph 18*

This paragraph is a general recommendation to governments to support, by all appropriate means, women's organisations and other organisations working for gender equality via programmes aimed at stimulating a gender balance in political and public decision-making. For decades, women's organisations and other organisations working for gender equality have been important actors in promoting gender equality in society and have as such proved their value. Their experience and their grassroots connections, often across party lines, are very valuable when defining and implementing projects in this field. However, these organisations often lack both the human and financial resources to properly implement their activities. Therefore governments should consider supporting them financially and encouraging them in their work. This was highlighted at the 4th European Ministerial Conference on equality between women and men held in Istanbul in 1997.

The European Union has been concerned with balanced representation in political life since the adoption of the Third Action Programme on Equal Opportunities (1991-1995). The EU action programmes have included measures supporting women's NGOs in this field and have proven quite valuable. Another important example is the "Women can do it" project, funded by the Norwegian government and implemented in a number of countries by the Gender Task Force of the Stability Pact for South-Eastern Europe.

#### *Paragraph 19*

The purpose of this paragraph is to deal with the often-used argument "women do not wish to take part in political and public decision-making". Such a data bank would provide political parties and other institutions with a solid basis for being able to identify women wishing to engage in decision-making in politics and public life. The Istanbul Declaration proposes a similar action to be taken or supported by governments.

Where data banks exist, they have proven to be quite valuable in promoting women in political and public life. An explanation often used when men are being promoted or nominated into posts or governmental committees and boards, is that no women with the right education or experience can be found to fill these posts. The man promoted/nominated was the only one with the right education/experience

needed. This is where data banks on potential women candidates for elective and appointive office can be the answer. They enlarge the pool of women candidates and they call for governments to actively interact with existing networks of women decision-makers in relevant areas. However, for data banks to be effective, they must be used as a source by government when making public appointments and need continuous updating. They are therefore an excellent example of a project that the government can entrust to a women's NGO or to the national machinery. A recent project in this field exists in Norway (see Appendix VI, p. 56).

#### *Paragraph 20*

Women elected representatives often work together in cross-party networks, e.g. in national parliaments. This is important when it comes to questions such as looking at the budgetary process from a gender perspective. Networking of women in elected positions (ministers, MPs, local and regional councillors) should also be possible at the European level, especially as more and more decisions are now taken at this level. At the same time, European women politicians are faced with addressing problems such as the increase of trafficking in women and the persistence of violence against women as well as overcoming the obstacles they face when it comes to participating in politics. As women they may wish to discuss such issues together, irrespective of their political background. This need has been highlighted at several conferences and seminars organised by the Council of Europe.

Networks of European women already exist to some extent, e.g. within organisations such as the Council of European Municipalities and Regions (CEMR) and the International Union of Local Authorities (IULA). Informal networking is also important. The Council of Women World Leaders, Vital Voices and other organisations have organised meetings and seminars for women in political decision-making. It is important that governments support such activities.

#### *Paragraph 21*

This paragraph focuses on women considering entering political and public life. The purpose of the paragraph is to point out that potential legislators and decision-makers should be given knowledge of what it is like to take part in political and public decision-making. Many people enter political decision-making without knowing much about how it works and what skills are needed. This is especially true for women, given their relatively recent participation in political and public life. Better knowledge about what political life is about, mentoring/work shadowing programmes, confidence, leadership and media training programmes preparing women for political life are therefore very valuable, as they give women an understanding of, and a preparation for, the demands of public duties, including dealing with the press. The power of media messages is unquestionable. Therefore, it is extremely important for women candidates and elected representatives to know how to use the media to get their messages to their audience. These same measures can also be useful methods for preparing and strengthening the capacities of women entering higher positions in the civil service.

The paragraph proposes concrete measures that can be taken in order to engage more women in political and public decision-making. It is important that career advancement programmes include career planning, mentoring, training and retraining and as such assist women in planning their careers, in strengthening their position whether in politics or public life and increase their opportunities for obtaining decision-making positions. Career advancement programmes can be used as concrete positive actions towards redressing the imbalance between men and women in both political and public decision-making. Social, cultural and traditional views in society often prevent women from fully realising their capacities and at the same time society suffers by not benefiting from the full contribution of women.

#### *Paragraph 22*

Information and communication technologies evolve very fast and have become increasingly important over the last few years when it comes to building contacts, communicating and networking. This is valid at all levels of political life, but especially at local level, where there may be less access to information and communication technologies. It is therefore of vital importance that women candidates for political

office and women elected representatives are offered at least the same possibilities as men to learn how to use and get access to such technologies.

### Paragraph 23

Young people often take it for granted that there are no longer any problems with gender equality in Europe. Young men may also feel threatened by well-educated young women and think that the latter are taking the places they would themselves otherwise have been entitled to. It is therefore crucial that both young women and young men understand that a balanced participation of women and men in political and public life is to the advantage of society.

As pointed out by the Beijing Platform for Action, equality of access to and attainment of educational qualifications is necessary if more women are to become agents of change. In some countries, equal access to education is still inadequate. Curricula and teaching materials remain gender-biased to a large degree, and are rarely sensitive to the specific needs of girls and women. This reinforces traditional female and male roles that deny women opportunities for full and equal partnership in society.

Citizenship has to be learnt. It is essential for a stable democratic system that people understand the democratic principles of decision-making, support them and take part in the system. This being so, the acquisition of knowledge about democracy, the institutions that support it, the rules governing the political system and each person's role within that system, as well as contemporary history, all form the basis of civic education and education for citizenship. But, albeit indispensable, this learning process is not enough to form a citizen. Schools must therefore ensure education for citizenship, with a view to developing knowledge and competence to intervene, to respond to changes and to develop partnerships, as a condition for the full exercise of citizenship in a democratic context. Above all, civic education and education for citizenship are closely linked to the creation of a democratic school culture. By the creation of learning contexts enabling young people to develop and to exercise democratic citizenship and by the recognition of young people as present, and not just future, agents of social change. By the development of projects that encourage initiative, stimulate the desire to acquire capacities and knowledge and that establish a link between learning and real life, giving value to young people's interests and the questions that affect our societies.

Civic education and education for citizenship should therefore form part of the school process and explicitly include gender questions in order to encourage interest in participating, to familiarise young girls and boys with political and public decision-making and to promote democratic citizenship in terms of gender partnership.

This education calls for a whole range of changes to the education process, to curricula and to school culture. First of all, equality, together with other questions central to democracy such as education for peace, for citizen's responsibilities in the public and private spheres, for diversity and intercultural relations, must not be seen as accessories. They must form part of the basic legislation governing the education systems as goals to be reached and must, in this way, be integrated in the training of teachers. They cannot be dissociated from the other subjects and pedagogical practices at school.

School is not isolated from the society and transmits its models. Society is marked by discrimination against women and the domination they suffer, and schools logically reproduce these models. Consequently, an absence of formal discrimination is not enough to ensure that the school system is the medium for *de facto* equality. It is only by promoting real co-education throughout the education process that equality between young girls and boys can be achieved, thus preparing them to face the future and become fully-fledged citizens. Integrating equality at all levels of the school system is essential in order to promote among young people the values of justice and participation that are needed for effective democratic citizenship, partnership between women and men in the private and public spheres and democracy. This is still far from being normal practice in education systems.

The choice of both sexes as regards education, professional activity, lifestyle, are subject to strong cultural pressure influenced by feminine and masculine stereotypes. These have repercussions on the sharing of family tasks and responsibilities between women and men, the division of roles on the labour market and

the participation of women and men in society in general, and in particular in decision-making. Equality education must therefore be a central part of education for democratic citizenship.

*Paragraphs 24 and 25*

Political parties in Europe are faced with the lack of young people's participation. Less and less young people are members of a political party and even less take an active part in their activities. This progressive withdrawal threatens the renewal of politicians and deprives them of their creativity.

This does not mean, however, that young people do not feel concerned by the problems affecting society. Young people in general, and young women in particular, are more inclined to participate in associations and NGOs than in political organisations and parties, because they provide more flexible ways of participating in the resolution of practical problems that concern young people and to which they feel more committed. Young people also participate in other ways to show their interest in political and public questions, such as taking part in demonstrations, signing petitions, etc.

The formal educational system alone cannot respond to rapid social, political and economic changes in society and should be reinforced by non-formal educational practices. Youth organisations are among the main sources of expertise in the field of non-formal education and they have reached a high level of achievement in this domain.

In youth and community organisations, young people have the opportunity to discover, analyse and understand values and their implications and to build over time a personal set of values to guide their lives. They run work camps and meetings, recruit volunteers, raise funds, administer bank accounts, recruit and manage personnel, give counselling and psychological peer support, organise sports activities and cultural festivals, intervene in their communities and lobby institutions for social change. All these activities of NGOs enable young people to acquire leadership skills and provide them with important practical experience in the process of democracy, decision-making and responsible democratic leadership.

Although they are present in associations, young women are under-represented in their decision-making bodies. The opinions and needs of young women may therefore not be taken into account in the associations' orientations. They are also deprived of the opportunity to gain experience in decision-making. The participation of young people, and especially young women, in associations should therefore be promoted and stimulated. Youth organisations should be encouraged to ensure a balanced participation of women and men in their decision-making bodies.

*Paragraph 26*

Migrant and ethnic minority communities are often represented quasi-exclusively by male representatives when it comes to discussing their position, interests and problems with the majority/host community. At the same time, when specific questions pertaining to women in general are being dealt with, the voices of these groups of women are seldom heard. This means that they are likely to suffer from twofold discrimination, both as a specific group of women and as compared to the men in their community.

This paragraph therefore points out the need to involve women of migrant, ethnic and cultural minority communities in decision-making, in order to ensure that their specific needs, interests and conditions are taken into account as compared to those of men of their communities and as compared to women in general. Their participation in decision-making, e.g. in commissions set up at the local and national level, could also be very useful for society as a whole as it would contribute to strengthening social cohesion and favouring multicultural and interreligious dialogue.

The term "ethnic minority" is for each country to define as no international human rights convention defines this term. The approach and the methods adopted to promote women from migrant, ethnic and cultural minority communities would often be similar to measures adopted to promote women in general. The aim here is to include certain groups of women, which means that the methods used would be adapted to their particular needs.

The proposal covers all relevant levels in decision-making, according to national legislations.



### *Paragraph 27*

In some countries, political parties have devised strategies that have influenced other parties. Governments could play an active role in encouraging political parties to develop strategies or special methods to increase the likelihood of women being elected. Governments could assist and advise the political parties in these matters. The national machinery for gender equality can play an active role in implementing the contents of this paragraph. It is up to each political party to develop its own strategy but it is important to provide information on different incentives that could be adopted, such as guaranteeing a certain minimum percentage of candidates and elected representatives of each sex, training and mentoring programmes for women and making women visible within the party and thus set examples for others to follow. The encouragement of governments could also be in the form of financial assistance, e.g. to the organisations of women within the political parties (see also explanation of paragraph 4) (see example in Appendix VII, p. 57, and in the publication *Going for gender balance*).

### *Paragraph 28*

Women's participation in decision-making in employers' and workers' organisations has for a long time been very low, even lower than in political decision-making. While women make up nearly half of the working force in today's society, they are neither at the negotiating table nor in decision-making positions. As the social partners do not always seem to pay enough attention to the issue of gender-balanced representation, governments have an important role to play in encouraging them to do so. This can be done by financially supporting programmes for women initiated by the trade unions and/or the employers' unions.

These programmes would aim to strengthen women's positions and increase their opportunities to obtain decision-making positions and thus promoting a more balanced participation of women and men within the organisation. The different measures proposed in the paragraphs above on the balanced participation of women and men in political and public life could be of use for women within the employers' and workers' organisations as well as for other potential women decision-makers. These positions are often important stepping-stones to other political and public decision-making positions.

### *Paragraph 29*

Governments have a legal obligation to ensure gender equality both within the governmental structure but also in society in general. In a democratic country there is a limitation as to what measures a government can adopt or what legal obligations it can impose on private enterprises and associations. Financial support or financial benefits to private enterprises that demonstrate a commitment to gender equality are examples of measures governments can adopt to ensure their legal obligation and political aim in the field of gender equality. In many countries, the access of enterprises and associations to certain advantages (fiscal measures, public grants or contracts with the government) is dependent on their compliance with certain statutory obligations. One of these obligations could be, where appropriate, the balanced representation of women and men on its managing bodies.

In some member states of the Council of Europe, both public and private enterprises are obliged by law to adopt gender equality programmes as part of their overall personnel policy. Governments must ensure that effective measures aimed at delivering a balanced representation of women and men in decision-making positions at all levels within the enterprise or association are adopted. This is of specific importance when enterprises or associations provide public services or implement public policy.

### *Paragraph 30*

This paragraph focuses on making the general public aware of the importance of the balanced representation of women and men in decision-making. It mainly addresses political decision-making but it also applies to public decision-making as regards governmental committees and public positions into which governments makes appointments. Political life is still a very male-dominated area and men are the vast majority of those who hold public decision-making positions.

Often capable women are not selected to run for a political post or appointed to governmental committees or governmental appointed positions because they do not enjoy the trust of those responsible for the selection process. Often, these selectors do not consider decision-making as a suitable role for a woman. This discrimination against women is often said to be based on the fact that the general public does not trust women to the same extent as men for such positions.

Many factors are at the root of the under-representation of women – historical, cultural, socio-economic factors, the image of women in the media, the use of sexist language, but also political factors, such as the selection criteria and processes of political parties and institutions based on masculine values. The traditional division of roles between women and men constitutes an additional obstacle, as the models conveyed are not only interiorised by each individual, but form part of the organisation of society.

The attitude of the general public is of immense importance and can have both negative and positive influence on the development of a balanced representation of women and men. The negative impact is if the public does not trust women for political and public decision-making, thus directly and/or indirectly supporting passivity of governments or even encouraging such passivity. The positive impact is when the general public demands change, indirectly for example through opinion polls or voting patterns and directly when stating the importance of men and women sharing power.

Awareness-raising campaigns aimed at the general public in order to change traditional discriminatory views towards women have given good results. These campaigns can either focus on why the aim of balanced representation is of such importance and how it relates to the definition of a genuine democracy or focus on genuine democracy as such and the prerequisites for achieving it.<sup>1</sup>

#### *Paragraph 31*

The way feminine and masculine roles are still conveyed by most of our societies traditionally place men participating in the public sphere and women taking care of the family and the domestic sphere. Being married and having children can be a disadvantage for women who want to take an active part in political and public life. The fact that most men spend little time on activities linked to family and domestic responsibilities, coupled with a traditional gendered sharing of roles, an absence of adequate infra-structures to support the family and the low salaries of most women, which do not enable them to benefit from the necessary support, may negatively condition their participation.

But political and public participation does not only require good logistics, it also implies the existence of a good climate of psychological support from the family, enabling a woman to manage her time more easily and not to have guilty feelings about not devoting enough time to her family, or the time considered by society to be demanded.

Many member states recognise that the reconciliation of professional and private life is a decisive question to achieve equality between women and men. Nevertheless, the increasing integration of women in the labour market has not always been accompanied by a corresponding participation of men in family and domestic responsibilities, thus creating greater difficulties for women who wish to exercise their right to political and public decision-making.

Contrary to what is commonly perceived and conveyed in our societies, the public and domestic spheres are indivisible. We cannot therefore ignore the political nature of the family and the importance of justice in private life. What happens in the private sphere is highly political and the public administration should intervene when the functioning of the private sphere reveals a violation of human rights, particularly the right to participate. A social debate on questions of equality and participation, leading to putting into question the traditional division of feminine and masculine roles, sensitising men to their responsibilities in the family and domestic sphere and to the benefits they can reap for themselves and for society, could contribute to creating better conditions for the participation of women.

1. See examples in the publication *Going for gender balance*, Council of Europe Publishing, 2002, ISBN 92-871-4901-1.

### *Paragraph 32*

This paragraph focuses on raising awareness of specific groups on the importance of balanced representation of women and men through targeted campaigns. Such campaigns should mainly be geared to politicians and social partners, as well as those who recruit potential decision-makers and nominate political and public decision-makers. Increased awareness among those who have the power and the possibility to change is of vital importance. As paragraph 30, this paragraph mainly addresses political decision-making and public decision-making as regards governmental committees and position into which governments appoints.

The paragraph is, however, not limited to those groups particularly mentioned. Where necessary, awareness-raising campaigns aimed at other specific groups should be considered at a national level. One group might be women themselves, especially in countries where practices such as “family voting” are widespread (see paragraphs II and III of the provisions of the recommendation). It is vital that women are made aware of the fact that there is power in their votes.

Another group might be young people who often have little faith in political decision-makers.

### *Paragraph 33*

The aim of this paragraph is to emphasise that ministers and other society leaders must know what gender equality is and be aware of the fact that women and men lead different lives to some extent and therefore may have different experiences, different needs and priorities. This is an important argument for why sharing power between women and men is so important and considered a prerequisite for genuine democracy. The organisation of interactive seminars introducing statistics regarding the lives of women and men, on gender equality mainstreaming into policy-making and all governmental decisions, introducing legal obligations of governments and governmental policy in this field are therefore crucial. Examples of such initiatives can be found in the publication *Going for gender balance*.

### *Paragraph 34*

This paragraph recommends governments to support non-governmental organisations and research institutes, financially or in other ways, in studying women’s participation in decision-making and the impact it has on the decision-making process and environment. Research in this field is important, as it would provide a basis for progress to be measured and for targets to be set. It would, at the same time, allow for women’s visibility and invisibility to be measured.

One question, which is often asked, is whether the participation of women in political and public decision-making “makes any difference”. Balanced representation of women and men in political and public decision-making is a matter of justice in itself and does not need to be justified. Even so research on this issue confirms that women’s increased participation brings different ideas, interests and point of views into decision-making and the decision-making environment.

Governments cannot be expected to lead such research, but they can actively support organisations and institutes engaged in such research.

### *Paragraphs 35-38*

Research on the obstacles that prevent women’s access to political and public decision-making is at the same time understanding the problems and laying the grounds for comprehensive measures to be adopted. Governments should promote research both in political decision-making as well as in public decision-making. These areas are in many ways different. It is likely that the obstacles women face are different as well.

Opinion poll research on the voting patterns of women and men can highlight the influence voters have with their vote on political parties – such research seeks to determine whether there is a “gender gap” in voters’ party preferences. If there is an imbalance between women and men as to which parties they are likely to support, it can be interesting for the parties (and for voters) to understand why this is the

case. This research can draw attention to party political priorities and the extent they are perceived as representing the interests of women as well as those of men. This, and other research, requires funding, and the financial support of gender-based research into political and public decision-making is necessary to enable an understanding of the issues, interests, participation and representation of women and men in a country's decision-making framework.

Bringing about a balanced participation of women and men in decision-making requires an understanding of the circumstances – individual, contextual and systemic – that inhibit the full participation of women in political and public arenas. Understanding these barriers enables the development of policies and procedures that redress these obstacles and promote women's equal participation in power with men. Publishing the results of such research assists non-governmental organisations, political parties and other relevant groups to develop targeted and specific strategies that are designed to overcome the imbalance between women and men in decision-making.

Women are often particularly active in the social and voluntary sectors. Indeed, quite often, involvement in community activities is the first step for many women into political life. In many instances, the social and voluntary sector is an economy in its own right. Substantial funding may come into the sector from various public and private sources, the sector can offer significant employment opportunities and it can also have a unique and fragmented structure of governance.

Quite often, however, despite women's commitment to their communities, their presence in the decision-making echelons of social and voluntary organisations is quite low. Given the growing importance of the social and voluntary sector as the third partner in the triad of economic, political and social decision-making, it is important to research women's participation and presence in decision-making in this sector, to identify the obstacles to their involvement in the governance structures and to address these difficulties with appropriate initiatives.

Current research on the leadership styles of women and men legislators suggest that there are identifiable differences between them in terms of negotiating styles, policy priorities and ways of working within parliamentary frameworks.

Other research suggests that legislative bodies that give a predominant value to male norms and men's lifestyles are difficult places for women. If women are to be encouraged to participate in elected assemblies, it is important to develop a body of knowledge that investigates differences in perceptions, behaviour, ambitions, priorities and expectations of women and men representatives, with a view to developing a more informed understanding of how legislatures work, how to make them work effectively and how to make them as attractive for women as for men.

#### *Paragraphs 39-41*

The media have an important role to play in the democratisation of society. While the independence of the media is crucial, journalists and other media professionals should be made aware of their responsibility when it comes to presenting unbiased and non-stereotyped images of women and men. Paragraph 39 is taken from the Beijing Platform for Action. While the number of women journalists has significantly increased over the last ten years, they are still rather marginalised in the bodies mentioned in the paragraph and have little influence on media policy as such.

Since the 4th World Conference on Women, little has been done by governments and media in many countries to address the issue of the image of women in the media. In April 2002, the Council of Europe's Parliamentary Assembly adopted a recommendation on the image of women in the media, inviting governments to adopt and implement a policy against sexist and stereotyped images and to set up more bodies to monitor the situation.<sup>1</sup>

Campaigns have been organised in some countries to persuade journalists and editors that their coverage of gender issues is not always neutral (see publication *Going for gender balance*). Journalists should be

1. Recommendation 1555 (2002) on the image of women in the media and Doc. 9394, rapporteur: Ms López González.

provided with training in gender equality issues in order to promote a more balanced image of women and men in the media.

Paragraph 41 deals with the question of ensuring equal visibility to women and men candidates and elected representatives in the media. During election campaigns, the themes dealt with by the media and the time allotted to women and men candidates can have a bearing on the results of the elections. A study was carried out in Switzerland on the coverage of women candidates before the federal election in autumn 1999 (see *Going for gender balance*). Governments should support initiatives taken to analyse election procedures from a gender perspective.

### C. Monitoring

#### *Paragraphs 42 and 43*

The main purpose of these paragraphs and those which follow is to draw governments' attention to the fact that the basis of all work on the advancement of equality over time is careful evaluation and monitoring of the progress made. It is on the basis of this knowledge and evaluation that the government will set new targets and initiate new programmes. Paragraph 42 draws attention to the need for an independent body responsible for following governmental policy in the field of balanced participation of women and men in political and public life. This body could be a mediator, an observatory or a special division in the national equality machinery. An example of such a monitoring body is the Parity Observatory in France.<sup>1</sup> It should be noted that parity observatories or mediation agencies of this nature are powerless unless they are endowed with the necessary financial resources. In order to be able to monitor progress, comparable gender segregated data have to be available. Governments are therefore asked to consider setting up and applying indicators for the monitoring and evaluation of progress in the field of balanced participation of women and men in decision-making, both in political and public life. In paragraph 44 examples of indicators are suggested. Applying them would ensure an internationally comparable report.

#### *Paragraph 44*

The indicators proposed in this paragraph give an indication of the scope of political and public decision-making arenas. These indicators are suggested so that governments can compile base-line data on the composition of political and public decision-makers, track changes over time, facilitate an analysis of the profile of decision-makers in any given country and draw cross-national comparisons.

The number of women and men elected representatives according to political party is an indicator of the progress accomplished by parties as far as women's representation in parliament is concerned. The number of elected representatives in supra-national and national parliaments can be calculated quite easily. The indicator at federal and regional level – when it can be calculated – can be compared to the indicator at supra-national and national level.

The success rate makes a connection between women and men elected representatives and women and men candidates. It indicates the chances of a candidate being elected. The success rate expresses the relation between the percentage of elected representatives and the percentage of candidates. It is calculated as follows:

$$\text{Success rate of women} = \frac{\text{Percentage of women elected representatives}}{\text{Percentage of women candidates}} \times 100$$

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1. This observatory, reporting to the Prime Minister, was set up by the Decree of 18 October 1995. It was originally composed of 18 prominent figures (men and women), selected for their special knowledge. Chaired by the Prime Minister, the observatory was renewed by Decree of 25 November 2002 and is now composed of 33 members: parliamentarians, community workers, university personnel (lawyers, historians, sociologists, political specialists), all of whom are recognised for their expertise on the subject. It is co-ordinated by a Rapporteur General. The functions of the observatory have been enlarged and it is now responsible for:

- identifying, evaluating and analysing the inequalities between women and men in the political, economical and social fields;
- producing and disseminating data on the situation of women at national and international level;
- giving proposals, recommendations and opinions with the aim of promoting the implementation of parity between women and men.

Website: <http://www.observatoire-parite.gouv.fr/>.

Success rate of men = Percentage of men elected representatives × 100  
Percentage of men candidates

If the percentage of women elected representatives and women candidates is the same (e.g. 30% elected representatives, 30% candidates), the success rate is 100. A success rate of more than 100 indicates that the proportion of elected representatives (compared to candidates) is above average, a rate lower than 100 indicates, on the contrary, an under-average figure. It should be pointed out that the success rate is a relative value and can therefore only provide tentative information on the real chances of candidates being elected.

#### *Paragraph 45*

The indicators presented in paragraph 44 offer a quantitative structure for parliamentary reports on women's and men's participation in political and public decision-making. As base-line indicators in their own right, they facilitate a systematic collection of data over time that can enable a government, and parliament, to observe, discuss and take action on the balanced participation of women and men in decision-making. These statistics are also vital in informing comment on this matter, and can act as a starting point for qualitative investigations into the imbalances in women's and men's participation in decision-making. Both types of studies, quantitative and qualitative, can contribute to implementing evidence based strategies designed to redress imbalances between women and men.

An important element in this process is the tabling of reports to assemblies on women's and men's positions in decision-making, on actions taken to redress imbalances and on progress made. Consideration of such reports by legislators signals the importance of the issue and regular parliamentary debates on the subject highlights the effectiveness (or otherwise) of specific measures. In addition, the wide dissemination of these reports provides a regular overall picture of women and men in decision-making to society at large.

Such reports, apart from their evaluation and monitoring function, would help to launch a discussion in society, including in parliament, on the question of balanced participation of women and men in society and on the progress that has been made. It would encourage an evaluation of the measures that have been adopted and put pressure on those political parties, governmental institutions and other decision-makers where progress has been too little, while congratulating and encouraging others. In many member states of the Council of Europe, governments have a legal obligation to report regularly to, for example, the national parliament and to international bodies such as the European Union and the CEDAW Committee. The progress made in this field and evaluation of the measures adopted must be included in these reports. Regular reports based on this recommendation should not therefore involve additional work. The reports, which are disseminated widely, will be of use in other respects. For example, the information provided could serve as a basis for reports presented by the Council of Europe's Steering Committee for equality between women and men (CDEG) to the Committee of Ministers.

#### *Paragraph 46*

This proposal is closely linked to paragraph 45 and of course in many cases it would be the same reports. The main difference is that paragraph 45 focuses on informing the national parliaments on the progress that has been made, while this paragraph focuses on informing the general public.

#### *Paragraph 47*

As an addition to the statistics proposed in paragraph 44, the statistics proposed in this paragraph give qualitative information on candidates and elected representatives. Are there any notable differences between women and men elected representatives according to age, profession or training? Such analyses can show the different ways in which political actors are recruited and what influence age, profession and training can have on the chances of being elected. These analyses can also provide answers to other questions. For example, do women elected representatives have a different professional or training back-

ground than men? Are women elected representatives older than men (and can a difference in career models be noted)?<sup>1</sup>

*Paragraph 48*

As mentioned in paragraphs 39 to 41, the image of women in the media still all too frequently remains a negative one and continues to be stereotyped and sexist. While the contemporary world has undergone rapid change, the image of women in the media has not really been altered.<sup>2</sup>

When looking at the way men and women are portrayed on public service television, research has shown that women are less visible. This means fewer opportunities for recognition and establishing an identity. Men are often in the role of expert, politician or scientist, whereas women are more often seen as victims, mothers or housewives or as a silent background.<sup>3</sup>

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1. In France, all candidates for electoral office must make a declaration providing the following information: surname, first name, sex, profession, age (the level of education is not formally required). Statistics on candidates and elected persons are then elaborated for each département by the electoral office of each préfecture. These statistics are subsequently submitted to the Ministry of the Interior which aggregates the departmental data in order to publish national statistics.

2. See Recommendation 1555 (2002) of the Parliamentary Assembly on the image of women in the media.

3. In 1997/1998 comparative research was conducted in Norway, Sweden, Finland, Denmark and the Netherlands, working together in the Gender Portrayal Network (the Netherlands), to look at the way men and women are portrayed on public service television (*Who speaks, 1997/1998*). The criterion adopted was speaking time. In total, 350 hours of television and 10,000 persons were analysed. The study reveals a structural inequality in the amount of time that men and women appear on screen and in the amount of time they are given to speak. The average is 66% men versus 33% women. Any differences between the countries involved in the study are only marginal. Studies from Belgium and Germany show similar results. In Norway this research has been done for ten years. After an initial slight improvement the average is now the same as it was ten years ago. The same negative tendency can be seen in the Netherlands. There are, however, large differences between the various programme genres: the greatest equality is found in programmes for children and young people and in religious programmes, though the proportion of women nowhere exceeds 50%. The proportions are at their most unbalanced in sports programmes: in the Netherlands, 97% of the people appearing in sports programmes are of the male sex. From the results of this research we can conclude that women are quite literally less visible on our public service television networks. This means fewer opportunities for recognition and establishing an identity. At a symbolic level it might be said that women are given less space and are regarded as less important. Qualitative research reveals that women are structurally assigned a lower status than men and are treated with less respect. \par Source: Keynote speech by Ms Bernadette van Dijck, Head of the NOS Gender Department, the Netherlands, at the Workshop on "good" and "bad" practices regarding the image of women in the media (Strasbourg, September 1998).

### **Appendix I: Time-bound targets**

The United Kingdom Government believes that women and men should hold an equal proportion of all public appointments. The aim is that women should hold 45%-50% of public appointments made by the majority of government departments by the end of 2005. Public Bodies 2001, published on 14 February 2002, showed that at 31 March 2001, women held 34% of all appointments to the boards of non-departmental public bodies, nationalised industries, public corporations and health bodies.

In order to improve this level of representation, the Government annually publishes a report, Public Bodies: Opening Up Appointments which sets out the targets that individual Government Departments are working towards for increasing the proportion of appointments held by women and the action plans to achieve these targets.

### **Appendix II: Gender balance in public appointments**

The United Kingdom Government is committed to achieving a fair representation of women in public life. Research conducted by the United Kingdom Government, Making a Difference, Women in Public Appointments (DTLR, Dec. 2001) found that the main barriers to women taking up public appointments included: awareness of opportunities, attractiveness of appointments and confidence and time commitment required.

The Women and Equality Unit, led by the Ministers for Women, ran seminars across the country to address some of these barriers. The seminars targeted women with relevant experience gained at local level (magistrates, school governors) and encouraged them to apply for national level appointments. The seminars were designed to inspire women with case studies and role models, provide practical information on how to apply and what opportunities are available. Specific seminars have also been organised for minority ethnic women, trade union women and businesswomen.

Alongside this work, the Women's National Commission set up an e-network for women who attended the seminars, this provided access to mentoring support, information on available appointments and practical help with applications.

The Women and Equality Unit has been conducting research on this work in order that this model of work can be evaluated and promoted as good practice and so that women's experiences and views of public appointments can be incorporated into policy-making.

### **Appendix III: Constitutional and legislative changes to promote balanced participation**

#### **Belgium**

As from February 2002, the Belgian Constitution explicitly stipulates the principle of equality between women and men, thus legitimising the policy of positive action. Article 10 of the Constitution now states that "equality between women and men is guaranteed", whereas its Article 11bis stipulates that "the law, decree or rule referred to in Article 134 guarantees to women and men the equal exercise of their rights and liberties, and notably promotes their equal access to elective and public office". An additional provision also declares that unisex governments are unconstitutional, at all levels of decision-making.

The constitutional amendment led to the adoption of several acts that reinforce the provision foreseen in the Act of 24 May 1994 aiming to promote an equal balance between men and women on lists of candidates for elections.

According to this act, the number of candidates of the same sex could not exceed two-thirds of the total number of seats to be filled.

The new acts (adopted respectively on 17 June and 18 July 2002) establish gender parity on candidate lists for European, federal and regional elections, with a candidate of either sex on the first two places on the list. Alternating women and men candidates is important in a proportional electoral system, where the place occupied on the list plays an important role in the election of candidates.



## **France**

The constitutional law of 8 July 1999 establishes the principle of equal access for women and men to electoral office and elective positions. Article 3 of the Constitution confers on the law the responsibility of promoting this equal access, while Article 4 provides that political parties “shall contribute to implementation of this principle”.

The reform was embodied in the law of 6 June 2000 under which, in list-based elections, the difference between the number of male and female candidates on each list must be no more than one. For single-ballot elections (i.e. European elections and a certain number of seats in the Senate) women and men must be presented alternately all the way down the list while, in elections held over two rounds (municipal and regional elections and elections to the Corsican Assembly), each group of six candidates in order of presentation on the list must contain an equal number of women and men. In parliamentary elections (which are single-member majority elections held over two rounds) there will be financial penalties for parties that do not present 50% of women candidates. If the difference between the number of candidates of each sex presented by a party exceeds 2%, the party will be penalised. The public funding awarded according to the number of votes obtained in the first round of the parliamentary elections (around 11 centimes per vote) will be reduced by a percentage equal to half the difference between the number of women and men candidates expressed as a percentage of the total number of candidates.

The municipal elections of 11 and 18 March 2001, which provided the first test for the law, showed that it is an effective means of promoting equality. Over 38,000 women gained seats on the municipal councils of towns with more than 3,500 inhabitants (which were the only ones concerned by the law), representing 47.5% of the elected representatives. This was a significant leap forward, almost doubling the equivalent figure for 1995 (27.5%).

On the other hand, the results of the parliamentary elections in June 2002 did not give similar results. Only 71 women were elected out of the 577 members of parliament (12.3%). This was a small increase compared to the 1997 figure of 10.9%. Women represented 38% of the candidates (22% in 1997) and only a quarter of them were elected.

## **Italy**

Two electoral laws were adopted in 1993. In Act No. 81, of 25 March 1993, paragraph 2 of article 5 and paragraph 1 of article 7 state that a candidate list cannot contain more than two-thirds of either sex. Act No. 27, of 4 August 1993, laid down new rules for elections to the Chamber of Deputies. This law stipulates that elections to the Chamber of Deputies will from now on follow a mixed system: 75% of the candidates will be elected on the basis of the candidates having received the most votes and 25% of the seats will be attributed according to a system of lists. For this latter category, paragraph 2 of article 4 states that male and female candidates must alternate on a list, which means that, in practice, there will be 50% of each sex on the lists. However, the two laws were annulled by the Italian Constitutional Tribunal, on the basis that a fundamental human right, such as the right to present oneself for election, cannot be subject to gender-based treatment.

In May 2002, a law on the election of Members of Parliament was adopted, Article 37 of which stipulates that each candidate list must contain at least 30% of both sexes. In the September 2002 elections, 17.5% women were elected, compared to 7.5% in 1998.

## **United Kingdom**

In February 2002 the United Kingdom Government introduced legislation to allow political parties to take positive measures to reduce inequality in the numbers of men and women elected in local, national and European elections. The Act is permissive and enables political parties, if they wish, to adopt positive measures.

The Act has a “sunset clause” that would cause the provisions to expire at the end of 2015. This should allow at least three elections to have taken place in each body where the legislation applies (House of

Commons, National Assembly for Wales, Northern Ireland Assembly, European Parliament and local government elections). The clause also allows the Act's provisions to be extended, by secondary legislation, if there is a case for doing so in 2015.

#### **Appendix IV: Gender-balanced representation in public committees**

##### **Denmark**

In Denmark, the Committees Act was adopted in 1985 and the Boards Act in 1990. In both cases it was stated that a gender-balanced composition should be sought. The authorities, organisations and bodies concerned were required to propose equal numbers of men and women when nominating committee members.

The competent minister then made the actual appointment. The new Danish Gender Equality Act which was passed in 2000 provides that all public committees and boards appointed by a minister with the task of preparing legislation or regulations of any kind or with the task of policy-making, must have an equal representation of women and men. All public bodies or organisations that nominate a member to a committee or a board must nominate a woman and a man. In cases where more than one person is to be appointed, an equal number of women and men must be nominated.

##### **Finland**

The Act on equality between women and men in Finland (8.8.1986/609), Section 4, reads: "Authorities shall promote equality between women and men purposefully and systematically, especially by changing circumstances which prevent the achievement of equality.

"The minimum percentage of both women and men in government committees, advisory boards and other corresponding bodies, and in municipal bodies, exclusive of municipal councils, shall be 40, unless there are special reasons to the contrary.

"If an agency, an institution or a municipal or State-majority company has an administrative board, a governing board or any other executive or administrative body consisting of elected or appointed representatives, that organ shall comprise an equitable proportion of both women and men, unless there are special reasons to the contrary."

##### **Norway**

Article 21 of the Norwegian Gender Equality Act reads: "Each sex shall be represented with at least 40% of the members when a public body appoints or elects committees, governing boards, councils, etc., with 4 members or more. Both sexes shall be represented in committees, etc., with 2 or 3 members. These provisions also apply to deputy members."

"Exceptions from the first paragraph may be granted if special circumstances make it evidently unreasonable to demand that the requirements are fulfilled." "Committees etc. which pursuant to statutory law consist only of members from directly elected bodies need not fulfil the requirements of this article." "For Committees etc. elected by local, municipal or county democratically elected authorities, the provisions of the Act on local and county authorities will apply."

#### **Appendix V: Parliamentary committees or delegations for women's rights and equal opportunities**

##### **France**

Parliamentary delegations for women's rights and professional equality have been set up in France. The National Assembly delegation was established by the Law of 12 July 1999 and the Senate delegation by the Law of 15 July 1999. These delegations are each composed of 36 members. At the end of 2002, the National Assembly delegation included 25 women and 11 men. Its members are appointed in such a way as to ensure proportional representation of parliamentary groups and balanced representation of men and women and of the standing committees.

Government and parliament bills can be referred to it by the Bureau of the Assembly, a standing committee or a special committee, in which case it produces a report including recommendations. One of its first tasks was to give an opinion on the draft law to afford equal access for men and women to elective office and positions.

## **United Kingdom**

### *Regional level*

The Welsh Assembly has a Committee on Equality of Opportunity that promotes the principle of equality of opportunity for women and men through its functions, including an annual gender audit of committee membership.

The Scottish Parliament has an Equal Opportunities Committee. The remit of the Committee is to consider and report on matters relating to equal opportunities and on the observance of equal opportunities within the Scottish Parliament.

The Committee has recently considered a Gender Equality Best Value review (26/ 03/02).

### *Local level*

Local Governments in England are presently adopting the "Equality Standard", a generic framework aimed at enabling local government to address its legal obligations under anti-discrimination law—prohibiting discrimination in the delivery of services and employment (Bristol, February 2002; see The Equality Standard, The Employers' Organisation for Local Government; for copies e-maildialog@lg-employers.gov.uk).

The Local Government Association (LGA) has developed a Gender Equality Strategy (for details see <http://www.lga.gov.uk/>). This document seeks to develop and establish LGA policy on gender equality aimed at enabling women and men to participate on a more equal basis in the social, cultural, political and economic sphere.

Bristol City Council has a Sustainable Development and Social Justice Executive and a corresponding Commission. The Executive is responsible for developing policies on women and equality issues across the Council, and has established a Women's Forum as a permanent consultation group on all Council policies.

## **Annexe VI : Women's talent bank**

Kvinnebasen was established in 1999 and is run by Likestillingssenteret (the Norwegian Centre of Gender Equality). The goal of this women's talent bank is to make women's competence more visible. The main goals of Kvinnebasen are:

- recruitment of women for management positions
- recruitment of women for board positions.

In addition the database can be used by the media for statements, interviews, etc., and by organisations, institutions and others looking for lecturers or speakers. Kvinnebasen aims at increasing the number of women in top positions, both in the private and in the public sector. Kvinnebasen is part of a larger database, which also comprises <http://www.forskerbasen.no/> and <http://www.styrekandidater.snd.no/> (databases for women researchers and women candidates for board positions).

Today some 3350 women have registered their CVs in the database. 76% of those registered have management experience, and 57% have experience from boards. In general the women listed in Kvinnebasen have a higher education, and they have experience from a wide range of fields. There is great diversity in the age, type of experience and education among the women listed in the database.

Kvinnebasen is an open database, i.e. there are no restrictions on who can enter the site and look up candidates listed. Recruiters may, e.g. search for core competencies, type of education, city, name, and all other information that is registered.

All candidates registered in Kvinnebasen receive a monthly newsletter. Also, the site contains updated articles on women's issues, "profile of the month", "company of the month", etc. To see for yourself, go to <http://www.kvinnebasen.no/>.

## **Appendix VII: Political parties and the promotion of balanced participation**

### *United Kingdom*

The Sex Discrimination Election of Candidates Act 2002 – which is now law – is a permissive law allowing political parties in the United Kingdom to use all women short lists in all public elections (European, General, Local, Scottish, Welsh and GLA).

The Liberal Democrats used zipping in the 1999 European Elections and twinning in the GLA elections.

The Labour Party used all-women short lists in the 1997 General Election (which was challenged and the Sex Discrimination Act ruled that this was illegal – hence the change in the law in 2002), and twinning in the GLA, Welsh Assembly and Scottish Parliamentary Elections.

All parties are drafting their response to this Act and it will be seen how each party plans to use the legislation after the respective conferences at the end of the summer 2002 (the Labour Party is likely to reintroduce all-women short lists to some degree, Liberal Democrats voted down a motion at its 2001 conference for all-women short lists for available seats, and instead resolved to put more money into awareness and training – so it is unclear how they will respond at the 2002 conference, the Conservative Party has been making positive noises about fair and representative lists of candidates).

Some websites of interest

<a href="http://www.humanrights.coe.int/equality/">http://www.humanrights.coe.int/equality/</a>	Council of Europe's Equality Division
<a href="http://assembly.coe.int/">http://assembly.coe.int/</a>	Council of Europe's Parliamentary Assembly
<a href="http://www.coe.fr/cplre/indexe.htm">http://www.coe.fr/cplre/indexe.htm</a>	Council of Europe's Congress of Local and Regional Authorities of Europe
<a href="http://europa.eu.int/comm/employment_social/equ_opp/index_fr.htm">http://europa.eu.int/comm/employment_social/equ_opp/index_fr.htm</a>	Gender equality – European Union
<a href="http://www.db-decision.de/">http://www.db-decision.de/</a>	European database: Women in decision-making
<a href="http://www.ccre.org/site-fr.html">http://www.ccre.org/site-fr.html</a>	European Network of Women Elected Representatives of Local and Regional Authorities
<a href="http://www.womenlobby.org/index2.htm">http://www.womenlobby.org/index2.htm</a>	European Women's Lobby
<a href="http://www.europarl.eu.int/committees/femm_home.htm">http://www.europarl.eu.int/committees/femm_home.htm</a>	European Parliament Committee on Women's Rights and Equal Opportunities
<a href="http://www.ipu.org/">http://www.ipu.org/</a>	Inter-Parliamentary Union
<a href="http://www.un.org/womenwatch/daw/">http://www.un.org/womenwatch/daw/</a>	UN Division for the Advancement of Women – Division de l'ONU pour la promotion des femmes



**Recommendation CM/Rec(2007)13  
of the Committee of Ministers to member states  
on gender mainstreaming in education**

*(adopted by the Committee of Ministers on 10 October 2007  
at the 1006th meeting of the Ministers' Deputies)*

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

Considering that the aim of the Council of Europe is to achieve greater unity between its members, and that this aim may be pursued, in particular, through common action in the cultural field;

Bearing in mind Recommendation Rec(2002)12 of the Committee of Ministers to member states on education for democratic citizenship, adopted on 16 October 2002, which declares that "education for democratic citizenship is a factor for social cohesion, mutual understanding, intercultural and inter-religious dialogue, and solidarity, that it contributes to promoting the principle of equality between men and women, and that it encourages the establishment of harmonious and peaceful relations within and among peoples, as well as the defence and development of democratic society and culture";

Bearing in mind Recommendation Rec(2003)3 of the Committee of Ministers to member states on balanced participation of women and men in political and public decision making, adopted on 12 March 2003, in which it invites member states to incorporate into school curricula education and training activities aimed at sensitising young people about gender equality and preparing them for democratic citizenship";

Bearing in mind that the European Ministers responsible for equality between women and men recommended, at the 4th Ministerial Conference on Equality between Women and Men (Istanbul, 13-14 November 1997), that the Steering Committee for Equality between Women and Men (CDEG) and the Steering Committee for Education (CDED) work on a joint project "aimed at promoting gender equality education and non-stereotyped education at all levels of the education system";

Bearing in mind Recommendation No. R (98) 14 of the Committee of Ministers to the member states of the Council of Europe on gender mainstreaming, which recommends that the governments of member states encourage decision makers to "create an enabling environment and facilitate conditions for the implementation of gender mainstreaming in the public sector";

Having noted the Declaration of the European Ministers of Education on the main theme of the 20th Session of the Standing Conference of European Ministers of Education on "Educational Policies for Democratic Citizenship and Social Cohesion: challenges and strategies for Europe", (Krakow, 15-17 October 2000);

Recalling the Declaration of the European Ministers of Education adopted at the 21st Session of the Standing Conference of European Ministers of Education on "Intercultural Education in the New European Context" (Athens, 10-12 November 2003);

Bearing in mind the following texts adopted by the Parliamentary Assembly: Recommendation 1229 (1994) on equality of rights between men and women and Recommendation 1281 (1995) on gender equality in education;

Bearing in mind the Council of Europe European Charter for a Democratic School without Violence (2003);

Reaffirming their commitments under the United Nations Convention on the Elimination of All Forms of Discrimination against Women (CEDAW, 1979), particularly Articles 2, 4 and 10;

Mindful that, despite the fact that there is a considerable amount of legislation at national and international level to guarantee equal opportunities, that boys and girls are increasingly being educated together in many member states and that there are a greater number of women in the education system, there are still excessive disparities between girls and boys, women and men, in our societies with respect to school and social practices, educational and career guidance, training, employment, participation in society in general and, in particular, decision making, and that these disparities undermine the human rights of both men and women, which include the right to participate fully, as equal partners, in all aspects of life;

Mindful that these disparities negatively impact on women's and men's lives and have implications for our societies, which are too often deprived of women's contribution in the public arena and men's contribution in the private sphere;

Considering that democratic societies must be based on partnership and the equal sharing of rights and responsibilities between women and men, cater for their respective needs, ensure balanced participation in all areas of life and full citizenship rights to every woman and man;

Mindful that representations of femininity and masculinity and models for assigning social roles, which shape our societies, are replicated at school, and that eradicating formal discrimination will not be sufficient to ensure that the school system is a vehicle for *de facto* equality;

Mindful that stereotyped social roles for the sexes limit opportunities for women and men in fulfilling their potential, that equality calls for gender partnerships to be positive and dynamic, so as to bring about structural change at all levels and, eventually, a new social order;

Concerned about the fact that girls' academic success does not automatically lead to success in terms of the transition from education to the workforce and participation in political and economic decision making and about the lack of academic success and acquisition of social and personal skills by boys;

Mindful of the education system's responsibility to educate pupils/students for active participation in the various aspects of democratic life, be they political, civic, social or cultural, and at all levels – local, regional and national;

Acknowledging that teachers can become agents for the perpetuation of gender-based selection mechanisms or, on the contrary, for social change, and that it is essential to involve schools and the various participants in the education process in promoting gender equality;

Mindful that teacher education and training is crucial in fostering gender equality in education;

Mindful that, at school, the non-formal sphere, namely the hidden curriculum, is just as important as the formal sphere in constructing girls' and boys' identities;

Convinced that equality between women and men and the gender perspective must be incorporated at all levels of the education system from the earliest age, so as to foster, among girls and boys, women and men, the values of justice and participation necessary for the effective and active exercise of democratic citizenship and the building of a genuine partnership between women and men in the private and public spheres,

Recommends to the governments of member states that they:

- I. review their legislation and practices with a view to implementing the strategies and measures outlined in this recommendation and its appendix;
- II. promote and encourage measures aimed specifically at implementing gender mainstreaming at all levels of the education system and in teacher education with a view to achieving *de facto* gender equality and improve the quality of education;
- III. create mechanisms, throughout the education system, to favour the promotion, implementation, monitoring and evaluation of gender mainstreaming in schools;
- IV. bring this recommendation to the attention of the relevant political institutions and public and private bodies, in particular, the ministries and/or public authorities responsible for framing and implementing

education policies at central, regional and local level, school management bodies, local and regional authorities, trade unions and non-governmental organisations;

V. monitor and evaluate progress arising from the adoption of gender mainstreaming at school, and inform the competent steering committees of the measures undertaken and the progress achieved in this field.

## **Appendix to Recommendation CM/Rec(2007)13**

### **Definitions**

For the purpose of the present recommendation:

“gender mainstreaming” means: the (re)organisation, improvement, development and evaluation of policy processes, to ensure that a gender equality perspective is incorporated at all levels and stages of all policies by those normally involved in policy making;

“gender budgeting” means: the application of gender mainstreaming to the budgetary process, namely, gender-based assessment of budgets, bringing a gender perspective into all levels of that process, and restructuring revenue and expenditure to promote gender equality;

“quality education” means: taking account of the following three elements:

- matching performance to expectations (fitness for purpose);
- self-improvement and transformation (focus on processes);
- empowerment, motivation and participation (focus on learners);

“democratic citizenship” means: assuming and exercising one’s rights and responsibilities in society, by participating in civic and political life, and by valuing human rights and social and cultural diversity;

“democratic school” means: a school where governance is based on human rights, empowerment and involvement of students, staff and stakeholders in all important decisions.

The governments of member states are invited to consider the following measures with a view to implementing them:

#### *Legal framework:*

1. incorporating the principle of equality between women and men into national laws on education, for the purpose of giving girls and boys equal rights and opportunities at school, and promoting *de facto* equality between women and men in society as a whole;
2. assessing the gender impact of future laws on education and, where necessary, reviewing existing laws from a gender perspective;

#### *Education policies and support structures:*

3. launching special programmes to bring the gender mainstreaming strategy into education policies and schools;
4. drawing up action plans and allocating resources to implement the gender mainstreaming programme, including inbuilt monitoring and evaluation;
5. studying the impact of education policies on girls and boys, women and men, providing qualitative and quantitative instruments for gender impact assessment, and using the gender budgeting strategy to promote equal access to, and enjoyment of, school resources;
6. ensuring that the statistics produced by education ministries and authorities are broken down by sex, and published regularly;
7. ensuring that committees or task forces set up by those ministries and/or authorities are gender-balanced;



8. organising awareness-raising initiatives and/or training on gender equality and gender mainstreaming for the staff of education ministries;
9. preparing general documentation on incorporating the gender perspective and gender equality dimension, and particularly examples of good practices, and disseminating this material, *inter alia*, via the websites of education ministries and/or authorities;
10. preparing and disseminating guidelines for schools, teachers and curriculum planners on incorporating the gender perspective and gender equality dimension; making school inspectors more aware of gender mainstreaming as an element in evaluation of schools, and devising indicators for quality assurance and self-evaluation;
11. providing teachers and other education staff with information on international agreements and guidelines on equality between women and men, particularly in the education field;

*School governance and school organisation:*

12. encouraging school management bodies to introduce gender mainstreaming in schools;
13. sensitising parents and guardians and involving them in schools' work on gender mainstreaming and gender equality;
14. encouraging the wider education community to accept schools' objectives and mission in the matter of gender mainstreaming, and play an active part in implementing that strategy;
15. promoting balanced representation of women and men at all levels of the education process, particularly among school managers and principals;
16. promoting a holistic approach to informal and formal education in schools – an approach that includes life-skills programmes, covers human rights, human dignity and gender equality, develops self-esteem and self-respect, and encourages informed decision making, thus preparing girls and boys for community and family life;
17. promoting a democratic school culture, which includes adopting educational practices designed to enhance girls' and boys' capacity for participation and action, and for coping with change and gender partnership, as a prerequisite for the full exercise of citizenship;
18. encouraging balanced participation of boys and girls in collective decision making and school management, and in all extra-curricular activities, for example, school councils, children's parliaments, youth forums and clubs, students' associations, outings, school exchanges, voluntary work, meetings with local political leaders and information campaigns;
19. encouraging local authorities and relevant officials to support any conversion work (sanitary facilities and accommodation, etc.) needed for schools to accommodate both girls and boys and their lifestyles;

*Initial and in-service education and training for teachers and trainers:*

20. promoting awareness-raising and training on gender equality for all education personnel, and particularly school principals; producing classroom aids and teacher-training materials on gender mainstreaming in education, and distributing them to teachers;
21. including, in initial and in-service training, content which allows teachers to reflect on their own identity, beliefs, values, prejudices, expectations, attitudes and representations of femininity/masculinity, as well as their teaching practice; teachers should be encouraged to challenge sex-stereotyped attitudes and beliefs, which can inhibit boys' and girls' personal development and prevent them from realising their full potential;
22. bringing equality, diversity and the gender perspective into various areas of initial and in-service teacher training, and particularly: the production, reproduction and transmission of knowledge; the dynamics of teaching (teaching materials and methods; interaction and assessment) and institutional

culture (organisation of the school day, school layout and interior design, recreational activities, posters and advertisements);

23. improving the teaching profession's public image and, when necessary, increasing teachers' salaries, for the purpose of encouraging both men and women to opt for careers in teaching, particularly at pre-school, primary and secondary level;

*Course programmes, school curricula, subjects and examinations:*

24. paying special attention to the gender dimension in course programme content and general curriculum development (particularly for scientific and technological subjects), and revising curricula as necessary;

25. evaluating the place of women in school curricula and the various disciplines, and highlighting their experience and contributions in the subjects taught;

26. taking account, in planning curricula, of girls' and boys' interests and preferences in respect of learning and teaching styles, for the purpose of fostering academic success and broadening the range of educational and career options;

27. making education for private life part of the school curriculum, when necessary, in order to encourage boys and girls to be self-reliant in this area, make them more responsible in their

emotional and sexual relationships and behaviour, combat sexist role stereotyping, and prepare young people for a new gender partnership in private and public life;

*Teaching materials:*

28. making authors and publishers of school textbooks, and of educational, teaching, assessment and career guidance materials, aware of the need to make gender equality one of the quality criteria for the production of these materials and the development of multi-media products for use in schools;

29. encouraging teachers to analyse, challenge and so help to eliminate sexist stereotypes and distortions which these textbooks, materials and products may convey in their content, language and illustrations;

30. encouraging teachers to analyse and counter sexism in the content, language and illustrations of comics, children's books and games, video games, websites and films, which shape young people's attitudes, behaviour and identity;

31. devising and disseminating indicators for the appraisal of teaching materials – particularly textbooks and multi-media products – from a gender perspective;

*Teaching methods and practices:*

32. including analysis of teaching methods and practices from a gender perspective in guidelines for self-evaluation and quality assurance in schools;

33. making teachers aware of research done on teachers' interaction with pupils of each sex;

34. promoting gender mainstreaming in sports and leisure activities, where gender-based stereotypes and expectations may affect girls' and boys' self-image, identity-building, health, skills acquisition, intellectual development, social integration and gender relations;

35. encouraging girls and boys to explore new roles, activities and areas, and ensuring that they have equal access to all parts of the curriculum and to the same learning experiences;

36. ensuring that non-sexist language is used, and account taken of the gender dimension in teaching practice and throughout schools;

*Education for democratic citizenship and human rights:*

37. making gender equality a central part of education for democratic citizenship and human rights, and including that and other issues which are vital to democracy – namely, the individual's rights and responsibilities in the private and public spheres – in basic legislation on school systems, as aims to be achieved in curricula, school culture and teacher training;
38. creating school learning contexts which focus on the needs and interests of both girls and boys regarding issues which affect our societies; enabling them to develop and exercise democratic citizenship, *inter alia*, by acknowledging both girls and boys as agents for social change, and devising projects which encourage initiative, give them action-gearred knowledge and skills, and so forge links between life at school and outside;

*Educational and career guidance:*

39. making gender mainstreaming one of the objectives of educational and career guidance;
40. encouraging and training guidance staff to use gender mainstreaming, so that they can analyse and counter the effects of sexist socialisation when necessary;
41. exploring the influence of female and male role perceptions on girls' and boys' identities and life plans, and promoting discussion of educational and career choices in the classroom;
42. promoting co-operation between schools and firms, for the purpose of giving girls and boys a better idea of the openings available in various sectors, and particularly in occupations dominated by one sex;
43. compiling and disseminating sex-based statistics on various careers;

*Preventing and combating sexist violence:*

44. teaching young people to consider and interpret relationships with reference to gender equality, human rights, power relations and violence;
45. providing guidelines to help schools to ensure that respect for human beings is the basis of their activity, and prevent/combat any forms of individual or collective violence or discrimination which generate unsafe situations, fear, persecution, psychological or sexual harassment, physical assault or sexual violation of girls and boys in ordinary school life;
46. raising the awareness of education staff and training them to detect, analyse, respond to, and combat all forms of sexist violence;
47. making girls and boys aware of the dangers of exploitation, sexual abuse and trafficking to which they are exposed, ensuring that schools can respond quickly to serious violations of their sexual integrity and safety (incest, rape, paedophilia);
48. requiring schools to devise policies and procedures to deal with gender-based bullying, harassment and violence;
49. making school principals and teachers aware of violence rooted in custom and culture, affecting either women or men, so that they can analyse and act on it, and support the right of girls to self-determination;

*Vulnerable groups:*

50. promoting specific measures for girls and boys from groups whose customs and culture make for early school-leaving, and focusing parents' attention on this issue;
51. promoting specific measures for young people from disadvantaged groups, both boys and girls, who drop out and/or face social exclusion;

*New information and communication technologies:*

52. adopting cross-sectoral strategic guidelines on the need to apply gender equality criteria in using information and communication technologies (ICT) in education and, in particular, developing and selecting multi-media products for use in schools;
53. promoting equal access to, and use of, ICT for girls and boys from an early age in schools, and other formal and non-formal training and education contexts;
54. analysing how new information and communication technologies are used by girls and boys,

*Media:*

55. encouraging exploration of the role which the media can play in teaching and helping young people (girls and boys) to develop critical attitudes to sexist representations of femininity, masculinity and gender relations in society;

*Research on gender and education issues:*

56. initiating and supporting research on gender and education, for example:
  - research on sexism in the oral and written language used in the classroom and elsewhere in schools, including inter-pupil communication;
  - research on innovative projects on gender stereotyping and pupil behaviour, representations of masculinity and femininity, new identities for girls, and relations between girls and boys, with special reference to aggressive and abusive behaviour;

*Monitoring:*

57. collecting and processing, on a regular and ongoing basis, statistics on pupils and other participants in the education process, broken down by gender and covering levels of instruction, courses of study, disciplines and career options (particularly in scientific and technical subjects), publishing them regularly, and ensuring that they are widely distributed;
58. implementing this recommendation by monitoring and evaluating gender mainstreaming policies, practices and results;
59. regularly evaluating measures adopted and action taken, publishing the findings and disseminating them widely among the parties concerned.



**Recommendation CM/Rec(2007)17  
of the Committee of Ministers to member states  
on gender equality standards and mechanisms**

*(adopted by the Committee of Ministers on 21 November 2007  
at the 1011th meeting of the Ministers' Deputies)*

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

Bearing in mind that the enjoyment of the rights set forth in the Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR) and its protocols, as well as the rights set forth in the revised European Social Charter, must be secured without discrimination on any ground such as sex, and that Protocol No. 12 to the ECHR guarantees the enjoyment of any right set forth by law without discrimination on any ground such as sex, and considering other specific instruments such as the Council of Europe Convention on Action against Trafficking in Human Beings;

Recalling its declaration on equality of women and men, adopted on 16 November 1988, reaffirms that equality of women and men is a principle of human rights, and a *sine qua non* of democracy and an imperative of social justice;

Recalling that the declaration on equality between women and men as a fundamental criterion of democracy, adopted at the 4th European Ministerial Conference on Equality between Women and Men (Istanbul, 13-14 November 1997), states that the achievement of equality between women and men is an integral part of the process leading to a genuine democracy, that as a prerequisite the participation of all members of society, women and men, in all walks of life, has to be fully secured, and that democracy must become gender aware and gender sensitive;

Recalling that the resolution on achieving gender equality: a challenge for human rights and a prerequisite for economic development, adopted at the 6th European Ministerial Conference on Equality between Women and Men (Stockholm, 8-9 June 2006), states that one of the main goals of any democratic society must be to achieve *de facto* gender equality and that there can be no sustainable economic development without the full participation of women, and bearing in mind that the appendix to this resolution draws up strategies for achieving gender equality in all spheres of society;

Bearing in mind the Declaration and the Action Plan, adopted at the Third Summit of Heads of State and Government of the Council of Europe (Warsaw, 16-17 May 2005), in which the member states declare that equal participation of both women and men is a crucial element of democracy, and therefore confirm their commitment to achieving real equality between women and men;

Recalling all the relevant recommendations of the Committee of Ministers to member states of the Council of Europe and in particular the following: Recommendation No. R (84) 17 on equality between women and men in the media; Recommendation No. R (85) 2 on legal protection against sex discrimination; Recommendation No. R (85) 4 on violence in the family; Recommendation No. R (90) 4 on the elimination of sexism from language; Recommendation No. R (96) 5 on reconciling work and family life; Recommendation No. R (98) 14 on gender mainstreaming; Recommendation No. R (2000) 11 on action against trafficking in human beings for the purpose of sexual exploitation; Recommendation Rec(2002)5 on the protection of women against violence; and Recommendation Rec(2003)3 on balanced participation of women and men in political and public decision making;

Bearing in mind that the Universal Declaration of Human Rights (UDHR) proclaims that all human beings are born free and equal in dignity and rights and that everyone is entitled to all the rights and freedoms set out therein, without distinction of any kind, including distinction based on sex;

Bearing in mind that the States Parties to the International Covenant on Economic, Social and Cultural Rights (ICESCR) and the International Covenant on Civil and Political Rights (ICCPR) have the obligation to ensure the equal right of women and men to the enjoyment of all economic, social, cultural, civil and political rights set forth in these covenants, and considering also some specific instruments such as the relevant International Labour Organisation (ILO) conventions;

Bearing in mind that the States Parties to the Convention on the Elimination of all Forms of Discrimination against Women (CEDAW) condemn discrimination against women in all forms, and agree to pursue by all appropriate means and without delay a policy of eliminating discrimination against women and of achieving substantive gender equality;

Bearing in mind that the Beijing Declaration and Platform for Action adopted at the United Nations 4th World Conference on Women reaffirm that the human rights of women and the girl child are an inalienable, integral and indivisible part of universal human rights, and that the advancement of women and the achievement of equality between women and men are a matter of human rights and a condition for social justice and should not be seen in isolation as a women's issue; recalling that the aim of the Beijing Platform for Action is to promote and protect the full enjoyment of all human rights and fundamental freedoms of all women throughout their lives, and that to this end, 12 critical areas of concern have been identified and strategic action to be taken in these areas has been set up;

Recalling that in the report of the Ad Hoc Committee of the whole of the 23rd special session of the United Nations General Assembly (Beijing +5 political declaration and outcome document), as well as in the political declaration from the 49th session of the United Nations Commission on the Status of Women in March 2005 (Beijing +10), progress was reviewed and appraised and obstacles and current challenges identified in the implementation of the Platform for Action: it was recognised that the goals and commitments made in the Platform for Action have not been fully implemented and achieved, and it was agreed upon that further actions and initiatives should be taken to overcome obstacles and to achieve the full and accelerated implementation of the Platform for Action at all levels and in all areas;

Bearing in mind the United Nations Millennium Development Goals, adopted at the Millennium Summit in 2000, which consider gender equality as a fundamental and cross-cutting goal, and also as a prerequisite for the achievement of all the other goals, and the resolution adopted by the United Nations General Assembly on the 2005 World Summit Outcome, which followed up the outcome of the Millennium Summit, in which it is reaffirmed that gender equality and the promotion and protection of the full enjoyment of all human rights and fundamental freedoms for all are essential to advancing development, peace and security, and that progress for women is progress for all;

Recalling the gender-specific provisions of the Treaty establishing the European Community (EC Treaty) introduced by the Amsterdam Treaty, as well as the relevant regulations, directives, decisions, recommendations and resolutions in this field;

Considering that, although the principle of gender equality has been widely accepted and that measures have been taken in most countries, a gap still persists between principles and practice, between *de jure* equality and *de facto* equality;

Considering also that, in order to bridge that gap, it is time not only to set standards but to ensure their implementation, conducive to an effective achievement of substantive gender equality, including the regular monitoring and assessment of such processes;

Considering, on the other hand, the specific nature of discrimination against women, as having a structural and horizontal character, that pervades all cultures and communities, as well as all sectors, levels and areas, throughout life, and the need to address such discrimination in a systematic and comprehensive way, in order to achieve full and substantive gender equality;

Considering, in this regard, that governments should encourage the respect and full implementation of the principle of gender equality also by independent bodies (private persons or enterprises, media organisations, autonomous academic institutions, etc.), and promote proactive measures for gender equality and the creation of a general climate that may be conducive to that aim,

Recommends that the governments of member states take or reinforce necessary measures to implement gender equality in practice, taking fully into account the following principles and standards:

### **A. General standards**

#### *1. Gender equality as a principle of human rights and a government responsibility*

1. Gender equality is a principle of human rights and women's human rights are an inalienable, integral and indivisible part of universal human rights. Gender equality is also a requirement for the achievement of social justice and a *sine qua non* of democracy.

2. Acceptance of these principles implies not only the elimination of all forms of discrimination, legal or otherwise, on the basis of sex, but also the fulfilment of a number of other requirements that must be seen as qualitative indicators of political will to achieve substantive gender equality or *de facto* equality.

3. Elements indicating states' political will and commitment to gender equality in this regard include the following:

i. that gender equality policies be devised and included in the overall framework of human rights protection and promotion, even if specific programmes and responsible institutions are required in particular areas;

ii. that no cultural tradition or social custom that negatively affects, in particular, women's and girls' full enjoyment of human rights or their human dignity be accepted or tolerated. The measures taken to eradicate these traditions or customs shall be complemented by appropriate measures aimed to meet the specific needs of the women concerned;

iii. that no social, economic or political circumstance be invoked to deny or not fulfil gender equality requirements or the enjoyment by women of their human rights;

iv. that the global nature and horizontal character of gender equality objectives be acknowledged and pursued through comprehensive action plans and programmes that encompass different areas and different levels of governance and that must be closely monitored and evaluated;

v. that adequate human and financial resources be allocated to programmes, projects and initiatives for the achievement of gender equality and women's empowerment and that gender budgeting be used in all programmes in all areas, as a necessary tool to guarantee that the principle of gender equality is respected in the distribution and allocation of resources;

vi. that sex-disaggregated data and statistics in all areas and regarding all policies and programmes be regularly gathered and analysed, as indispensable tools to monitor progress on the way to achieving substantive gender equality.

#### *2. Gender equality as a concern and responsibility of society as a whole*

4. Gender equality is not a women's issue but one that concerns men as well and affects society as a whole. Besides being a requirement of democracy and social justice, gender equality is also a public good, providing social, political and economic benefits to the individuals in society and to society as a whole.

5. Even if governments hold primary responsibility and are particularly accountable in the promotion of gender equality and women's empowerment, all other social actors, public and private, and all sectors of cultural, economic, social and political life are also responsible and must be involved in the pursuit and achievement of gender equality, as a common responsibility, and in the process of social and cultural change that it requires.



6. Elements indicating states' political will and commitment to gender equality in this regard include the following:

i. regular assessment of the relative percentages of women and men in leading bodies at all levels of the organisation and functioning of society, including leading bodies of political and administrative institutions and of civil society organisations (political parties, social partners, youth organisations, academic institutions, private sector organisations, etc.);

ii. existence of mandatory/voluntary gender equality plans in political and administrative institutions and in civil society organisations, including private sector organisations, and the adoption of norms/guidelines to achieve balanced participation of women and men in their leading bodies, including targets and timeframes of implementation;

iii. existence of and support to research and policy-related analytical studies on women's participation at the different levels of these institutions and organisations, including at decision-making level, on obstacles/barriers which prevent women's access to decision-making and on effective strategies to promote that participation.

### *3. Commitment, transparency and accountability in the achievement of gender equality*

7. Because gender equality is a requirement of democracy and of human rights, governments of member states have a clear and pressing obligation to eliminate discrimination and achieve gender equality. Commitment and transparency in the adoption, implementation and evaluation of their gender equality policies are requirements that governments must follow; they must also be accountable in regard to the results of these policies.

8. Elements indicating states' political will and commitment to gender equality in this regard include the following:

i. clear identification and acknowledgement of problems and shortcomings that, in spite of equality norms and past efforts, persist in regard to the situation of women and the achievement of gender equality;

ii. establishment of targets and time frames for the effective implementation of gender equality plans and programmes in all relevant public policy areas;

iii. adoption and use of clear indicators, both quantitative and qualitative, to evaluate results and progress achieved;

iv. creation or reinforcement of monitoring mechanisms, both at central and decentralised level, to pursue the process of establishment of gender equality;

v. regular reporting to parliament on progress achieved and obstacles encountered;

vi. regular evaluation of progress at all levels of implementation of gender equality policies;

vii. establishment of formal co-operation structures and mechanisms and other links with civil society organisations working for the promotion of human rights and gender equality;

viii. establishment of regular communication channels with media organisations to ensure a frequent flow of information on gender equality issues and on programmes and progress in this area;

ix. adoption of methodologies for the implementation of the gender mainstreaming strategy, including gender budgeting, gender-based analysis/gender impact assessment, cross-checking where necessary gender- or sex-related data with statistics on socio-economic or other relevant personal circumstances.

### *4. Ratification of relevant treaties and implementation of all relevant international legal instruments*

9. International legal instruments on human rights in general and on women's and girls' full enjoyment of human rights in particular are a fundamental and authoritative basis and a framework for national policies to eliminate discrimination on the grounds of sex and promote gender equality. Their ratification

is a first decisive step towards these objectives and their full implementation must be ensured and constantly monitored and evaluated.

10. Fundamental international instruments in this regard can be of a general nature, like the ICESCR and the ICCPR, where Article 3 recognises that women and men are equally entitled to the rights set forth in the covenants; the ECHR and the revised European Social Charter which have similar provisions in Article 14 and Article E respectively; Protocol No. 12 to the ECHR, which follows the same principle but extends this protection to any right set forth by law; or the revised European Social Charter which, in Article 20, provides for an express ban on discrimination on the grounds of sex in matters of employment and occupation.

11. Other instruments, instead of having a core and cross-cutting provision, integrate the principle of non-discrimination on the grounds of sex/gender equality in a systematic manner throughout the text, as it is the case of the Council of Europe Convention on Action against Trafficking in Human Beings.

12. Finally, other instruments like the CEDAW, although comprehensive in scope, address specifically the matter of discrimination against women and the achievement of substantive gender equality in a variety of sectorial areas on the basis of cross-cutting provisions, such as those contained in Articles 1 to 5 of the CEDAW.

13. Elements indicating states' political will and commitment to gender equality in this regard include the following:

i. ratification without reservations of all relevant instruments addressing matters related to the elimination of all forms of discrimination against women or based on sex and to the achievement of gender equality and speedy withdrawal of reservations where they have been formulated;

ii. fulfilment without delay, where necessary, of the relevant internal procedures for the implementation of the provisions of the international legal instruments, including the adoption of the necessary national regulations and measures;

iii. regular monitoring and evaluation at national level of the implementation of international obligations;

iv. timely fulfilment of reporting obligations on the implementation of international legal instruments.

#### *5. Adoption and effective enforcement of gender equality legislation and integration of a gender perspective in legislation in all areas*

14. National gender equality legislation is a necessary basis for effective policy measures to promote gender equality and eliminate discrimination on the grounds of sex, as well as a basic tool for raising awareness on gender equality. Governments should give priority to the development, adoption and enforcement of effective national gender equality legislation, and to the integration of a gender perspective into all areas of governance, both in laws and policies.

15. Elements indicating states' political will and commitment to gender equality in this regard include the following:

i. inclusion of the principle of non-discrimination on the grounds of sex and of the principle of equality of women and men in national constitutions or in other fundamental laws;

ii. adoption/existence of legislation prohibiting sex-based discrimination in all aspects of life and all areas of society, and ensuring *de jure* gender equality, including effective sanctions in cases of violation of the law;

iii. adoption/existence of legislation allowing the use of positive action/temporary special measures to overcome the effects of structural and historic discrimination and to accelerate the achievement of *de facto* equality;

iv. adoption/existence of mechanisms for regular and systematic scrutiny of all internal laws in order to guarantee that no direct or indirect sex-based discriminatory provisions are adopted or maintained in the existing legislation;

v. establishment/existence of specialised institutional mechanisms for the enforcement of gender equality legislation;

vi. establishment/existence of specialised institutional mechanisms entrusted with the task of receiving complaints from individuals and groups on alleged violations of gender equality provisions. The submission of a complaint to such a mechanism and the subsequent opinion it may result in must not preclude further consideration by the courts;

vii. adoption/existence and implementation of guidelines on the inclusion of a gender perspective in the drafting of legislation and in the designing of policies in all areas.

#### *6. Elimination of sexism from language and promotion of language that reflects the principle of gender equality*

16. Language has a fundamental role in forming an individual's social identity and interacts with social attitudes and culture. The use of language in which the presence, equal status and roles of women and men in society are reflected equally and treated with the same value and dignity is both an essential aspect of gender equality and an approach to achieving substantive equality.

17. Actions of member states must be targeted at the promotion of the use of non-sexist language in all sectors, particularly in the public sector and at all levels and in all forms of education and in media.

18. Elements indicating states' political will and commitment to gender equality in this regard include the following:

i. adoption/existence and implementation of norms imposing an obligation on the public sector to use non-sexist language in official documents, particularly in legal texts, policy papers, programmes, forms and questionnaires;

ii. existence of a clear mandate of gender equality institutions and other relevant institutions to monitor the implementation of the principle of the use of non-sexist language;

iii. existence/promotion of gender-based research into language used particularly in the information sector, including media, and in education;

iv. existence of initiatives to encourage the elimination of discriminatory expressions, which describe women and men in terms of their physical appearance or of the qualities and gender roles attributed to their sex.

#### **B. Standards in specific areas**

19. Achievement of substantive gender equality requires the adoption, without delay, of proactive policies to guarantee the implementation of existing legal provisions and norms in specific areas of civil, political, economic, social and cultural life.

20. Progressive realisation of the objective of gender equality, both *de jure* and *de facto*, must be regularly monitored and assessed. This involves a process that requires the creation and use of tools and instruments, including quantitative and qualitative indicators, to evaluate change and measure progress in achieving the required standards in all spheres of public and private life.

21. It is important to note the fact that measures and policies in different specific areas are complementary to each other, often cutting across various sectorial areas and must therefore be implemented simultaneously. For instance, measures in the field of education and training, including vocational and technical training, influence the situation of women and men in the labour market and their opportunities in social and political life. Similarly, measures aiming at a more qualified integration in the labour market have a decisive impact in social protection entitlement. In the same vein, measures aiming at

balanced participation of women and men in political and public life are instrumental for a more democratic society and responsive and accountable governance.

### *1. Private and family life*

22. Women and men are equal in dignity and rights in all spheres, including private and family life. Social significance of maternity and paternity and the role of both parents in the upbringing of children must be taken into consideration to ensure that both women's and men's human rights are fully and equally respected. The government should promote the equal sharing of tasks in regard to family responsibilities, and ensure that these family responsibilities are not a basis for discrimination.

23. Elements indicating states' political will and commitment to gender equality in this regard include the following:

i. ratification and full implementation of relevant international treaties, taking particularly into account Articles 9, 15 and 16 of the CEDAW, together with General Recommendation No. 21 on equality in marriage and family relations adopted by the Committee on the Elimination of Discrimination against Women, Article 10 of the ICESCR, Article 23 of the ICCPR, Articles 8 and 12 of the ECHR, Article 5 of Protocol No. 7 to the ECHR, and Articles 16, 20 and 27 of the revised European Social Charter;

ii. full implementation of relevant international non-binding legal instruments, in particular Article 16 of the UDHR;

iii. adoption/existence and enforcement of legal provisions securing women and men equal rights and responsibilities in regard to marriage, family life and dissolution of marriage, and an equal right to choose one's own family name, as well as one's own professional occupation, in accordance with relevant international instruments ratified by the member states;

iv. adoption/existence and enforcement of legal provisions securing women and men equal social and economic rights and responsibilities during marriage and cohabitation, and also in case of divorce and separation, including provisions stating that paid and non-paid contributions – such as child care and household maintenance, or work in family business – must both be considered as valuable contributions to the household;

v. adoption/existence and enforcement of legal provisions against forced and early marriages, ensuring free and full consent and establishing the adult age of 18 years as a minimum age for marriage for both women and men, and of measures that protect, assist and support girls/women and boys/men who have been forced into such marriages or been threatened with the possibility of such a marriage, as well as awareness-raising measures, including dialogue with ethnic and religious communities and their leaders, educational institutions, health-care institutions, etc. In cases where exceptions to the age of marriage are justified, the principle of gender equality must be fully respected;

vi. adoption/existence and implementation of measures to ensure that the right to decide freely and responsibly on the number and spacing of children is fully guaranteed to women and men on the basis of equality;

vii. adoption/existence and enforcement of provisions that secure women and men the same parental rights and responsibilities, irrespective of marital status, including provisions on economic maintenance for children, parental responsibilities and contact with children in cases of separation;

viii. adoption/existence and enforcement of equal provisions for women and men on the personal right to acquire, change or retain nationality, as well as to transmit it to children, including norms that do not automatically change spouses' nationality, render her/him stateless, or force one spouse to adopt the nationality of the other;

ix. adoption/existence and enforcement of equal provisions for women and men on legal capacity in civil matters irrespective of marital status, for example ownership, ability to conclude contracts, administer property and heritage, as well as equal treatment at all stages of procedure in courts and tribunals;

x. existence of regular time-use surveys indicating women's and men's average use of time, particularly on child care or care of dependants, household maintenance and other family tasks;

xi. existence and regular implementation of measures, such as awareness-raising campaigns, aiming at eliminating gender stereotypes of girls' and boys', women's and men's roles in family life, and at overcoming traditional social and cultural barriers that prevent girls and boys, women and men from enjoying their rights equally.

## *2. Education, science and culture*

24. Educational choices and achievements influence women's and men's professional career and the well-being of their individual and family life, as well as their life in society. Governments have the obligation to promote access to education as a right for girls as well as boys, women as well as men, on an equal basis, at all levels of education, lifelong learning, science, research and culture.

25. Equal opportunities in regard to education, science and culture are essential for better human and economic development and are a driving force for social change. On the other hand, equal access of women to high level qualifications is not only a basic right, but it is also instrumental for a more balanced society and for the achievement of gender equality.

26. Elements indicating states' political will and commitment to gender equality in this regard include the following:

i. ratification and full implementation of relevant international treaties, taking particularly into account Article 10 of the CEDAW, Article 13 to 15 of the ICESCR, Article 2 of the Protocol No. 12 to the ECHR, and Articles 10, 17 and 20 of the revised European Social Charter;

ii. full implementation of relevant international non-binding legal instruments, in particular Articles 26 and 27 of the UDHR, as well as of strategic objectives and actions contained in Chapter IV of the Beijing Platform for Action, in particular Section B (education and training of women);

iii. explicit inclusion of the principle of gender equality in national framework legislation on education and of a gender perspective in all education policies;

iv. inclusion of a gender equality perspective, in the framework of human rights, in teachers' initial training, retraining and in-service training programmes;

v. inclusion of a gender perspective in policies and plans for developing and implementing new information and communication technologies (ICTs), including measures to increase women's capacity-building in regard to ICTs;

vi. regular monitoring of educational curricula, subject contents, education standards, teaching and learning resources, and classroom and school organisation, in order to eliminate gender stereotypes at all levels of the educational system;

vii. implementation of positive actions/temporary special measures to ensure that girls and boys have equal access to education and vocational training in those fields where there is traditionally an over-representation of one of the sexes, as well as to ensure equal development of personal skills which stereotyped views of sex roles have tended to associate with one of the sexes, such as self-esteem, teamwork, talking to an audience or peaceful conflict resolution;

viii. integration, in formal and non-formal education, of the principle of equal rights and equal access of girls and boys, women and men to the enjoyment of all human rights, in particular civil, political, economic, social and cultural rights;

ix. existence of gender/women's studies and research in universities and research institutions and their adequate support and financing;

x. regular monitoring and assessment of girls' and boys', women's and men's participation at all levels of the educational system;

xi. regular monitoring of women's and men's access to postgraduate programmes and completion of degrees, including access to grants and scholarships on an equal basis;

xii. regular assessment of women's participation in scientific research programmes and projects and in their management or co-ordination;

xiii. awareness-raising campaigns addressed at the general public on gender equality/non-discrimination as a human rights principle, aiming at cultural change in regard to gender stereotypes and traditional roles of women and men.

### 3. Economic life

27. Equal opportunities in the labour market and in economic life, economic independence and the opportunity to exercise power in economic decision-making structures are vital to the achievement of gender equality. There are still considerable differences between men and women in this respect.

28. Women participate less than men in remunerated work, they more often work part time, their average salary is substantially inferior to that of men and the principle of equal pay for equal work and work of equal value is not always fully respected. Furthermore, women are poorly represented in economic decision making, whether in the formulation of public, economic and financial policies or in the private sector, as entrepreneurs or in decision-making positions in economic life in general.

29. The gender gap in time used on paid and unpaid work, due to stereotyped gender roles, unequal sharing of family responsibilities and insufficient care services, as well as the persistence of a gender segregated labour market, are important explanations for this situation, which governments must address.

30. Elements indicating states' political will and commitment to gender equality in this regard include the following:

i. ratification and full implementation of relevant international treaties, taking particularly into account Articles 11 and 13 of the CEDAW, Articles 7 and 10 of the ICESCR, ILO Conventions No. 100, 111 and 183, Articles 1, paragraph 2, 4, paragraph 3, 8, 20, 26 and 27 of the revised European Social Charter, as well as the promotion of the full implementation of the standards contained in European Union legislation requiring equal treatment of women and men in regard to employment, including access, working conditions, *inter alia*, flexible working time, career development and promotion, equal pay, dismissal, reversal of the burden of proof in cases of discrimination on the grounds of sex, sexual harassment, protection of pregnancy, maternity and paternity, as well as in the access to and supply of goods and services;

ii. full implementation of relevant international non-binding legal instruments, as well as of strategic objectives and actions contained in Chapter IV of the Beijing Platform for Action, in particular Section F (women and the economy);

iii. adoption/existence of national and/or regional and local plans for gender equality in work and employment in the public sector, and creation/existence of institutional mechanisms to monitor their implementation and evaluation of progress, as well as encouragement of the creation of such plans in the private sector;

iv. adoption/existence and enforcement of laws and measures to prevent, combat and punish sexual harassment and other forms of victimisation in the workplace and to protect victims;

v. adoption/existence and implementation of plans/programmes to promote the vocational training of women and their integration in the labour market, as well as proactive measures for women and men to overcome the persisting horizontal and vertical segregation on this market;

vi. adoption/existence and implementation of legal and administrative measures to promote women's equal participation in economic decision making, including implementation of plans for gender balanced participation in boards and other decision-making structures of economic and financial institutions and private enterprises;

vii. adoption/existence and implementation of national programmes, which should include instruments and services such as financial advice and availability of loans, for supporting female entrepreneurship;

viii. adoption/existence of training and competence-building programmes in the field of gender equality for policy makers and decision makers;

ix. information and awareness-raising campaigns addressed at the general public on the right of women and men to equality in the labour market and in economic life;

x. regular gathering, analysis and dissemination of sex-disaggregated statistics on women's and men's participation in the labour market and economic life, including sectors, hierarchical levels, career development, income, wages, full-time/part-time employment, employment contract conditions, etc.

#### *4. Political and public life*

31. Participation in political and public life is a basic right of citizenship and must be enjoyed by women and men on a parity basis. The balanced participation of both sexes at all levels of political and public life, including at decision-making level, is therefore a requirement of human rights that can ensure the better functioning of a democratic society.

32. The existence and regular functioning of a parity democracy is also a guarantee that women's and men's interests and needs are fully taken into account in policy making and in the running of society. In achieving the goal of equal participation of women and men, a minimum participation rate of 40% for each sex is considered as the parity threshold to be attained.

33. Elements indicating states' political will and commitment to gender equality in this regard include the following:

i. ratification and full implementation of relevant international treaties, taking particularly into account Articles 7 and 8 of CEDAW, together with General Recommendation No. 23 on political and public life adopted by the Committee on the Elimination of Discrimination against Women, and Article 25 of the ICCPR;

ii. full implementation of relevant international non-binding legal instruments, in particular Article 21 of the UDHR and Recommendation Rec(2003)3 of the Committee of Ministers of the Council of Europe on balanced participation of women and men in political and public decision making, as well as of strategic objectives and actions contained in Chapter IV of the Beijing Platform for Action, in regard to the electoral system, that may guarantee in particular Section G (women in power and decision making);

iii. adoption/existence and implementation of norms, legal or administrative, including balanced participation of women and men in elected assemblies or bodies;

iv. adoption/existence and enforcement of laws/regulations or other initiatives aiming at balanced participation of women and men in government appointed posts;

v. adoption/existence and implementation of equality plans in decision-making bodies in political and public life, including senior management of public administration, judiciary, diplomacy, etc., and the setting of progressive timeframes;

vi. regular assessment of the participation of women and men in decision-making bodies, both elected and appointed, including percentages of members of each sex in these bodies and identification of obstacles encountered and strategies needed to overcome the identified barriers;

vii. existence of capacity building and training programmes aimed at political participation and representation on a parity basis, for both women and men, and in particular for youth groups and other relevant audiences;

viii. regular monitoring of progress towards gender balance within political parties, particularly in regard to their decision-making bodies, electoral lists and other selection processes of candidates;

ix. systematic inclusion of the gender dimension in campaigning for all elections for bodies at national, regional or local levels, as well as bodies at international level;

x. information and awareness-raising campaigns addressed at the general public on gender balanced/parity participation of women and men at all levels of political and public life.

##### *5. Reconciliation of private/family life and professional/public life*

34. Gender stereotypes and a strong division of gender roles influence social models that tend to see women as mainly responsible for family and private life (in the area of unpaid work) and men in the public sphere and professional work (in the area of paid work). Such division leads to the persistence of unequally shared domestic and family responsibilities, being one of the major reasons for discrimination against women in the labour market and for their limited social and political participation.

35. The balanced participation of women and men in professional/public life and in private/family life is, therefore, a key area for gender equality and is essential for the development of society. On the other hand, reconciliation of work and public life with family and private life, promoting self-fulfilment in public, professional, social and family life, is a precondition for a meaningful quality of life for all, women and men, girls and boys, and for the full enjoyment of human rights in the political, economic, cultural and social spheres.

36. Elements indicating states' political will and commitment to gender equality in this regard include the following:

i. ratification and full implementation of relevant international treaties, taking particularly into account Article 11 of CEDAW, ILO Convention No. 156 and Article 27 of the revised European Social Charter;

ii. full implementation of relevant international non-binding legal instruments, in particular Recommendation No. R (96) 5 of the Committee of Ministers of the Council of Europe on reconciling work and family life, as well as of strategic objectives and actions contained in Chapter IV of the Beijing Platform for Action, in particular Section F (women and the economy);

iii. adoption/existence and enforcement of legislation on maternity and paternity protection, including provisions on paid maternity leave, paid parental leave equally accessible to both parents, and paid non-transferable paternity leave, as well as specific measures addressed equally to women and men workers, to allow the fulfilment of family responsibilities, including care and assistance to sick or disabled children or dependants;

iv. existence of a network of public-funded or public-supported services for families – child care and care for elderly, disabled or other dependent persons – on a wide, adequate coverage basis, able to respond to personal and family needs;

v. adoption/existence and implementation of initiatives to encourage private and public sector management to introduce and develop family-friendly management practices at work, equally accessible to women and men, such as flexible working time arrangements, different kinds of personal leave programmes, etc;

vi. adoption/existence and implementation of measures and initiatives to encourage the harmonisation between hours of operation of schools and child-care institutions and regular working hours;

vii. awareness-raising campaigns addressed at the general public on the importance of an equal sharing of family tasks and responsibilities between women and men, including the need of boys' and girls' contributions to the household as a meaningful element in their education;

viii. existence of regular time-use surveys indicating women's and men's average use of time on paid and unpaid work.



## 6. Social protection

37. Social protection is a basic human right and a means to effectively promote social cohesion. However, women are often disadvantaged in this regard, due to a number of factors linked to their situation in the labour market and to varying degrees of social vulnerability on the basis of traditional gender roles and social norms. Less qualified jobs, lower salaries, shorter professional careers or longer career breaks with negative consequences on personal entitlement to pensions are among the factors leading to this situation. Additional difficulties may arise from traditional situations where women have no individual rights to social security, but are dependent on their husbands/partners' rights. Individualisation of rights would, therefore, appear as a more favourable system in terms of gender equality.

38. An increased risk of poverty can particularly affect certain categories of the population where women are often the majority: the unemployed, single parents, older people living alone, and families with several dependants. Furthermore, poverty and material deprivation are often compounded by an inability to participate fully in social life as a result of an inadequate access to employment, education and training, housing, or health care.

39. In planning and implementing social protection policies, it is the responsibility of governments to take fully into account the specific situation of women and men in the labour market and society at large, as well as their current social responsibilities, in order to guarantee formal and substantive equality for both sexes in the access to and enjoyment of social protection rights and entitlements.

40. Elements indicating states' political will and commitment to gender equality in this regard include the following:

i. ratification and full implementation of relevant international treaties, taking particularly into account Articles 11 and 13 of the CEDAW, Article 10 of the ICESCR, ILO Convention No. 102, Articles 12, 13, 14, 30 and 31 of the revised European Social Charter, and the European Code of Social Security;

ii. full implementation of relevant international non-binding legal instruments, in particular Articles 22 and 25 of the UDHR;

iii. adoption/existence, of sustainable and adequate social protection schemes that take into account specific situations of women in the labour market and in social and economic life, for example part-time work, career interruptions, lower average salary, etc.;

iv. existence of pension systems that take into account specific aspects of working careers and the current unequal sharing of responsibilities between women and men (child care, care for dependant family members, etc.), including, when appropriate, compensatory measures in order to mitigate negative consequences of current pension systems on women;

v. existence/organisation of subsidiary social protection (assistance, supplementary benefits, minimum income) in such a way that payment of the benefits concerned is not subject to humiliating conditions or compromised by arbitrary controls;

vi. existence of gender sensitive training programmes aimed at specific groups at risk of poverty and exclusion, often female dominated, in order to promote their integration into the labour market;

vii. existence of social protection measures to ensure that break-up of marriage or cohabitation (divorce, separation) does not imply for any of the partners, with or without children, any intolerable consequences in regard to housing, indebtedness or similar circumstances, so as to avoid the risk of social exclusion;

viii. existence of social protection measures to secure the right to housing and decent living conditions to single-parent families, headed mostly by women.

## 7. Health, including sexual and reproductive matters

41. The equal right of women and men to health, including sexual and reproductive health, embraces many other human rights that are recognised in international treaties and human rights documents and which must be enjoyed by both women and men on an equal basis.

42. The health of women and men is clearly influenced by their biological sex. However, socially constructed gender roles and gender inequalities also have a major impact on well-being. Reasons for these variations and consequently different needs of women and men related to their biological differences and the social context must be observed in the provision of health care throughout their lives, from infancy to old age.

43. Gender equality requires that women and men be given equal opportunities to realise their potential for health, including through equal access to services and quality of care.

44. This further implies that women's and men's health must be considered of equal value and that both women and men must have a non-negotiable right to decide over their own body, including sexual and reproductive matters. Such acknowledgement must be reflected in the development, implementation, access to, monitoring and evaluation of health-care services and in research priorities.

45. Elements indicating states' political will and commitment to gender equality in this regard include the following:

i. ratification and full implementation of relevant international treaties, taking particularly into account Article 12 of the CEDAW, together with General Recommendation No. 24 on women and health adopted by the Committee on the Elimination of Discrimination against Women, Article 12 of the ICESCR, and Article 11 of the revised European Social Charter;

ii. full implementation of relevant international non-binding legal instruments, in particular Article 25 of the UDHR, as well as of the Programme of Action of the International Conference on Population and Development (Cairo, 5-13 September 1994), and of the strategic objectives and actions contained in Chapter IV of the Beijing Platform for Action, in particular Sections C (women and health) and I (human rights of women);

iii. existence and promotion of gender-sensitive education and information about health, including sexual and reproductive health, namely through the educational system and awareness-raising programmes and full information on family planning options, aimed at the general public, including through the media and health services;

iv. existence of equal quality and gender-sensitive health-care services for women and men, both as regards common health concerns and different ones, arising from biological differences, for example in regard to reproductive health and socio-economic inequalities between women and men;

v. existence of full and equal access to relevant, appropriate, timely and understandable information and counselling services, necessary for women and men to make decisions about their health, regardless of their marital status and age and even if specific methods and treatments are not available in a given country;

vi. existence of gender sensitive preventive, biomedical, behavioural, epidemiological and health-service research, including in the testing of new and emerging drugs and medical technologies, benefiting women and men equally;

vii. provision of gender equality training in basic and continuing education for health professionals, including integration of this dimension as part of training in health-care ethics, to ensure that the interests and needs of both women and men are equally addressed and that they are treated with respect, dignity, privacy and confidentiality;

viii. existence of policies and effective implementation of measures – including the training of professionals – addressing health aspects of violence, including domestic and sexual violence and harmful

traditional practices, in particular female genital mutilation, forced and early marriages, honour crimes, etc., aimed both at providing adequate health care to victims and preventing future cases.

#### *8. Media*

46. Media in modern societies hold an immense potential for social change as they can either hinder or hasten structural change towards gender equality.

47. While respecting fully the independence of the media and the freedom of expression, states should encourage effective measures to ensure that gender equality, as a principle of human rights, is respected in the media, in accordance with the social responsibility that is linked to the power they hold in modern societies.

48. Elements indicating states' political will and commitment to gender equality in this regard include the following:

i. full implementation of strategic objectives and actions contained in Chapter IV of the Beijing Platform for Action, in particular Section J (women and the media);

ii. adoption/existence and implementation of norms, consistent with freedom of expression, against threats to human dignity, gender-based violence and the negative use of women's and men's image in the media, including in advertising, as well as guidelines for the safeguard of human dignity and for the projection of positive, balanced and diverse portrayals of women's and men's images and roles;

iii. encouragement, to the extent consistent with freedom of expression, of adoption and implementation of self-regulatory measures, guidelines, codes of conduct or other forms of regulations within media organisations that include the matter of sex-based discrimination/gender equality, promote the use of non-sexist language and the presentation of non-stereotyped images and exclude the use of violent or degrading materials;

iv. regular assessment of the participation of women in decision-making and management levels and in technical services of media organisations, both public and private, as well as in advisory, regulatory and monitoring bodies of the media sector;

v. regular assessment and encouragement of women's presence as journalists and participants in the different content areas of printed, broadcast and electronic media – news, politics, culture, entertainment, advertising, etc.;

vi. encouragement of research projects on media coverage of women's participation in education, science and culture, politics, economy and social life, as well as the impact of the media in the shaping of values and attitudes, needs and interests of women and men throughout their lives;

vii. encouragement of gender-sensitive training for media professionals, including owners and managers.

#### *9. Violence against women*

49. Violence against women takes place in our world under various forms, such as rape and other forms of sexual violence, physical and psychological violence within and outside the family or domestic unit, sexual harassment, violence in conflict and post-conflict situations, violence in institutional environments, failure to respect freedom of choice with regard to reproduction, female genital mutilation, crimes in the name of honour, forced and early marriages and, in general, traditional practices harmful to women and girls.

50. Violence against women is one of the most serious violations of human rights and fundamental freedoms of women and an obstacle to the enjoyment of those rights and freedoms. Furthermore, violence against women is a waste of capacities and resources for economic and social development; it is also one of the means by which women are forced into a subordinate position compared with men and is, therefore, a decisive impediment to the achievement of gender equality.

51. The prevention and elimination of violence against women are essential components in protecting women's full enjoyment of human rights and are prerequisites for the achievement of gender equality.

52. Elements indicating states' political will and commitment to gender equality in this regard include the following:

i. ratification and full implementation of relevant international treaties, taking particularly into account Article 6 and other relevant provisions of the CEDAW, together with General Recommendation No. 19 on violence against women adopted by the Committee on the Elimination of Discrimination against Women, and Article 16 of the revised European Social Charter;

ii. full implementation of relevant international non-binding legal instruments, in particular the Declaration on the Elimination of Violence against Women (Resolution 48/104 of the United Nations General Assembly), the Intensification of efforts to eliminate all forms of violence against women (Resolution 61/143 of the United Nations General Assembly) and Recommendation Rec(2002)5 of the Committee of Ministers of the Council of Europe on the protection of women against violence, as well as of the strategic objectives and actions contained in Chapter IV of the Beijing Platform for Action, in particular Sections D (violence against women) and I (human rights of women);

iii. adoption/existence and enforcement of legislation and effective judicial procedures to prevent violence against women, protect the victims and punish the perpetrators, as well as protection against retaliation upon victims of violence or those that denounce it or accept to testify;

iv. adoption/existence and implementation of preventive measures of a legal, political, social, educational and cultural nature, namely addressed at potential victims, as well as potential perpetrators;

v. adoption/existence of comprehensive national action plans, the implementation of which must be regularly monitored and evaluated;

vi. adoption/existence of adequate measures, establishment of services and implementation of activities to support and protect victims of violence, such as women's shelters and hotlines, as well as intervention programmes for perpetrators of violence, and appropriate support, including financial support, to NGOs working in these areas;

vii. adoption/existence of educational programmes and specific training for all professionals involved in any kind of intervention with victims of violence, namely judicial, health and educational personnel, social workers, the police, etc.;

viii. existence of a clear political message addressed at the general public, including media professionals, of zero tolerance to any kind of violence against women;

ix. information and awareness-raising campaigns addressed at the general public on the issue of violence against women as a human rights violation, including specific information addressed to boys and men on their responsibility in regard to prevention and elimination of violence against women;

x. systematic and regular gathering and analysis of data and information, including sex-disaggregated statistics on the type and extent of gender-based violence against women, and dissemination of such information to the general public.

#### *10. Trafficking in human beings*

53. Violations of certain human rights, including discrimination on the grounds of sex, are both a cause and a consequence of trafficking in human beings. This increasing phenomenon is a specific manifestation of violence and a modern form of slavery that entails grave violations of human rights and is an offence to the dignity and integrity of human beings. Protection of human rights must, therefore, be the framework of all actions against trafficking.

54. Women and girls are often discriminated against and their human rights are violated even before becoming victims of trafficking, because they are more often faced with marginalisation, poverty and

unemployment than men. Inequalities between women and men must be systematically addressed in the development and implementation of actions against trafficking in human beings.

55. Elements indicating states' political will and commitment to gender equality in this regard include the following:

i. ratification and full implementation of relevant international treaties, taking particularly into account Article 6 of the CEDAW, the United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children and the Council of Europe Convention on Action against Trafficking in Human Beings;

ii. full implementation of relevant international non-binding legal instruments, in particular Recommendation No. R (2000) 11 of the Committee of Ministers of the Council of Europe on action against trafficking in human beings for the purpose of sexual exploitation, as well as the strategic objectives and actions contained in Chapter IV of the Beijing Platform for Action, in particular Section I (human rights of women);

iii. adoption/existence and enforcement of legislation and effective judicial procedures to protect victims of trafficking and punish perpetrators;

iv. adoption/existence and implementation of comprehensive national action plans against trafficking in human beings in which gender equality is fully taken into consideration, namely in regard to prevention, including measures for discouraging the demand, to protection, including rehabilitation, and to prosecution;

v. creation/existence of mechanisms for an effective co-ordination of actions of all sectors whose involvement is essential in preventing and combating trafficking, in which gender equality and human rights mechanisms, relevant NGOs and other organisations of civil society must participate and where gender-balanced participation must be ensured;

vi. existence of proper training in preventing and combating trafficking in human beings and in identifying and assisting victims and protecting their human rights, for all those actors, who, in the course of their work, have contact with victims;

vii. adoption/existence and implementation of measures to favour programmes for reintegration of victims into society, including reintegration into the education system and the labour market;

viii. existence of appropriate technical and financial support to NGOs and other relevant organisations/groups of civil society engaged in assistance to victims;

ix. systematic and regular gathering and analysing of data and information, including sex-disaggregated statistics on the type and extent of trafficking in human beings, and dissemination of such information to the general public.

### *11. Conflict and post-conflict situations*

56. Women and children make up an estimated 80% of the world's refugee population. They are particularly vulnerable in conflict situations; effective protection must, therefore, be provided to them in these situations, either in armed or other conflicts and foreign occupation. Their voice needs to be heard in the prevention and resolution of conflicts and their specific needs must be dealt with in post-conflict reconstruction.

57. Women's participation in conflict prevention and resolution at decision-making levels must, therefore, be increased, as women have a significant contribution to make, particularly as regards peace building and prevention of further armed conflicts. Their participation in decision-making institutions and mechanisms for the prevention, management and resolution of conflict, including peace negotiations, and democratisation of societies after conflict must not fall under 40%, considered as the parity threshold.

58. Elements indicating states' political will and commitment to gender equality in this regard include the following:

- i. ratification and full implementation of relevant international treaties, taking particularly into account the Rome Statute of the International Criminal Court;
- ii. full implementation of relevant international non-binding legal instruments, in particular the United Nations Security Council Resolution 1325 on Women, Peace and Security, and the Council of Europe Resolution on the roles of women and men in conflict prevention, peace building and post-conflict democratic processes – a gender perspective, adopted at the 5th European Ministerial Conference on Equality between Women and Men, as well as of the strategic objectives and actions contained in Chapter IV of the Beijing Platform for Action, in particular Section E (women and armed conflicts);
- iii. regular assessment and dissemination of information on the incidence of abuse of the human rights of women in conflict situations aiming at the reduction of this incidence, alongside with active promotion of non-violent forms of conflict resolution;
- iv. introduction/existence of mechanisms for adequate consideration of the special needs and contributions of women and men in restructuring projects in post-conflict society;
- v. existence of arrangements for the inclusion of women in structures and mechanisms aimed at the reconstruction of societies in post-conflict situations, such as peace negotiations committees, and other decision-making bodies, along with the regular assessment of women's participation in these bodies, to ensure that gender balance is progressively reached;
- vi. promotion/existence of initiatives to encourage the participation of women in peacekeeping missions in order to ensure the inclusion of women peacekeepers in national contingents participating in international operations;
- vii. encouragement/existence of systematic training for members of peacekeeping operations by governments/states who contribute to peacekeeping forces, which takes into account gender equality concerns, with a view to preventing in particular violence against women and trafficking in human beings;
- viii. existence of mechanisms to provide protection, assistance and training to refugee women and other displaced women in need of international protection, as well as to internally displaced women;
- ix. systematic consideration of the gender dimension at every stage of the procedures on asylum and reception of refugees.

## 12. Specific situation of vulnerable groups exposed to multiple discrimination

59. Certain groups of women, due to the combination of their sex with other factors, such as their race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status, are in an especially vulnerable position. In addition to discrimination on the grounds of sex, these women are often subjected simultaneously to one or several other types of discrimination.

60. Governments must, therefore, pay special attention to the specific needs that women of these groups have for protection against discrimination and for positive action to gain *de facto* equality.

61. Elements indicating states' political will and commitment to gender equality in this regard include the following:

- i. ratification and full implementation of relevant international treaties, taking particularly into account Articles 3.g and 6 of the United Nations Convention on the Rights of Persons with Disabilities, Protocol No. 12 to the ECHR, Articles 1, paragraph 2, 16, 19 and 20 of the revised European Social Charter and Council of Europe Framework Convention for the Protection of National Minorities;
- ii. full implementation of relevant international non-binding legal instruments, as well as of the strategic objectives and actions contained in Chapter IV of the Beijing Platform for Action, in particular Section I (human rights of women);
- iii. adoption/existence and enforcement of legal prohibitions of discrimination on any of the above-mentioned grounds;

- iv. adoption/existence and implementation of an active policy to prevent all forms of discrimination;
- v. adoption/existence and implementation of positive action to combat multiple discrimination, in view of achieving *de facto* equality;
- vi. establishment/existence of institutional mechanisms tasked with the responsibility to co-ordinate actions to raise awareness and combat discrimination on any grounds, always taking into account the gender specificities of such discrimination and the need for gender-balanced participation in these mechanisms;
- vii. regular assessment of the integration of a gender perspective in policies and programmes addressed at groups exposed to multiple and coexisting discrimination;
- viii. regular assessment of the integration into gender equality policies of the specific concerns of women belonging to groups exposed to multiple and coexisting discrimination;
- ix. regular gathering and analysis of sex-disaggregated statistics, whenever possible, of documentation/information on the specific aspects of women belonging to groups exposed to multiple and coexisting discrimination, and promotion of research on multiple discrimination, always bearing in mind the gender aspects of such discrimination;
- x. information and awareness-raising initiatives addressed at the general public and groups exposed to multiple and coexisting discrimination on the issue of multiple discrimination, including its gender-specific aspects and problems.

### **C. Strategies, mechanisms and tools to achieve gender equality**

#### *1. Implementation of complementary strategies as obligations of the state in its commitment to equality*

62. The setting of legal standards to guarantee the enjoyment of the principle of gender equality and non-discrimination is not sufficient to achieve substantive gender equality. To comply with the commitments made, governments must put in place and efficiently implement proactive policy measures and various strategies which have been recognised by international organisations as indispensable to pursue the objective of gender equality in an effective way. A dual approach to these strategies is commonly accepted: on the one hand, specific actions including positive action/temporary special measures and, on the other hand, gender mainstreaming to be applied to all policy areas and processes.
63. The extent of development and use of these strategies in national gender equality policy varies from country to country and often depends on the existence of a number of conditions. The effective functioning of institutional mechanisms for gender equality is a precondition for the successful development of these complementary strategies, which are instrumental if properly understood, developed and used.
64. Specific actions, including positive actions and temporary special measures, addressed at women and society at large, are recognised as the traditional mandate of national institutional mechanisms for gender equality; however, they must be complemented by gender mainstreaming, a strategy which must involve a variety of actors responsible for policies in all sectors and levels of governance.
65. To organise the efficient complementary and parallel use of specific gender equality policies and the strategy of gender mainstreaming, the availability of certain instruments is crucial to support their development and implementation and to organise responsibility for pursuing the achievement of gender equality in a systematic and planned manner.
66. Systematic information and communication strategies and national gender equality action plans are further basic requirements for governments in their task to devise and pursue a gender equality policy in the dynamic context of our societies.
67. Elements indicating states' political will and commitment to fulfil these responsibilities include the following:
- i. ratification and full implementation of relevant international treaties, taking particularly into account Articles 1 to 5 of the CEDAW, together with General Recommendation No. 25 on temporary special

measures, adopted by the Committee on the Elimination of Discrimination against Women, Article 3 of the ICESCR and the ICCPR; Article 14 of the ECHR and Article E of the revised European Social Charter, which provide a cross-cutting basis for the enjoyment of all the rights enshrined in these treaties, as well as Article 20 of the revised European Social Charter, which provides for an express ban on discrimination on the grounds of sex in matters of employment and occupation and obliges states to promote equal opportunities and equal treatment;

ii. full implementation of relevant international non-binding legal instruments, in particular Recommendation No. R (98) 14 of the Committee of Ministers of the Council of Europe on gender mainstreaming and the Resolution on achieving gender equality: a challenge for human rights and a prerequisite for economic development, adopted at the 6th European Ministerial Conference on Equality between Women and Men (Stockholm, 8-9 June 2006), as well as of the strategic objectives and actions contained in Chapter IV of the Beijing Platform for Action, in particular Section H (institutional mechanisms for the advancement of women);

iii. existence and explicit recognition of a legal basis for introducing specific actions, including positive actions or temporary special measures, according to Article 4 of the CEDAW;

iv. existence and enforcement of a binding obligation to adopt and pursue a strategy of gender mainstreaming, including gender budgeting and gender-based analysis/gender impact assessment in all areas of governance and clear identification of actors responsible for its development, implementation and evaluation;

v. adoption/existence and effective implementation of periodic national action plans for gender equality and of indicators to measure their outcomes and progress achieved in their implementation, to support systematic and regular reporting and, if necessary, the reviewing of actions and strategies in order to better achieve the objectives of such action plans;

vi. development and implementation of adequate information and communication strategies aiming at an understanding and a broad consensus on the development of national gender equality policy, its promotion and implementation, and at fostering public opinion, new perceptions and cultural changes in public opinion, including through raising awareness of social organisations and the media.

## *2. Establishment or reinforcement of institutional mechanisms/national machinery for gender equality*

68. Institutional mechanisms/national machinery are essential instruments that governments must establish or reinforce to pursue their obligation to eliminate discrimination on the grounds of sex and to achieve gender equality.

69. There is an overall trend towards the diversification and multiplication of gender equality mechanisms and their progressive establishment in various policy areas and at different levels of power, including in parliaments, regional and local level bodies and also as independent institutions.

70. As regards institutional mechanisms within government structures, there are no ideal, fixed models valid for every country. Economic, social, cultural and political realities differ from country to country and institutional mechanisms, to be effective and sustainable, must fit into the national context and be sensitive to these realities.

71. However, some basic requirements for the creation, reinforcement or effective functioning of these mechanisms can be pointed out and envisaged as indicators of the political will and commitment and of the strategic goals of states in regard to the achievement of gender equality.

72. Such elements include:

i. full implementation of the strategic objectives and actions contained in Chapter IV of the Beijing Platform for Action, in particular Section H (institutional mechanisms for the advancement of women);

ii. that gender equality mechanisms be at the highest political level; more specifically, that the national co-ordinating unit be at the highest level of government, under the direct responsibility of the



president, prime minister or cabinet minister, and that units or focal points be set up within ministries or other government departments or within regional and local power structures, at the highest level of those departments and structures;

iii. that institutional mechanisms have the necessary authority, visibility, political recognition, necessary funding and human resources, and that their action is fully supported by political power at the different levels of its exercise;

iv. that the overall structure of gender equality machinery includes an interdepartmental/interministerial structure with high level representatives with decision-making powers from all relevant policy areas in order to ensure the effective functioning of the process of gender mainstreaming;

v. that the mandate of institutional mechanisms has a clear legal basis with well-defined functions and responsibilities; and that these necessarily include the dual-track approach to gender equality work: 1. specific policies and actions, including positive action when appropriate, in critical areas for the advancement of women and for gender equality; 2. promotion, monitoring, co-ordination and evaluation of the process of gender mainstreaming in all policies and programmes;

vi. that institutional mechanisms develop gender expertise both within themselves and as capacity builders for gender equality at different levels of government and administration and for that purpose develop methods, instruments and tools for gender analysis/gender impact assessment and gender budgeting, as well as training on gender equality and the use of these methods, instruments and tools;

vii. that resources for the core operational costs of institutional mechanisms – staff, facilities, regular functioning of the institution – are the sole responsibility of the state, even if funding for specific actions and projects can also be found from various sources;

viii. that institutional mechanisms establish formal and informal links of co-operation with other public institutions and administrations in general;

ix. that institutional mechanisms establish formal and informal links of co-operation with a wide range of civil society organisations, namely women's and human rights NGOs, the media, the research and academic community, social partners and other relevant social actors, as well as with international and European organisations pursuing gender equality objectives;

x. that mechanisms for gender equality are established at parliamentary level, as well as independent agencies and other bodies, such as ombudspersons that may receive complaints for discrimination on the basis of sex.

### *3. Development of studies and instruments to evaluate women's and men's situation and measure progress of that situation*

73. While formal gender equality can be achieved quite rapidly by enshrining this principle into constitutions, laws or specific norms, the same does not happen in regard to substantive gender equality. Its achievement is a complex process which must be regularly monitored and evaluated.

74. As a first step it requires an in-depth knowledge of women's and men's real situation in all areas of life, and of the obstacles and barriers that stand in the way of gender equality. A second step consists in the devising of strategies, plans and programmes to overcome these obstacles and barriers. A third step is the implementation of these strategies and plans and their regular assessment and evaluation, a process that requires adequate tools and instruments to measure progress.

75. Elements indicating states' political will and commitment to fulfil these responsibilities include the following:

i. development and adoption of quantitative and qualitative indicators to capture the real situation of women's and men's lives and to measure progress in the changing of that situation where the achievement of gender equality so requires;

ii. regular collection and analysis of sex-disaggregated statistics and other data necessary to support the indicators, either by specialised dedicated surveys or by the inclusion of routine gender-relevant variables into mainstream, regular surveys; in both cases the involvement of the entities responsible for the statistical system is essential;

iii. inclusion of clear targets, time frames and benchmarks in policies and programmes adopted for the achievement of gender equality and regular monitoring of their implementation;

iv. adoption/existence of tools and instruments for gender-based analysis/gender impact assessment of laws and policies (checklists, manuals, handbooks, statistics, questionnaires, specific software, surveys, forecasts, or other similar tools), and for gender budgeting; these practices must become a matter of routine in policy making, both before and after planning and implementation;

v. existence and support of studies and research into gender relations, including women's studies and gender studies in universities and other research institutions and the financing of such studies and research projects.

#### *4. Establishment of co-operation and partnerships*

76. Because gender equality is a concern of all members of a society, the full involvement of boys and men is decisive and instrumental to achieve that aim, which will have a positive impact on and bring added value to the lives of both girls and boys, women and men.

77. The establishment and development of effective channels of co-operation and partnership within governmental and administrative structures, in all areas and at all levels, and between government and civil society organisations have been recognised as an important strategy for the effective promotion of gender equality, which, being a common objective, concerns society as a whole.

78. Women's NGOs and human rights NGOs, social partners, academic and research institutions, and the media are among the most relevant of civil society organisations whose co-operation is fundamental to achieve gender equality.

79. Elements indicating the states' political will and commitment to reach this common objective include the following:

i. establishment of strategies to involve boys and men in gender equality;

ii. creation/existence of interdepartmental structures with high-level representatives from all policy areas and at all policy levels responsible for planning, co-ordination, implementation and evaluation of gender mainstreaming in all policies and programmes;

iii. creation/existence of regular channels of institutionalised dialogue and co-operation with civil society organisations working for gender equality, such as women's and human rights organisations; for example, their inclusion in consultative bodies and the establishment of regular consultation procedures in relation to equality policies and plans;

iv. creation/existence of programmes of technical/financial support for civil society organisations, particularly women's organisations and human rights organisations, in their work for gender equality and regular assessment of projects developed in this context;

v. establishment of regular dialogue/co-operation with other civil society organisations, including media organisations, social partners, research and academic institutions, professional organisations and specific interest groups, in order to raise gender equality awareness;

vi. regular assessment of co-operation and partnership with civil society organisations in the development and implementation of programmes and projects aiming at the achievement of gender equality (number of programmes/projects, audiences targeted, rate of success, etc.);

vii. effective co-operation at regional and international levels, including through bilateral and transnational projects and sharing of experiences and good practices.

## **Explanatory memorandum to Recommendation Rec (2007) 17**

### **Introduction**

#### **1. Historical and conceptual background**

1. The equal right of women and men to the enjoyment of universal human rights is a fundamental principle acknowledged in the main international human rights instruments and generally accepted by international law.
2. In a process that goes back a few decades, different approaches and different expressions have been adopted in this regard by the wider international community. A general prohibition of discrimination on a number of grounds, including sex, was the first step and such an approach is included both in the Charter of the United Nations of 1945 and in the Universal Declaration of Human Rights of 1948. The two covenants, on Economic, Social and Cultural Rights and on Civil and Political Rights respectively, adopted in 1966, which, together with the declaration, constitute the broad framework of human rights doctrine, go a little beyond and recognise the equal right of women and men to the enjoyment of all the rights enshrined in the covenants.
3. An emphasis on the specific discrimination against women in several areas and under different forms was another approach followed at world level, particularly in the 1950s and 1960s, when a number of conventions were adopted which identified the most critical aspects of gender inequality, namely in the fields of employment, remuneration and maternity protection, of political rights, and of rights with regard to marriage.
4. The 1970s saw a new development, particularly linked to the celebration of International Women's Year in 1975 and the establishment of the United Nations Women's Decade (1976-1985) that gave women's and equality issues a new legitimacy in international thinking. The Convention on the Elimination of All Forms of Discrimination against Women, adopted by the General Assembly in 1979, became the reference document at world level and covered new ground in its provisions. Even though its title still focuses on the elimination of discrimination against women, its provisions go beyond this view and point to the creation of conditions to achieve effective equality for women in all areas of life and to the obligation of States Parties to fulfil such conditions without delay and to guarantee equal rights, both in a formal and in a substantive way. A global and horizontal view of the implications of women's right to equality starts to be adopted that will be further developed.
5. Similar approaches can be found at Council of Europe level. Article 14 of the Convention for the Protection of Human Rights and Fundamental Freedoms, adopted in 1950, also follows the approach of non-discrimination on the basis of sex, an element that comes first in the list of grounds of discrimination. Protocol No. 12, adopted in 2000 and recently entered into force, brings a new development by enlarging that provision to the enjoyment of any right set forth by law and not only the rights included in the Convention, as previously established.
6. On the other hand, at Council of Europe level, progressive thinking led to a new and deeper understanding of the issue of equality of women and men. In 1988 the Committee of Ministers adopted the Declaration on Equality of Women and Men, a pioneering document which considers that "equality of women and men is a principle of human rights" and "a sine qua non of democracy and an imperative of social justice". It became a substantive and political landmark and remains a reference text in the Council of Europe's views and policies on gender equality. Not only does it affirm this principle of human rights, but it also draws its consequences in terms of human rights doctrine and of the devising of strategies and policies deriving therefrom, as well as the areas where action is needed in order to achieve gender equality.
7. In line with this recognition, women's human rights have also been proclaimed by the international community since the World Conference on Human Rights (Vienna, 1993) as being an inalienable, integral and indivisible part of the universal human rights.

8. At Council of Europe level, such views are further developed and the Declaration on Equality between Women and Men as a fundamental criterion of democracy, adopted by the 4th European Ministerial Conference on Equality between Women and Men (Istanbul, 1997), clearly states that “the achievement of equality between women and men is an integral part of the process leading to genuine democracy”. A close relationship between the concepts of gender equality, democracy and human rights is definitely and firmly established which opens up new horizons in the way that women’s issues and gender equality issues are to be envisaged.

9. We can rightly say that a progressive development has taken place in this regard which has deepened and enlarged the view of gender equality in several ways. From the concept of non-discrimination to a positive understanding of building equality; from a sectorial approach to the issue of gender equality to a more global and comprehensive one; from an emphasis on the situation of women, only or mainly, to a view of women and men, as essential partners for social change and to their gender relations; from a question that could be considered as marginal with regard to general political concerns to one that is placed at the very centre of these concerns, as it is deeply linked to the matter of universal human rights, their protection, promotion and fulfilment.

10. Human rights, being universal, are to be enjoyed by real persons, women and men, not by neutral human beings. Under this framework, it is no longer possible to speak of human rights and their realisation in absolutely neutral terms. Their realisation is embodied in concrete persons and their full enjoyment is the right of women and men in their specific situations and conditions; on the other hand, obstacles to that enjoyment on an equal footing, that is to say, obstacles to gender equality, can also be gender specific, linked to women’s and men’s situations as defined by history, culture and social circumstances and must be addressed as such. Such a view can lead to the adoption of positive actions/special temporary measures that cannot be considered discriminatory, as they are meant to overcome past discrimination linked to those circumstances and to accelerate the establishment of gender equality.

11. Awareness of the importance of gender – the fact of being a man or being a woman – and of the significance of gender equality, with all it implies with regard to historical background, social organisation and cultural understanding, is more and more present in international thinking as an essential element of good governance to achieve the aims of democracy and fulfilment of human rights.

12. Such a perspective is present in the documents adopted by the UN world conferences and summits of the 1990s, in which the issue of gender equality is envisaged as an essential element in the addressing of the global problems of the modern world, whether they be related to the environment and development (Rio, 1992), human rights (Vienna, 1993), population and development (Cairo, 1994) or sustainable social development (Copenhagen, 1995)

13. The last decade, from 1995 onwards, has witnessed this new understanding and the need for its practical realisation. In this regard, the importance of the 4th World Conference on Women (Beijing, 1995) and of the Declaration and Platform for Action adopted therein must be particularly underlined. Nowadays, it is not enough to establish formal provisions prohibiting discrimination on the basis of sex; it is not enough to proclaim that gender equality is a principle of human rights; and it is not enough to set standards with regard to its achievement in different areas. The challenge of our time is to fully implement gender equality principles and standards that have been progressively set, in order to bring positive changes into people’s lives and thus transform the existing formal equality into substantive equality.

## **2. Purposes and reasons for adopting a recommendation**

14. The Council of Europe’s work to promote and favour the achievement of gender equality is an integral part of its central mission, which is the safeguard and promotion of pluralist democracy, the rule of law and human rights and freedoms. To better serve these aims, some legal instruments have been adopted, as well as an important corpus of other documents, such as declarations, recommendations, resolutions, action plans and reports of various groups of specialists on achievements, obstacles encountered and innovative strategies to achieve gender equality. They have been developed and adopted to complement the normative framework with standard setting in areas where inequality affects women in different

ways and to a different extent and/or where the involvement of men and the creation of partnerships between women and men is crucial for successfully working towards a society where gender inequality may be overcome.

15. Assessment of how the Council of Europe member states have been achieving their obligations laid down in the international human rights legal instruments and how they have been implementing their commitments in order to achieve substantive gender equality as defined in other legal and programmatic texts of the United Nations and the Council of Europe has been secured through the monitoring systems established for the insurance of effective implementation of international treaties, as well as through surveys and evaluations carried out under other monitoring and reporting activities.

16. The results achieved by the Council of Europe's member states in their endeavours towards equality of women and men were also examined by the Committee of Ministers in the context of its thematic monitoring procedure in 2003.<sup>1</sup> In the light of the results of the consideration of replies of the member states on mechanisms, which exist at national level to secure equal rights for women and men in compliance with the relevant Council of Europe instruments, and of the compilation of comments prepared by the Council of Europe Monitoring Department of the Directorate of Strategic Planning, the Committee of Ministers requested that a recommendation be drafted on minimum standards on equality between women and men, including national equality mechanisms.

17. Because, despite the remarkable progress achieved, when comparing the inequalities between women and men today with those of few decades ago, it is undeniable that women and men are still not treated equally and that gender equality policies, methods and strategies used across the Council of Europe's member states have not yet been implemented according to their full potential.

18. The recommendation is an additional response of the Council of Europe role of standard setting, the aim of which is to support the practical realisation of member states' obligation to continue and accelerate their progress with a view of achieving substantive gender equality.

19. In this regard, member states' obligations go beyond the strict competence of governments and include all state bodies, at all levels. For that reason, indicators of political will and commitment refer to states and not only governments.

### 3. Definition and descriptions of concepts and tools

20. In the framework of this recommendation, some definitions and descriptions of concepts and tools are relevant for the full understanding of its meaning and purposes. These definitions and descriptions are taken from instruments and documents of the Council of Europe and United Nations.

**Gender equality** means an equal visibility, empowerment and participation of both sexes in all spheres of public and private life. Gender equality is the opposite of gender inequality, not of gender difference, and aims to promote the full participation of women and men in society. It means accepting and valuing equally the differences between women and men and the diverse roles they play in society. Gender equality includes the right to be different. This means taking into account the existing differences among women and men, which are related to class, political opinion, religion, ethnicity, race or sexual orientation. Gender equality means discussing how it is possible to go further, to change the structures in society which contribute to maintaining the unequal power relationships between women and men, and to reach a better balance in the various female and male values and priorities.<sup>2</sup>

**Discrimination against women:** any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field.<sup>3</sup>

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1. Compliance with member states' commitments (CM/Monitor (2003) 15).

2. Gender mainstreaming – Conceptual framework, methodology and presentation of good practices. Final report of activities of the Group of Specialists on Mainstreaming (EG-S-MS), EG-S-MS (98) 2 rev., Council of Europe.

3. Convention on the Elimination of All Forms of Discrimination against Women, Article 1.

**Direct discrimination** occurs when a difference in treatment relies directly and explicitly on distinctions based exclusively on sex and characteristics of men or of women, which cannot be justified objectively.<sup>1</sup>

**Indirect discrimination** occurs when a law, policy or programme does not appear to be discriminatory, but has a discriminatory effect when implemented. This can occur, for example, when women are disadvantaged compared to men with respect to the enjoyment of a particular opportunity or benefit due to pre-existing inequalities. Applying a gender-neutral law may leave the existing inequality in place, or exacerbate it.<sup>2</sup>

**Parity democracy:** the concept of parity democracy is understood to mean full integration of women on an equal footing with men at all levels and in all areas of the workings of a democratic society, by means of multidisciplinary strategies.<sup>3</sup>

**Balanced participation** of women and men in political and public decision making is taken to mean that the representation of either women or men in any decision-making body in political or public life should not fall below 40%.<sup>4</sup>

**Positive action:** it has been clearly recognised that protection against discrimination is not enough to ensure the equal treatment of women and men in practice. This implies that unequal situations should be treated unequally. In the different international conventions and other legal texts which contain a definition of the concept of discrimination, a definition of positive action is also included. Such definitions differ, depending on the legal instrument in question. There is, however, a certain pattern, which shows where different treatment is not considered discriminatory. The most important categories of measures which justify the different treatment are “protective measures”, “genuine occupational qualifications” and “positive measures to promote equality”.

Because of the intertwining of the concepts of non-discrimination and positive action, positive action must be defined within the framework of each convention, or within the framework of each national legislation. It is therefore extremely difficult to give an overall or a common definition of positive action. The chapter “Description of the legal background” presents a number of definitions as they appear in international legal texts, together with an analysis of each instrument. This is intended to make available, in one document, all the main texts, including references to positive action.<sup>5</sup>

**Temporary special measures:** aimed at accelerating *de facto* equality between men and women shall not be considered discriminatory, but shall in no way entail as a consequence the maintenance of unequal or separate standards; these measures shall be discontinued when the objectives of equality of opportunity and treatment have been achieved.<sup>6</sup>

**Gender mainstreaming** is the (re)organisation, improvement, development and evaluation of policy processes, so that a gender equality perspective is incorporated in all policies at all levels and at all stages, by the actors normally involved in policy-making.<sup>7</sup>

**Gender impact assessment** has its roots in the environmental sector and is a typical example of an existing policy tool that has been adapted for the use of gender mainstreaming. Gender impact assessment allows for the screening of a given policy proposal, in order to detect and assess its differential impact or effects on women and men, so that these imbalances can be redressed before the proposal is endorsed.

1. General Comment No. 16 (2005) – The equal rights of men and women to the enjoyment of all economic, social and cultural rights (Article 3 of the International Covenant on Economic, Social and Cultural Rights) of the Committee on Economic, Social and Cultural Rights (E/C.12/2005/4, 11 August 2005).

2. Ibidem.

3. Group of Specialists on Equality and Democracy, Final report of activities, p. 11, Council of Europe Publishing, 1996.

4. Recommendation Rec (2003) 3 of the Committee of Ministers to member states on balanced participation of women and men in political and public decision-making – Council of Europe.

5. Positive action in the field of equality between women and men – Final report of the Group of Specialists on Positive Action in the field of Equality between Women and Men (EG-S-PA), EG-S-PA (2000) 7, Council of Europe.

6. Convention on the Elimination of All Forms of Discrimination against Women, Article 4.

7. Gender mainstreaming – Conceptual framework, methodology and presentation of good practices. Final report of activities of the Group of Specialists on Mainstreaming (EG-S-MS), EG-S-MS (98) 2 rev., Council of Europe.

An analysis from a gender perspective helps to see whether the needs of women and men are equally taken into account and served by this proposal. It enables policy makers to develop policies with an understanding of the socioeconomic reality of women and men and allows for policies to take (gender) differences into account. Gender impact assessment can be applied to legislation, policy plans, policy programmes, budgets, concrete actions, bills and reports or calls for research. Gender impact assessment methods do not only have to be applied to policies in the making, they can also be applied to existing policies. They can be used in the administration as well as by external actors; in both cases they require a considerable amount of knowledge of gender issues. The advantage of these tools lies in the fact that they draw a very accurate picture of the effects of a given policy.<sup>1</sup>

**Gender budgeting** is an application of gender mainstreaming in the budgetary process. It means a gender-based assessment of budgets, incorporating a gender perspective at all levels of the budgetary process and restructuring revenues and expenditures in order to promote gender equality.<sup>2</sup>

#### 4. Comments on the recommendation

##### 4.1. Scope of the Recommendation

21. The scope of the recommendation is a very wide one, as gender equality is a fundamental principle that concerns all areas and all aspects of life. In each of them, working towards its achievement requires the adoption of laws and norms to establish formal equality or equality *de jure*. However, laws and norms are not enough; the full implementation of such laws and norms and the adoption of policies and programmes to give them full effect are also necessary in order to achieve substantive equality or equality *de facto*. The ground that the recommendation covers is, therefore, very wide, both in terms of areas and in terms of aims.

22. As regards the personal scope of application of the recommendation, the achievement of gender equality obviously refers to all persons, women and men. However, because women are mostly affected by different forms of gender inequality, formulations are often addressed to their particular situation. On the other hand, while speaking of women, it obviously refers to women of all ages, from childhood to adolescence, adulthood and old age. However, when provisions or requirements are particularly relevant for young women/children the formulation of “women and girls” has been used.

23. Following the Preamble, in the first substantive part – General standards – the fundamental principles, that constitute the framework under which all actions to achieve gender equality must be pursued, are enunciated and complemented by the objective requirements they demand to become operative.

24. In the second part – Standards in specific areas – the basic principles in a variety of policy areas and of critical aspects of life in our societies are also recalled, together with the objective elements that demonstrate states’ political will to achieve gender equality in those areas.

25. These specific areas can be classified in different groups, according to their specific nature: the first refers to those aspects of social life where women’s and men’s integration and participation mainly take place – private and family life; economic life; public and political life; and the possibility to reconcile these different areas. Others address those matters that correspond to the exercise of basic personal rights – education and culture; social protection, health, etc.

26. On the other hand, these specific areas also include particularly critical aspects that mainly affect women’s lives and their human rights, thus impeding the achievement of gender equality – the issue of violence against women, of trafficking in persons for purposes of sexual or commercial exploitation, of the position of women in conflict and post conflict situations, etc.

27. Particular attention is also given to the role of the media as possible agents of change with regard to the achievement of gender equality and to the specific case of vulnerable groups of women exposed to multiple discrimination, due not only to their sex, but to other factors linked to race, colour, language,

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1. *Ibidem*.

2. Final report of the Group of Specialists on Gender Budgeting (EG-S-GB), EG-S-GB (2004) RAP FIN, Council of Europe.

religion, political or other opinion, national or social origin, association with a national minority, property, birth, or any other factor.

28. Common to all areas is the need of legal provisions, in line with the defined international standards that formally guarantee gender equality; common to all areas is also the need of mechanisms to enforce and monitor such provisions and to provide remedies in cases of their violation. Equally necessary, on the other hand, are co-ordinated strategies, policies and plans in order to achieve full and equal enjoyment by women and men of human rights in all areas of life.

29. Strategies, mechanisms and tools are, thus, the object of the third part of the recommendation, which aim to define those which are indispensable for effective planning, effective implementation and effective assessment of all policies and plans. Also fundamental in this regard is the close and co-ordinated co-operation with institutions of civil society, because what is at stake in the pursuit of gender equality is social and cultural change that involves and affects all stakeholders – persons, institutions, organisations – in all areas and all layers of society.

#### 4.2. Preamble

30. The preamble of the recommendation recalls the main fundamental instruments that build the normative and programmatic framework under which the matter of gender equality, as a human rights principle, must be envisaged and addressed.

31. Starting with Council of Europe documents, reference is made to its basic instruments – the Convention for the Protection of Human Rights and Fundamental Freedoms and its Protocols and the Revised European Social Charter – as well as the Declaration on Equality of Women and Men, adopted by the Committee of Ministers in 1988. As mentioned above, this is a reference document of a pioneering character in its vision of gender equality in the framework of human rights and of its implications, in terms of doctrine, policy and areas of state intervention. Particularly relevant is also the recently adopted Council of Europe Convention on Action against Trafficking in Human Beings.

32. Other recent Council of Europe documents, namely declarations, recommendations and plans of action, emphasise some crucial aspects where gender equality must be pursued and achieved – in language, in the media, in political and public decision making with regard to gender-based violence, trafficking and exploitation, reconciliation of professional and family life, gender mainstreaming into all government policies, etc.

33. United Nations documents that reflect the thinking of the broad international community with regard to gender equality are also recalled, both instruments of a general nature – the Universal Declaration on Human Rights and its Covenants and their provisions on non-discrimination and equal rights of women and men – and also gender-specific documents – the Convention on the Elimination of All Forms of Discrimination against Women and the Beijing Platform for Action – which constitute the two basic and complementary documents: the legal framework and the programmatic framework for action at world level respectively.

34. Reference is also made to the relevant instruments of the European Union, namely the EEC Treaty, as amended by the Treaty of Amsterdam, and the Charter of Fundamental Rights.

35. The preamble also introduces the main reason and the objective of the recommendation, that aims to provide a tool to help to overcome the present gap between equality *de jure* and equality *de facto*, a gap that persists in every country in spite of the standard-setting and of the on-going efforts taking place everywhere.

36. To move from standard-setting to the implementation of standards and norms is the aim of this recommendation and, for that purpose, areas are defined and indicators are given that are meant to help states in their task to work for gender equality.

37. This task must be accomplished not only at the level of state institutions, but in society as a whole, including the active involvement and responsibility of non-state actors, as clearly expressed in the CEDAW



Convention – Article 2 e) – when requiring State Parties “to take all appropriate measures to eliminate discrimination against women by any person, organisation or enterprise.”

#### *4.3. Provisions of the recommendation*

##### *A. General Standards*

###### *1. Gender equality as a principle of human rights and a government responsibility*

38. In the Declaration on Equality of Women and Men, adopted by the Committee of Ministers of the Council of Europe in 1988, it is clearly stated that “equality of women and men is a principle of human rights, upheld as a fundamental right in many international instruments”. It is further acknowledged that “sex-related discrimination in the political, economic, social, educational, cultural and any other fields constitutes impediments to the recognition, enjoyment and exercise of human rights and fundamental freedoms”.

39. Similar views have also been expressed by various instruments and programmes of action adopted by the wider international community, including the formal recognition that women’s human rights are an inherent part of universal human rights that states must uphold, respect and promote. That is the case of the Vienna Declaration and Programme of Action of 1993, of the Cairo Programme of Action of 1994 and, particularly, of the Beijing Declaration and Platform for Action of 1995, which is viewed as “an agenda for women’s empowerment” that requires “a strong commitment on the part of governments, international organisations and institutions at all levels.”

40. The scope of states’ responsibility in the promotion of gender equality is clearly established in human rights treaties, both gender specific ones, like the Convention on the Elimination of All Forms of Discrimination against Women, which encompasses all areas of life with its core articles (1 to 5) being reflected in all the sectorial provisions, as well as in the general ones, like the International Covenants on Economic, Social and Cultural Rights and on Civil and Political Rights, where a substantive provision on gender equality (Article 3) covers all the rights enshrined therein. The same happens in regional treaties, like the European Convention for the Protection of Human Rights and Fundamental Freedoms and the Revised European Social Charter, where Article 14 and Article E, respectively, guarantee the enjoyment of all the rights with no discrimination on any grounds including sex.

41. In this vein, it is clear that promotion of gender equality is a responsibility of the state and that it must work towards its achievement, not only through the elimination of discrimination on the grounds of sex, but also through the adoption of pro-active and consistent policies and programmes of a global and horizontal nature, encompassing all policy areas and all levels of governance.

42. In line with these requirements, such policies must also be seen in a human rights framework and, as such, there can be no economic, social or political circumstance invoked to impede the active pursuit of gender equality or the enjoyment by all persons, women and men, of their human rights. On the other hand, because what is at stake in the elimination of discrimination based on sex and achievement of gender equality is the enjoyment of human rights, no custom or tradition that goes against these rights should be accepted or tolerated. The measures taken to eradicate these traditions or customs must be complemented by appropriate measures aimed to meet the specific needs of the women concerned.

###### *2. Gender equality as a concern and responsibility of society as a whole*

43. The responsibility of the state, being of a primordial nature, is not exclusive. The pursuit and achievement of gender equality involves and challenges all the living forces of any given society, both private and public sector organisations, women’s and human rights organisations, youth organisations, academic and research institutions, political parties, social partners, etc. And above all, it involves women and men, whose lives are deeply affected by the existence or denial of gender equality in all areas of life. Gender equality requires, therefore, a structural change that affects all and for which all are bound to contribute.

44. This view has been confirmed by the international community, namely in the Beijing Platform for Action of 1995 and in the outcome document of the special session of the General Assembly in 2000, as

well as in the Political Declaration from the 49th session of the United Nations Commission on the Status of Women in 2005. These have consistently reaffirmed the necessary multifold involvement of all social actors in all efforts to achieve gender equality.

45. On the other hand, because it is a requirement of democracy and of social justice, the process of its achievement must be constantly monitored and assessed, through the means of objective instruments and indicators. Among those, the assessment of women's and men's presence in the leading bodies of institutions and of civil society organisations, the identification of obstacles to equal participation of women and men in those instances, the search of solutions and plans to overcome these, etc.

46. Gender equality plans, including practical measures, targets and time frames of implementation are essential tools to pursue this process and they must be obligatory in political and administrative institutions. As for civil society institutions, encouragement for their adoption in a voluntary manner must also be pursued.

47. Achievement of gender equality is a joint and common effort of all sectors of society and only through their co-operation will historical and cultural inequalities between women and men be overcome and will change be effective.

### *3. Commitment, transparency and accountability in the achievement of gender equality*

48. Elimination of discrimination on the grounds of sex and the progressive achievement of equality of the sexes is not an easy nor a linear task. It requires strong political will and commitment, as it is not bound to happen easily in a natural way. Gender equality challenges a status quo that has long-lasting historical and cultural roots. For that reason, the commitment by states towards the achievement of gender equality must be strong and sustained.

49. Its pursuit must be planned, monitored and carefully assessed. A true knowledge of reality and the identification of obstacles is the first step; the will to change and the adoption of plans and programmes, with targets and time frames, is the second; and the regular monitoring and assessment of progress is the third.

50. In this process, for which governments are accountable before their citizens, total transparency must be the rule: transparency at political level with regard to political partners, namely the parliament at national level and other representative bodies at other levels of power; transparency also with regard to all non-state actors, namely civil society organisations and media organisations, that can function as positive channels of information and communication, and whose co-operation and interest is essential to achieve social change.

### *4. Ratification of relevant treaties and implementation of all relevant international legal instruments*

51. International human rights instruments, including gender specific human rights instruments, constitute the codified and internationally accepted set of standards for the achievement of gender equality. They must function as the framework, guidelines and directives for ratifying states in their efforts to build gender equality and to protect and promote the human rights of men and women on equal terms.

52. Such instruments can have a different character and a different way of dealing with gender equality concerns. They can be of a general nature with specific and cross-cutting provisions on non-discrimination or on gender equality that influence all the other provisions, as is the case of the Universal Declaration on Human Rights (Article 2) and the International Covenants on Economic Social and Cultural Rights (Article 3) and on Civil and Political Rights (Article 3) or the Convention on Human Rights and Fundamental Freedoms (Article 14) and its Protocol 12 or the Revised European Social Charter (Articles 20 and E); they can also deal with general problems but include a gender dimension in all or most of its provisions, as is the case of the Council of Europe Convention on Action against Trafficking in Human Beings; or they can be of a gender specific nature, like the UN Convention on the Elimination of All Forms of Discrimination against Women.

53. Ratification of all the significant international legal instruments is, in all cases, to be considered as a demonstration of serious commitment and as a pre-requisite for serious action. A ratification must be without reservations; or, if reservations are justified at the time of ratification or accession, work must be done without delay in order to allow for their withdrawal as soon as possible. On the other hand, attention must be paid to the reservations put forward that should never be incompatible with the object and purpose of the treaty in question.

54. A further step, when international instruments are not directly applicable after ratification, is their immediate incorporation into national law, whatever the system to achieve it may be, and their pro-active implementation.

55. Fundamental as they are, these instruments, which are the letter of the law, must become practice in the real life of the people concerned. Bringing rights into effect is the ultimate aim of these instruments and of their acceptance. Such a process must be regularly monitored, both nationally, through regular mechanisms of evaluation, and internationally, through the timely fulfilment of reporting obligations.

*5. Adoption and effective enforcement of gender equality legislation and integration of a gender perspective in legislation in all areas*

56. The equal right of women and men to the enjoyment of civil, political, economic, social and cultural rights, like all human rights laid down in the international legal instruments, imposes on states the legal obligation to respect, protect and fulfil this right.

57. The obligation to respect requires that member states adopt laws, policies, administrative measures and programmes which shall result in the ability of women and men to enjoy their human rights on a basis of equality.

58. The obligation to protect requires that member states adopt constitutional and legislative provisions and administrative measures and programmes for the elimination of all forms of direct and indirect discrimination based on sex, as well as establishing public institutions, agencies and other bodies to protect women against discrimination and to promote gender equality.

59. The obligation to fulfil requires that member states take all necessary steps to ensure that women and men, in practice, enjoy their human rights on an equal footing, including measures such as availability and accessibility of appropriate remedies, effective sanctions for the infringement of the gender equality principle including through extrajudicial resolving of a dispute and alternative dispute resolutions, development and full implementation of policies and programmes for the achievement of substantive gender equality which shall have a long-term effect and which may include specific actions, such as positive actions and special temporary measures.

60. International legal instruments aimed at protecting and promoting the human rights of women and men on equal terms and including gender equality as an integral aspect oblige State Parties to enact and enforce legislation to guarantee these rights. However, despite the important progress achieved, these international commitments are not yet consistently reflected in national legislations. Very often, international standards are not properly considered when introducing them in national legislation, due to a misconception that gender equality is limited to the equality before the law and/or merely to the prohibition of discrimination based on sex.

61. The understanding and the use of international law in advancing gender equality at the national level is especially important where international law can be applied directly. The principle of equality of women and men is fundamental to the enjoyment of each of the specific human rights of women and men, therefore failure to ensure *de jure* and *de facto* gender equality constitutes a violation of human rights.

62. Enforcement mechanisms to investigate and address alleged violations relating to gender equality and prohibition of discrimination based on sex must provide remedies for such violations. Cases of alleged sex-based discrimination complaints often involve situations in which it is in the interests of all parties concerned to preserve their relationship if possible, while resolving the dispute (e.g. disputes between

employer and employee). To improve access to justice in the field of gender equality the use of conciliation, mediation or arbitration should also be promoted. Reporting of many Council of Europe member states under the Convention on the Elimination of All Forms of Discrimination against Women and other human rights treaties reveals that very often women do not claim their rights through legal means due to extremely long court or tribunal procedures; therefore, dissatisfaction with legal procedures should also be addressed through developments at institutional level, which might include the establishment of gender equality ombudspersons or other complaint/investigation institutional structures. Such structures might be either entrusted to address all complaints related to the prohibition of discrimination based on sex and to equality matters, or established for dealing with discrimination complaints in specific areas (employment and the labour market).

63. Substantive gender equality implies that laws and their effects, policies and practices do not maintain, but rather alleviate and finally eliminate, the disadvantages that women experience. To overcome the burden of accumulated inequalities and disadvantages of the past which women were or continue to be exposed to, i. e. to attenuate or suppress conditions that perpetuate discrimination based on sex, differential treatment expressed in positive actions and temporary special measures must be made possible in the national legislation.

64. The most appropriate ways and means of implementing the obligations under international human rights treaties and other international commitments vary from one member state to another. Every state has a margin of discretion in implementing appropriate measures to comply with their obligations to ensure gender equality. But among other things, they must develop and implement monitoring mechanisms to ensure that implementation of internal laws does not have unintended adverse effects on disadvantaged or marginalised individuals or groups, particularly women. In addition, all existing laws and draft laws should be subjected to systematic review by institutions with proven expertise in the field of gender equality to ensure that no discriminatory provisions are maintained in existing legislation or adopted in new or amended legislation. While individual, in-depth legislative reviews by a variety of experts are always helpful, a standardised approach will systematically and regularly ensure that legislation does not include direct or indirect discrimination based on sex.

65. Jurisprudence evolves; priorities shift and institutional frameworks are continuously retailored to new challenges posed by these dynamic changes. The development of legislation and its efficient implementation, therefore, requires the formulation and implementation of guidelines aiming at the inclusion of a gender perspective throughout this process. Such a gender perspective must be systematically and properly considered in the drafting of legislation and in the designing of policies and their implementation. These obligations are cross cutting and apply to all areas and all aspects of life of women and men.

*6. Elimination of sexism from language and promotion of language that reflects the principle of gender equality*

66. In 1990, when the Committee of Ministers of the Council of Europe adopted the Recommendation No. R (90) 4 on the elimination of sexism from language, languages spoken in many of its then member states subordinated women to men by giving the masculine gender precedence over the feminine and frequently assuming that the masculine stood for the universal, therefore encompassing men and women. Despite progress achieved, particularly in legal texts, more than 15 years after the adoption of the recommendation such practice is still present in many languages of the Council of Europe member states.

67. Keeping with the work on the promotion of gender equality of the Council of Europe and with positions of international organisations at world level, member states are requested to adopt measures, aiming at the creation of the most favourable conditions for the achievement of gender equality. Among these conditions, cultural environment is very important and entails adaptation of the language to bring it in line with the psychological, social and cultural changes in women's and men's lives and with the respect, protection and promotion of gender equality.

68. Member states must, therefore, adopt guidelines addressed to all the actors involved, requiring that language used in official documents, including legal texts as well as texts regarding public policies and programmes, in communication of public services with individuals, in education and in the media give women and men and their activities equal value and equal visibility. Member states should also encourage the media to use non-sexist language. Such language can be used for example through: replacement of the masculine form when it is used as a universal/generic neutral term with a word which has no sexual connotation, or use of the masculine and feminine forms; use of a neutral formulation, where available, to denote groups, consisting of women and men, or else use of feminine and masculine forms side by side; elimination of the use of appellations by which women and men are described through their relationship (widow, spouse etc.), which should be used only when necessary for achieving a legitimate aim.

69. Monitoring of implementation of these guidelines must be carried out by gender equality institutions or specially dedicated structures.

70. Through a systematic daily use of non-sexist language, particularly in the public sector and in all forms of education as well as in the media, which are the leading vectors of social change, the Council of Europe member states will substantially contribute to the elimination of obstacles to achieve substantive gender equality.

71. At world level, similar concerns have been expressed and particular reference should be made to UNESCO guidelines on the same matter that go back to the end of the 1980s (see *Guide to Non-Sexist Language*, 1987, and later, *Guidelines on Gender-Neutral Language*, 1999) and have been regularly recalled in resolutions of its General Conference.

## *B. Standards in specific areas*

### *1. Private and family life*

72. Equality of women and men in private and family life is a generally accepted principle in international thinking and in legal instruments, both Council of Europe instruments including the Convention on Human Rights and Fundamental Freedoms (Articles 8 and 12) and its Protocol 7 (Article 5) and the Revised European Social Charter (Articles 16, 20 and 27), as well as United Nations instruments, like the Universal Declaration on Human Rights (Article 16), the International Covenant on Economic, Social and Cultural Rights (Article 10) and the International Covenant on Civil and Political Rights (Article 23), the Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages and the Convention on the Elimination of All Forms of Discrimination against Women (Article 16). The principle of equality of women and men in private and family life includes equality in marriage and family relations, namely the right to freely choose a spouse and enter marriage with free and full consent, the same rights and responsibilities during marriage and at its dissolution, the same rights and responsibilities as parents with regard to their children, the same rights with regard to ownership and administration of property, etc.

73. The last decades have witnessed deep social changes and changes in family life styles and family relations. An increasing participation of women in the labour market and in economic life in general has contributed to these changes and even if such participation is positive in terms of a new paradigm that can bring about a new situation of equality of women and men, it is, however, true that such equality has been hampered by a non-equivalent development regarding the role of men within the realm of private and family life.

74. Changes have occurred in the sense of a greater sharing of the public space between women and men, but such sharing has not occurred to the same extent within the private and family sphere. Developments have, therefore, been ambiguous for women. They share the world of work with men to a large extent, although often experiencing direct and indirect forms of inequality within it, while they keep a disproportionate share of the work at home and of the family responsibilities.

75. On the other hand, the value of unpaid work, mainly performed by women in the private sphere, is not always fully acknowledged, namely in cases of separation and divorce, often placing women at a

disadvantage. Gender stereotypes on women's and men's roles that remain, in spite of the current changes in such roles, is another factor contributing to gender inequality in this realm.

76. In some cases, serious violations of personal rights in this domain also occur, namely regarding the occurrence of forced and early marriages apparently taking place in certain communities in European countries. They can affect women and men but women, mainly young women, are particularly at risk due to their subordinate position in society and in such communities.

77. In all these cases, the effective enjoyment of equal rights within the family and in family relations, as foreseen in international guiding principles, namely the Convention on the Elimination of All Forms of Discrimination against Women, can be deeply affected and governments have an obligation to address these inequalities in an effective way.

78. Some requirements that indicate states' political will and commitment to do so are indicated in the present recommendation.

## *2. Education, science and culture*

79. The right to education is a human right that must be enjoyed by women and men on an equal footing. It regards both the access to education on the one hand, and equal opportunities with regard to educational choices and educational achievements on the other.

80. Women's access to education in European countries is generally equivalent to that of boys in numerical terms, girls even being the majority at different levels of the school system in a number of countries. Beyond this quantitative equality, however, other types of inequality still remain in most, if not all, European societies regarding the prevailing stereotypes on women's and men's roles and their regular transmission to the new generations, namely through the functioning of the school system.

81. Such stereotypes are reflected in educational materials, as well as in teachers' and educators' lack of gender awareness and biased expectations of boys' and girls' capabilities and appropriate fields of study for each sex, thus leading to differentiated professional choices and potentially unequal future prospects. The fact is that, even if there is no direct discrimination against girls and women in access to the school system, there are, certainly, indirect forms of discrimination reflected in what is usually called "hidden curricula".

82. Awareness of these facts has progressively grown and legal provisions, guidelines and plans of action have been put forward. The Universal Declaration on Human Rights (Articles 26 and 27) and the International Covenant on Economic, Social and Cultural Rights (Articles 13 and 15) at world level and the Protocol to the European Convention on Human Rights (Article 2) and the Revised European Social Charter (Articles 10, 17 and 20) at European level enshrine the right to education, training and personal development for all. As early as 1979, the Convention on the Elimination of All Forms of Discrimination against Women, particularly in Article 10, drew a rather complete picture of states' obligations to eliminate discrimination on the grounds of sex and to ensure equal rights for women and men in the field of education, including the same conditions for career and vocational guidance, the same curricula and examinations, the elimination of stereotyped concepts of women's and men's roles, the same access to continuing education, the same opportunities to participate in sports and physical education, etc.

83. The Beijing Platform for Action, in 1995, under the "critical area" entitled "Education and training of Women" underlines the less visible forms of discrimination when it refers to the need to create "an educational and social environment, in which women and men, girls and boys, are treated equally and encouraged to achieve their full potential [...] and where educational resources promote non-stereotyped images of women and men."

84. This concern is valid for all levels of the educational system, formal and non-formal, and the creation of such an environment is an obligation of the state that requires, among other aspects, the inclusion of the principle of gender equality in the national framework legislation on education and training and of a gender perspective in educational and capacity-building policies. This requirement is not in contradiction with the autonomy of high-level academic institutions, as they must also be bound by the

principle of gender equality as a principle of human rights and accountable for its full implementation. Such implementation also requires that a regular assessment be made of the presence of girls and boys, women and men, not only at the different educational levels, including in post-graduate and research programmes, but also in the different areas of knowledge, particularly science and technology, where women's presence has been traditionally lower. Finally, it also requires a consistent effort of awareness-raising on gender equality addressed to the general public, aiming at cultural change with regard to stereotyped views of women and men and their roles in society.

### *3. Economic life*

85. Women's right to participation in employment and in economic life in general, on an equal footing with men, is a fundamental principle recognised in the relevant international legal instruments. Such participation includes a variety of aspects that have been progressively considered in those instruments. At world level, the Universal Declaration on Human Rights (Article 23), the International Covenant on Economic, Social and Cultural Rights (Articles 7 and 10), a number of conventions of the International Labour Organization (100, 111, 156 and 183) and the Convention on the Elimination of All Forms of Discrimination against Women (particularly Article 11) include general and specific provisions in this regard.

86. Provisions related to non-discrimination in employment and occupation, equal remuneration for equal work or work of equal value, the right to the same employment opportunities, including the application of the same criteria for selection, the right of free choice of profession and employment, the same right to career development and promotion, job security and all benefits and conditions of service, the right to vocational training, as well as the prohibition of discrimination against women on the grounds of marriage and maternity, and the protection of maternity and family responsibilities are some of the provisions considered in these instruments.

87. Also at European level, both within the Council of Europe and the European Union, similar concerns have been taken up and legal and policy standards have been adopted with regard to several dimensions of gender equality in the world of work and in economic life. At Council of Europe level, the Revised European Social Charter (Articles 1, 4, 8, 20, 26 and 27) is the main legal instrument on matters related to labour and social and economic rights and includes specific provisions on the right to equal opportunities and equal treatment in matters of employment and occupation, without discrimination on the grounds of sex. It further considers that a differential treatment based on an objective and reasonable justification is not to be deemed discriminatory, a provision that opens the door to the possibility of positive action to accelerate equality.

88. At European Union level, the EEC Treaty as amended by the Treaty of Amsterdam, several directives since 1975 and the Charter of Fundamental Rights include specific provisions on this matter, namely regarding equal pay, equal treatment as regards access to employment, vocational training, promotion and working conditions, pregnancy and maternity protection, paternity and parental leave, reversal of the burden of proof in cases of sex-based discrimination, etc., as well as in the access to and supply of goods and services.

89. The subject of gender equality with regard to economic life has been discussed at the 6th Ministerial Conference on Equality of Women and Men of the Council of Europe (Stockholm, June 2006), which adopted the theme "Human Rights and economic challenges in Europe – gender equality". The resolution and action plan adopted by the conference, while recognising the global and comprehensive nature of gender equality requirements, also emphasised its impact in terms of economic development.<sup>1</sup>

90. Notwithstanding these extensive international standards and guidelines and also national legislation aiming at the effective application of these principles, the fact is that the situation on the ground is often one of persistent discrimination against women, both direct and indirect.

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1. See also Recommendation 1700 (2005) of the Parliamentary Assembly of the Council of Europe on discrimination against women in the workforce and the workplace

91. As recognised by the Beijing Platform for Action, this is a particularly critical area and one where the situation of women has undergone profound changes in the last decades. In many countries there has been a rapid increase of the number of women entering and staying in the formal labour market, a fact which in itself can be considered as a positive indicator with regard not only to democratic participation, but also to women's self-realisation, economic independence and autonomy to determine their own lives. However, their status in employment and economic life in general remains one of inequality in relation to that of men.

92. Even when holding higher qualifications, this fact is not reflected in an equivalent way in their situation in the world of work, particularly when it comes to access to decision-making levels; but also with regard to job access, situation within the profession, career development or remuneration; here, too, they face specific obstacles which render their situation an unequal one, contrary to the principles of democracy and social justice.

93. A renewed effort by states is necessary to adopt or improve and fully implement legal provisions in line with the defined standards; to sanction their non-observance or violation; to devise and adopt more effective policies and closely monitor their application. The non-exhaustive list of indicators included in the recommendation may be a useful instrument to achieve change in this field.

#### *4. Political and public life*

94. It is generally recognised that full and equal participation of women and men in political and public life, including at decision-making level of its institutions – governments, parliaments, regional and local power institutions, public administration and government consultative bodies – is both a requirement of democracy and a sign of its effective functioning.

95. At world level, the Universal Declaration on Human Rights (Article 21) and the International Covenant on Civil and Political Rights (Article 25) proclaim the right of all persons to take part in public affairs and political life and the Convention on the Elimination of All Forms of Discrimination against Women, which all member states of the Council of Europe have ratified, clearly mandates, in its Article 7, that "States Parties shall take all appropriate measures to eliminate discrimination against women in the political and public life of the country...".

96. Also, the Beijing Platform for Action, under the "critical area" entitled "Women in power and decision making" states that "achieving the goal of equal participation of women and men in decision making will provide a balance that more accurately reflects the composition of society and is needed in order to strengthen democracy and promote its proper functioning."

97. At European level, the same matter has been one of the main trends of the Council of Europe's vision on gender equality since the 1980s. Several Ministerial Conferences on Equality between women and men have adopted guidelines aiming at such participation (Strasbourg, 1986, Vienna, 1989, Istanbul, 1997).

98. In 1993-1994 a "Group of Specialists on Equality and Democracy" was mandated to make an in-depth theoretical and political study of the linkages between the concept of democracy and the demand for real equality between women and men and developed the concept of parity democracy that, while applying significantly to the area of political participation, is also relevant for all the other areas of social life.

99. More recently, the Committee of Ministers took a stand on the matter when adopting Recommendation Rec (2003) 3 on balanced participation of women and men in political and public decision making. It is a very encompassing document which brings to the fore the foundations of equal participation and points to the measures that are needed, legal, administrative and supportive measures, as well as to their necessary monitoring, in order to guarantee that progress in this area is achieved.<sup>1</sup>

1. See also: Resolution 1348 (2004) of the Parliamentary Assembly of the Council of Europe on gender balanced representation in the Parliamentary Assembly; Recommendation 1676 (2004) on women's participation in elections; Recommendation 1738 (2006) and Resolution 1489 (2006) on mechanisms to ensure women's participation in decision making.



100. At European Union level the matter of a balanced participation of men and women in decision making has also been taken up in Resolution 95/C168/02 of 27 March 1995 and Recommendation 96/694/CE of 2 December 1996 of the European Union Council.

101. States' responsibility in this regard is, therefore, very clear and the adoption of the necessary measures to face it is not optional, but a serious obligation. Wherever there is a situation of democratic deficit with regard to such participation – and such is the case in the great majority of European countries – they have to create the legal, political, administrative and social conditions to promote and ensure equal participation of women and men in political and public life, as participation of both sexes on a parity basis is a fundamental requirement of a parity democracy. The present recommendation lists some of the main elements that demonstrate states' political will and commitment to fulfil this responsibility.

*5. Reconciliation of private/family life and professional/public life*

102. The matter of reconciliation of private/family life and public/professional life is deeply linked to all the social changes of the last decades: changes related to the organisation of family life and to the increasing participation of women in professional life; the diminished support in relation to childcare on the part of older generations as older women are often members of the labour force themselves; the increasing expectancy of life with older dependants requiring new forms of support, mainly performed by women, etc.

103. Time use surveys undertaken in a number of countries show persisting imbalances in the sharing of tasks between women and men, particularly in the private sphere, thus creating a situation that has negative consequences for women, both as regards their professional opportunities and their participation in political and public life.

104. Awareness of this situation has grown in the last decades, being progressively acknowledged by international organisations in recommendations and programmes of action. Of course, international norms regarding maternity protection as well as regarding some rights of workers with family responsibilities have existed for a considerable time and, more recently, paternity and parental protection rights are also being acknowledged.

105. At world level, a firm concern about the issue of reconciliation of both aspects of life, as particularly affecting women due to their traditional responsibilities and persisting gender roles, is already included in the Convention on the Elimination of All Forms of Discrimination against Women which considers, in Article 11.2, that States Parties must take measures "to encourage the provision of the necessary supporting social services to enable parents to combine family obligations with work responsibilities and participation in public life, in particular through promoting the establishment and development of a network of childcare facilities."

106. The same concern was later expressed in the Beijing Platform for Action (PFA) and reinforced in the outcome document of the special session of the General Assembly usually called Beijing +5. The PFA, within the section on "Women and the Economy" states that: "The lack of a family-friendly work environment, including a lack of appropriate and affordable childcare, and inflexible working hours further prevent women from achieving their full potential."

107. In earlier years, the ILO Convention No. 156 concerning Equal Opportunities and Equal Treatment for Men and Women Workers: Workers with Family Responsibilities has put forward guidelines in this regard which, together with maternity protection conventions, particularly Convention No. 183 concerning the revision of the Maternity Protection Convention (Revised) 1952 of 2000, also give a significant framework for protection of the right to reconcile professional and family life.

108. Other organisations, including the Council of Europe and the European Union, have paid particular attention to this problem, which must be envisaged as one of the great challenges of our time, not only with regard to equality, but also with regard to the quality of life for all and the welfare of children.

109. Both the Revised European Social Charter (Article 27) and the Charter of Fundamental Rights (Article 33) include specific provisions related to the issue of reconciliation of professional and family life, namely dealing with maternity protection measures and protection of workers with family responsibilities.

110. Of specific relevance in this regard, as they take into account the more global and structural approach to the matter, are Recommendation No. R (96) 5 on reconciling work and family life adopted by the Committee of Ministers of the Council of Europe in 1996 and the European Union Resolution of the Council and of the Ministers for Employment and Social Policy on the balanced participation of women and men in family and working life adopted in 2000.<sup>1</sup>

111. On the whole, these international documents point to the question of reconciliation of private and professional life as a global issue that involves many aspects of life and of social organisation, including matters of maternity/paternity protection for workers, both women and men, of provision of childcare and family support systems, of a new organisation of working life, including flexible forms of work and the establishment of family-friendly working environments envisaged as a social responsibility of employers, of a new organisation of family life by a more balanced sharing of tasks by women and men, of promotion of awareness-raising actions to change stereotyped views of sex roles and achieve the structural change that is needed to overcome the present difficulties.

112. In this regard it is the responsibility of the state to view the issue of reconciliation of professional/public and family/private life as a political issue that has to have a political response. Essential elements to assess progress in this field are included in the recommendation.

#### *6. Social protection*

113. Social protection is very important for the well-being of all citizens, women and men, their families, male and female workers and the entire community. It is a basic human right and a fundamental means for effectively promoting and maintaining social cohesion; it is, therefore, an indispensable part of government social policy and an important tool to prevent and alleviate poverty. It also contributes to human dignity, social justice and equality, and is important for political inclusion and empowerment of women and men and the development of democracy.

114. The equal rights of women and men in the enjoyment of social protection are enshrined in the main international human rights instruments. At world level, the Universal Declaration of Human Rights (Article 22) proclaims the right of everyone to social security, while the International Covenant on Economic, Social and Cultural Rights guarantees a set of social rights encompassing the right to the widest possible protection and assistance to the family (Article 10), to adequate standard of living for everyone and his or her family, including adequate food, clothing and housing, and to the continuous improvement of living conditions (Article 11) which are, according to the essence of Covenant's article on equal right of women and men (Article 3), expressly recognised for women and men on an equal footing. States are therefore obliged to take suitable measures to ensure that women have the opportunity to exercise their rights.

115. The United Nations Convention on the Elimination of All Forms of Discrimination against Women, to which all member states of the Council of Europe are Parties, establishes cross-cutting obligations in its Article 2 and Article 3, which apply to all rights guaranteed in the Convention, including those related to social protection (Article 11, 13, 14, 15, 16). The right to social protection is also part of the International Labour Organisation's mandate and is enshrined in a series of ILO Conventions.

116. Equal treatment of women and men in social protection is also dealt with in Council of Europe human rights instruments. The European Revised Social Charter guarantees the right to social security to all workers and their dependants (Article 12), the right to social and medical assistance to anyone without adequate resources (Article 13), the right to social services (Article 14), the right to protection against poverty and social exclusion (Article 30) and the right to housing (Article 31) for everyone, and

1. See also Recommendation 1769 (2006) of the Parliamentary Assembly of the Council of Europe on the need to reconcile work and family life.

provides for specific measures in terms of social security and social services for women and men workers with family responsibilities (Article 27), to name some of the most relevant provisions concerning social protection. Furthermore, pursuant to Article E of the European Revised Social Charter, enjoyment of the rights set forth in the treaty shall be secured without discrimination based on sex.

117. The European Union legislation also covers equal treatment of women and men where social security is concerned. The directives adopted since 1979 ensure equal treatment of women and men in the state systems and company or occupational social security schemes that provide cover against illness, invalidity, unemployment and accidents and retirement pensions. Equal treatment of women and men applies not only to wage-earners and the self-employed, but also to farmers and the freelance professionals and women and men who, because of illness, accident, unemployment or retirement, are no longer in paid employment.

118. The gender equality principle is crucial as far as universal social security schemes are concerned. However, women are often at a disadvantage with regard to their pensions due to periods of absence related to family responsibilities. Social security should not simply apply to guaranteeing equal treatment for women and men, but should go further to grant women an improved situation in society. Measures should be taken to redress consequences of discrimination and their impact on women. Measures aimed at equitable outcomes of social protection policies should take account of the negative and cumulative impact of women's experiences in terms of employment and career development, such as the average lower pay and career interruptions for maternity, childcare and care for the elderly. Women are also more likely to be engaged in part-time work or casual work. Due to these factors, benefits based on employment clearly result in outcomes disadvantaging women. Women are sometimes also subject to cultural constraints that may hamper their access to financing, inheritance and property rights, which may contribute to their need of social protection.

119. The right to social security should be an individual right, which is not dependent on a partner's or spouse's entitlement. In cases of family break-up or divorce, equity in benefits splitting should take into account who provides care for dependants. Family-friendly working places, childcare and elder-care facilities and other forms of social infrastructure are important as well. The economic interests of women must be fully safeguarded and equal pay for work of equal value is crucial. Active labour market policies must include job creation for women and support measures to ensure sustained participation in labour market. In broader terms, gender equality includes equal access to education, training and health care. Women must have adequate information to make informed choices.

120. The provision of affordable, quality childcare is also important in the framework of social protection, as is the parental leave provided to both women and men. Child benefits are also a priority issue. States must also develop specific policy responses to enable reconciliation between work and family life. Sex-differentiated actuarial tables based on different life expectancies of women and men in calculating annuity rates also result in different pension payments for women and men.

121. The human right to an adequate standard of living is of central importance for the enjoyment of all civil, political, economic, social and cultural rights. Due to the perpetuating existence of gender inequalities, women face many problems of one kind or another in relation to an adequate standard of living. Their single-parent status or living in rural areas, their experience of various forms of violence against women or isolation due to socioeconomic status particularly affect their standard of living and often prevent them from enjoying this right.

122. The achievement of gender equality in social protection implies various measures; it may also require positive actions in some areas. Social security systems must also address gender perspectives of the HIV/AIDS and other health hazards.

123. In addition, all policy proposals for social security and social assistance schemes should be subject to gender impact assessment and monitoring should be developed to ensure that social security schemes do not lead to discriminatory outcomes. Gender equality in social security reform should be an explicit goal.

124. States' responsibility in ensuring gender equality in social protection and employing further efforts to integrate a gender equality perspective in its responses to social security and social assistance systems is very clear. A gender equality perspective must be integrated in all rights, obligations, measures and transfers whose primary goal is to guarantee access to health and social services and to provide income security to help women and men to cope with risks of life, such as loss of income due to invalidity, old age or unemployment, prevent or alleviate poverty and promote social changes and problem solving in human relationships. The issue of individualisation of rights must also be considered and circumstances when it may be more favourable for gender equality and/or women must be assessed. The recommendation lists some basic elements that states must fulfil for achieving the goal of gender equality in this field.

#### *7. Health, including sexual and reproductive matters*

125. The right to health, including sexual and reproductive health, and other human rights that need to be promoted and protected in order to ensure that women enjoy the highest attainable standard of health on equal terms with men are protected in a number of international human rights instruments.

126. At world level, Article 25.1 of the Universal Declaration of Human Rights affirms that "Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family". The International Covenant on Economic, Social and Cultural Rights recognises "the right to everyone to the enjoyment of the highest attainable standard of physical and mental health" (Article 12.1), while steps to be taken by the States Parties to achieve the full realisation of this right are enumerated in Article 12.2. The Convention on the Elimination of all Forms of Discrimination against Women, to which all member states of the Council of Europe are a party, recognises that the unequal status of women hampers their equal access to adequate health care and accordingly obliges the State Parties to ensure that women have access to health care on an equal basis with men (Article 12). This Convention is the first international human rights treaty to make specific mention of access to family planning. Its importance to gender equality and the empowerment of women was reaffirmed in 1994 in the Programme of Action, adopted at the International Conference on Population and Development and in 1995 in the Beijing Platform for Action, which underscored that "the human rights of women include their right to have control over and decide freely and responsibly on matters related to their sexuality, including sexual and reproductive health, free of coercion, discrimination and violence".

127. A number of other human rights, which must be protected to ensure efficient enjoyment of the right to health, including sexual and reproductive health, such as the right to life, liberty and security, the right not to be subjected to torture or other cruel, inhuman or degrading treatment or punishment, the right to be free from sex-based discrimination and the right to benefits of scientific progress, are protected under multiple human rights legal instruments.

128. At European level the Revised European Social Charter guarantees to everyone the right to benefit from any measures enabling him or her to enjoy the highest possible standard of health attainable (Article 11). Pursuant to its Article E, enjoyment of this right must be secured without discrimination on the grounds of sex.<sup>1</sup>

129. The Beijing Platform for Action identified "Women and Health" as one of the critical areas of concern and defined five strategic objectives: increase women's access throughout the life cycle to appropriate, affordable and quality health care, information and related services; strengthen preventive programmes that promote women's health; undertake gender-sensitive initiatives that address sexually transmitted diseases, HIV/AIDS, and sexual and reproductive health issues; promote research and disseminate information on women's health; increase resources, and monitor follow-up for women's health.

130. The Beijing Platform for Action puts a strong emphasis on women's sexual and reproductive health and provides a basis for addressing violence against women as a health concern. The link between health

1. See also Recommendation 1675 (2004) and Resolution 1399 (2004) on a European strategy for the promotion of sexual and reproductive health and rights.

and human rights and the recognition that promoting health requires awareness of the everyday and intimate nature of gender inequality, gender socialisation and violence against women was further highlighted at the first European conference on health and human rights in 1999.

131. There are no doubts that progress achieved in eliminating discrimination against women and promoting gender equality is having a positive impact on women's health. But there are complex and multi-faceted patterns of inequalities that still characterise the relations between women and men and influence their health and the ways in which women and men are treated by the healthcare systems.

132. Lack of comprehensive programmes of activities in the health and education sectors, as well as in the broader political, economic and legal domains hampers the ability of women and men to achieve sexual health as a necessary underlying condition for reproductive health, relevant throughout the life span and not only during the reproductive years.

133. States must also specifically consider the situation of minority women, migrant women and women with disabilities, because they may face additional risks to their health by reason of their specific situations.

134. States' responsibility to ensure efficient promotion of health for all, including reproductive and sexual health and the enjoyment of the right to the highest attainable standard of health requires the establishment of equal access for women and men, particularly young people, to information, counselling and advice related to health and sexual and reproductive health matters and availability of health, sexuality and reproductive health education, tailored to adequately address specific situations, which increase levels of vulnerability and risk factors (such as poverty and social exclusion, mental and/or physical disabilities, homelessness, violence etc.), and which might seriously hamper individual health and well-being.

135. The right to health in all its forms and at all levels contains four essential and interrelated elements: 1) availability of health and healthcare facilities, goods and services, as well as programmes; 2) accessibility to them by everyone without discrimination (by all sections of the population, especially vulnerable or marginalised groups, such as ethnic minorities, older persons or persons with disabilities and persons with HIV/AIDS); 3) acceptability, which implies that all health facilities, goods and services must respect the culture of individuals, minorities, and communities and must be sensitive to gender and life-cycle requirements, as well as being designed to respect confidentiality; 4) and quality, which requires, *inter alia*, skilled personnel, scientifically approved and unexpired drugs and equipment and adequate sanitation.

136. Gender differences do not only influence health itself but are also evident in the ways in which women and men are treated by the healthcare systems. Most medical and health-related research continues to be based on the unstated assumption that men and women are physiologically similar in all respects, apart from their reproductive system. The consequences of this approach (which ignores other biological and social differences) is the generation of knowledge that reflects a male perspective in various ways; it prevails in the topics addressed, methods used and the data analysis subsequently produced. The results obtained from such research are often inadequate for the implementation of gender sensitive policies and continue to compromise the medical care of women.

137. Although there is not enough empirical research and systematic collection of gender disaggregated data, some evidence of gender differences in access to and utilisation of healthcare services and in the quality of care women and men receive indicates the need to develop a more strategic approach to mainstreaming gender into medical research, policies, programmes and projects. A gender approach to health policy planning, delivery, monitoring and evaluation is foreseen as a states' obligation in their commitments to gender equality.

138. States' main responsibilities in this regard are reflected in the list of elements indicating their political will and commitment to gender equality with regard to the health status of women and men and health care available to them.

## 8. Media

139. The role and responsibility of the media in the promotion of social change for the achievement of gender equality has been emphasised by various international organisations at world and European level and guidelines and strategies have been put forward in this regard.

140. The Beijing Platform for Action under the “critical area” entitled “Women and the media”, while recognising that the potential exists for the media to make a far greater contribution to the advancement of women, also stresses some negative aspects of the present reality: on the one hand, the minority presence of women in decision-making places in the media, although their presence at other levels has significantly increased in the last decades; on the other hand, the fact that the media, in many cases, continue to project negative and stereotyped images of women, far behind their actual presence and role in modern societies and there is, therefore, a lack of a gender-balanced view of reality and a lack of gender sensitivity on the part of media agents and media deciders.

141. The platform also stresses the advances in information technologies that have allowed the creation of a global communication network with a new impact upon attitudes and behaviours. As guidelines for action, two strategic objectives are recommended: the first is “to increase in the participation and access of women to expression and decision making in and through the media and new technologies of communication”; the second is to “promote a balanced and non-stereotyped portrayal of women in the media.”

142. These objectives, though dating back to a decade ago, are still valid and in line with relevant provisions of the Convention on the Elimination of All Forms of Discrimination against Women, namely under Article 5. This article requires that States Parties take appropriate measures “to modify the social and cultural patterns of conduct of men and women, with a view to achieving the elimination of prejudices and customary and all other practices which are based on the idea of the inferiority or the superiority of either of the sexes or on stereotyped roles for men and women.” It is a requirement that is to be applied to all areas of policy action but one that is certainly particularly relevant with regard to the responsibility of the media themselves and they must adopt and implement regulatory measures, codes of conduct or other forms of regulations in line with this principle. While acknowledging the independence of the media and their freedom of expression and the fact that they are non-state actors, it must be stressed that they are also to be held accountable for the respect and implementation of the principle of gender equality as a principle of human rights, both in their functioning and in the content of their messages.

143. At European level these matters have also been dealt with in the context both of the Council of Europe and the European Union, where action in this field was taken up in the very early programmes of action for gender equality. Recommendation No. R (84) 17 on equality between women and men in the media, adopted by the Committee of Ministers of the Council of Europe in 1984, puts forward the main arguments and guidelines for action. In its view “the media play an important part in forming social attitudes and values and offer immense potential as instruments of social change” and states are responsible to ensure that such potential is fully developed, both as regards substantive content of programmes, including advertising, promotion of research on its impact with regard to sex stereotyping and prejudices, education and training facilities, gender-balanced participation in management and technical areas and in supervisory and decision-making bodies, etc.<sup>1</sup> In the same vein, mention should be made of the Resolution 95/C296/06 of the Council of the European Union and of the representatives of the member states on the image of women and men portrayed in advertising and in the media, of 5 October 1995.

144. The present recommendation includes a list of elements that indicate states’ political will to fulfil their obligations in this field.

1. See also the recent recommendations of the Committee of Ministers on media pluralism and diversity of media content (CM/Rec (2007) 2) and on the remit of public service media in the information society (CM/Rec (2007) 3) which state that “Due attention should also be paid to gender equality issues”.

*9. Violence against women*

145. It is generally recognised that violence against women is a serious obstacle to gender equality and that it both violates and impairs or nullifies the enjoyment of human rights and fundamental freedoms.

146. The condemnation of violence against women as an act, which constitutes a violation of woman's physical, psychological and/or sexual freedom and integrity, has enhanced the determination of international organisations and national governments to combat all types of violence against women.

147. At United Nations level, General Recommendation 19 (1992) on violence against women of the Committee on the Elimination of Discrimination against Women notes that gender-based violence is discrimination within the meaning of Article 1 of the Convention on the Elimination of All Forms of Discrimination against Women. On the other hand, the United Nations Declaration on the Elimination of Violence against Women, adopted in 1993 by the General Assembly (Resolution 48/104), provides a very broad and inclusive definition of violence against women, which identifies acts of violence against women in the family, the general community, and perpetrated or condoned by the state, and clarifies that such violence can take physical, sexual and psychological forms. It states: "Violence against women means any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life." The declaration also recognises that certain groups of women are at particular risk of being subjected to violence.

148. Different forms of violence, circumstances and environments where they usually take place and actions to prevent and eliminate all forms of violence against women at world level were further elaborated in the Beijing Platform for Action, that considers violence against women as one of the critical areas for the status of women, as well as in other policy documents and resolutions.

149. At European level this issue has been particularly addressed in the last decades from many different aspects in a variety of fields of action within the work of the Council of Europe. The 3rd European Ministerial Conference on equality between women and men (Rome, 21-22 October 1993), which was specifically devoted to this theme, noted "with grave concern that violence towards women is a universal phenomenon which is present in all social strata and societies, independent of their level of development, political stability, culture or religion". In the Final Declaration of the 2nd Summit of the Heads of State and Government of Council of Europe Member States (Strasbourg, 10-11 October 1997), the heads of state and government affirmed their "determination to combat violence against women and all forms of sexual exploitation of women". This commitment was reaffirmed in the Declaration and Action Plan adopted at the 3rd Summit of the Heads of State and Government of Council of Europe Member States (Warsaw, 16-17 May 2005).

150. Within the Council of Europe's responses to violence against women, the Revised European Social Charter includes the protection against violence within the family under the right of the family to social, legal and economic protection (Article 16). The Final Report of the Group of specialists for combating violence against women, which includes a Plan of Action to combat violence against women, was adopted in 1997. The report states: "violence against women will be eliminated only when men stop using violence and when communities refuse to condone it". The most specific Council of Europe standard-setting document on this subject is the Recommendation Rec (2002) 5 on the protection of women against violence, adopted by the Committee of Ministers in 2002, which clearly states that "it is the responsibility and in the interests of states as well as a priority of national policies to safeguard the rights of women not to be subjected to violence of any kind or by any person". Recently the recommendation was complemented with the adoption of indicators to ensure follow-up to the recommendation.<sup>1 2</sup>

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1. For a first assessment of the implementation of the recommendation, see "Combating violence against women – Stocktaking study on the measures and actions taken in Council of Europe member states", Council of Europe 2006 (CDEG (2006) 3).

2. See also: Recommendation 1582 (2002) of the Parliamentary Assembly of the Council of Europe on domestic violence against women; Resolution 1327 (2003) of the Parliamentary Assembly of the Council of Europe on "so-called" honour crimes; Recommendation 1663(2004) of the Parliamentary Assembly of the Council of Europe on domestic slavery: servitude, au pairs and mail-order brides; Recommendation 1681 (2004) on campaign to combat domestic violence in Europe; Recommendation

151. The Council of Europe has prepared reports and held events to consider the various aspects of violence against women, such as men and violence, forced marriages and domestic violence, thus providing an open forum and sharing of information which have helped to formulate legislation, reforms and specific recommendations and contributed to the development of shared understanding. Most recently, as a follow up to the Warsaw Summit, a Task Force to Combat Violence against Women, including Domestic Violence was set up in 2006 and a Council of Europe Campaign on this theme was launched in November of the same year.<sup>1 2</sup>

152. The mapping of the development of national legislation in the member states of the Council of Europe provides examples of good practices in tackling the issue, but also evidence that many societies tolerate violence against women and perpetuate it in their culture and tradition. It was also noted that perpetrators use violence as a means of dominating and humiliating women and “to consolidate their control”.<sup>3</sup>

153. Within the European Union, work aimed at reviewing the implementation of the Beijing Platform for Action by the member states and the EU institutions has taken place and activities on domestic violence against women were developed.

154. Under international law, member states have clear responsibilities for taking action to prevent the abuse of women’s human rights, as well as bringing perpetrators to justice and providing support to victims. This means that governments are responsible for legal, political, educational, cultural and practical measures to prevent and eliminate violence against women. The recommendation lists the main elements, which indicate states’ political will and commitment in this regard.

#### *10. Trafficking in human beings*

155. Various international organisations, both at world level and European level, recognise that trafficking in human beings is a distinct manifestation of violence and a modern form of slavery and that it entails grave violations of human rights and an offence to the dignity and integrity of the human being. This recognition appears in a number of international legal instruments and international political texts and policy documents.

156. While there are very few reliable sources defining accurately the extent of trafficking in human beings, available studies show that it has been growing considerably and that it affects the whole world – women and men, girls and boys – but that most identified victims of trafficking are women, many of them young and even girls. However, international organisations and national governments’ responses to this phenomenon are relatively recent.

157. At the level of United Nations, and following the former Convention on the Suppression of Trafficking in Persons and Exploitation of Prostitution of Others, the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, laid the foundations for international action against trafficking in human beings. It contains the first agreed and internationally binding definition of trafficking in persons. Other United Nations human rights instruments, particularly the Convention on the Elimination of All Forms of Discrimination against Women (Article 6), the Convention on the Rights of the Child and its Optional Protocol on the sale of children, child prostitution and child pornography and the International Labour Organization Convention concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour, constitute important contributions to combating trafficking in human

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1709 (2005) and Resolution 1454 (2005) of the Parliamentary Assembly of the Council of Europe on disappearance and murder of a great number of women and girls in Mexico; Recommendation 1723 (2005) and Resolution 1468 (2005) of the Parliamentary Assembly of the Council of Europe on forced marriages and child marriages.

1. See the Campaign website: <http://www.coe.int/stopviolence/intergov>

2. See also Recommendation 1759 (2006) and Resolution 1512 (2006) of the Parliamentary Assembly of the Council of Europe on parliaments united in combating domestic violence against women.

3. Information Forum on Ending Domestic Violence: Action and Measures (1998) (Information Forum on National Policies in the Field of Equality between Woman and Men, Bucharest. Doc. EG/BUC (99), Council of Europe.



beings and protecting its victims. The United Nations has called for the elimination of this phenomenon and assistance to the victims of this form of violence in several reports, resolutions and programmes of action.

158. The Beijing Platform for Action, in particular, called on governments of countries of origin, transit and destination to address the root factors that encourage trafficking in women and girls, "including by strengthening legislation with a view to providing better protection of the rights of women and girls and to punishing the perpetrators, through both criminal and civil measures", ensuring co-operation between all relevant enforcement authorities and institutions, allocating resources for rehabilitation of victims and developing education and training programmes aimed at prevention and protection.

159. At European Union level, two legal instruments, the Council Framework Decision on combating trafficking in human beings, from 2002, and the Council Directive 2004/81/EC, which includes regulation on issuing of the residence permit to third-country nationals who are victims of trafficking in human beings, are relevant in this field. Other initiatives and actions were also undertaken to strengthen the European Union and its member states' responses to combat trafficking.

160. As for the Council of Europe, being a natural home for the safeguarding and protection of human rights and human dignity, finding solutions to trafficking in human beings, which directly undermines the values on which the Organisation is based, was a natural response. Since the late 1980s the Council of Europe has been setting standards and producing recommendations to its member states and for furthering the work of the Organisation, strategies were devised, studies and research conducted, awareness-raising actions developed, member states encouraged to draw up national action plans against trafficking and technical assistance in reviewing and adapting domestic legislation in this field provided.

161. The first recommendation specifically dealing with trafficking in human beings for the purpose of sexual exploitation was adopted in 2000 (Recommendation No. R (2000) 11 of the Committee of Ministers to member states on action against trafficking in human beings for the purpose of sexual exploitation). It introduces three essential principles for effective actions: co-ordination of actions against trafficking in human beings, both as regards actors and the levels of interventions, a multidisciplinary approach to ensure that all the sectors whose action is essential to counter the activities of traffickers and/or assist victims are involved, and co-operation between state authorities and NGOs, both at national level and between countries of origin, transit and destination of victims.

162. Follow-up activities to the recommendation led to the adoption of a binding international legal instrument, centered on victims' rights and backed by an independent monitoring mechanism, the Council of Europe Convention on Action against Trafficking in Human Beings of May 2005. Its added value in comparison to other international instruments is a balance between the protection and promotion of the human rights of the victims of trafficking, including gender equality, and the requirements relating to criminal prosecution.<sup>1</sup>

163. An important number of measures determined in international binding legal instruments may be transformed into national responses to combat trafficking, even in those member states of the Council of Europe which are not yet parties to international conventions. The same applies to the new Council of Europe Convention on Action against Trafficking in Human Beings. Several provisions on prevention of trafficking and protection and promotion of the rights of victims require overcoming inequalities between women and men through specific supporting policies for women, who are more likely to be exposed to violence, and through gender mainstreaming in development, implementation and evaluation of such measures.

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1. See also Recommendation 165 (2005) and Resolution 196 (2005) of the Congress of Local and Regional Authorities of the Council of Europe on the fight against trafficking in human beings and their sexual exploitation: the role of cities and regions; Resolution 210 (2006) of the Congress of Local and Regional Authorities of the Council of Europe on the Council of Europe campaign to combat trafficking in human beings.

164. The present recommendation includes a list of elements that indicate states' political will and commitment to fulfil their obligations in this area of concern.

*11. Conflict and post-conflict situations*

165. Women still suffer disproportionately in situations of armed and other conflicts and together with children and elderly people constitute the majority of refugees and other displaced persons. On the other hand, the great majority of prisoners of war and disappeared persons are men and this fact in turn has serious consequences for women's lives. During conflicts and in post-conflict situations women (wives, mothers, sisters and daughters of many missing men) often assume a leading role in the community, being the focal point of the family and the guardian of family unity. They are also often victims of violence in armed conflict. But their experience of all the impact that a conflict has on them, their conflict prevention and peace building work and the leadership they demonstrate in rebuilding war-torn societies is under-valued and under-utilised. Furthermore, in a post-conflict reconstruction of society, women often experience a backlash and are seldom present when decisions of national interest are taken.

166. The last 10 years have witnessed a common understanding of the linkages between peace and security, development and human rights, and the international community has acknowledged the importance of women's active participation in the prevention of conflicts, in peace negotiations and post conflict activities.

167. The Beijing Platform for Action devotes an entire section to women and armed conflict. Since then, in order to further progress in the implementation of commitments concerning women and conflicts, the international community has strongly condemned all violations of women's and girl's rights in situations of armed conflict and the use of sexual exploitation, violence and abuse. In 1998 the adoption of the Statute of Rome of the International Criminal Court and its entry into force in 2002 provided that rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilisation or any other form of sexual violence of comparable gravity are crimes against humanity when committed as part of a widespread or systematic attack directed against any civilian population.

168. In 2000, the Security Council of the United Nations adopted Resolution 1325, which calls for the participation of women in decision making and peace processes, the inclusion of gender perspectives and training in peacekeeping, the protection of women and gender mainstreaming in United Nations reporting systems and programmatic implementation mechanisms. This resolution provides a tool for women to participate equally at all negotiating tables and for the protection of women and girls during armed conflict. On the other hand, this resolution, for the first time, officially endorsed the inclusion of civil society groups, notably women, in peace processes and in the implementation of peace agreements. Since this resolution, reports on UN peacekeeping operations have included information on gender issues and on the situation of women in the respective country.

169. At European level, in 2000 the European Parliament adopted a report on women's participation in the peaceful resolution of conflicts, while the Council of Europe has, since the 1990s, drawn attention not only to the violence suffered by women in conflict situations, but also to their role in conflict and post-conflict situations within the wider context of women's human rights and in the more specific contexts of balanced participation in political and public decision making and gender mainstreaming.

170. The Council of Europe 5th Ministerial Conference on Equality between Women and Men, held in Skopje in 2003, was devoted to "Democratisation, conflict prevention and peace building: the perspectives and the roles of women". The conference adopted two documents, the Declaration and Programme of Action on "Gender Equality: a core issue in changing societies" and a resolution on "The roles of women and men in conflict prevention, peace building and post-conflict democratic processes – a gender perspective", in which the Ministers reaffirmed "the crucial role of women in the prevention and resolution of conflicts, in peace building and in post-conflict democratic processes, as well as in intercultural and interreligious dialogue". The resolution, which in the appendix defines peace-building strategies for changing societies, is a valuable instrument for strengthening the role of women in democratisation,

conflict prevention and peace building, promoting non-violent conflict resolution and better protecting women's human rights during and after conflicts.

171. As a follow up to this ministerial conference, a group of specialists produced a report on the role of women and men in intercultural and interreligious dialogue for the prevention of conflict, for peace building and for democratisation, which includes recommendations for programmes and activities to be undertaken by member states.<sup>1</sup>

172. Recommendation (2003) 3 on balanced participation of women and men in public and political decision making, adopted in 2003 by the Committee of Ministers, also provides Council of Europe member states with guidelines for increasing and affirming women's participation in this area. Paragraph 14 calls on member states to "take due account of gender balance when appointing representatives to international mediation and negotiating committees, particularly in the peace process or the settlement of conflicts".

173. States' responsibility for protecting the human rights of women in conflict situations and for ensuring their full participation in prevention and resolution of conflict situations and promoting mainstreaming of gender equality in all aspects of post-conflict reconstruction and peace-building processes requires the obligation to address obstacles to achievement of gender equality in many other aspects of women's and men's life. Some of the main elements that indicate states' political will and commitment in this regard are listed in the present recommendation.

#### *12. Specific situation of vulnerable groups exposed to multiple discrimination*

174. Discrimination and inequalities affect different groups of women in different ways. There is a growing recognition that the failure to address the various "differences" that characterise the problems of different groups of women can obscure or deny human rights protection due to all women. While it is true that women are in some way subject to sex-based discrimination, it is also true that other factors relating to women's social identities such as race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth, or other status create problems and vulnerabilities that are unique to particular groups of women or that disproportionately affect some women in comparison to others.

175. The consequences of multiple forms of discrimination have been described in various ways as compounded discrimination, interlinking forms of discrimination, multiple burdens, or double or triple discrimination.

176. By drawing attention to the fact that factors such as age, disability, socioeconomic position or membership of a particular ethnic or racial group could create particular barriers for women, the Beijing Platform for Action provided the framework for the recognition of multiple and coexisting forms of discrimination resulting in multiple disadvantage. The combined effects of sex-based and racial discrimination on the advancement of women and the achievement of gender equality have been considered especially in the context of three of the critical areas of concern identified in the Platform for Action: violence against women, women and armed conflict and the human rights of women. The intersection of sex-based and racial discrimination has also been considered with regard to trafficking in women and children. The Platform for Action also facilitated an understanding that the various categories of discrimination do not necessarily affect women and men in the same way.

177. However, to date, the double impact on women and on gender equality of sex-based discrimination and discrimination based on other grounds has not been subjected to a detailed and in-depth examination.

178. In March 2000, the United Nations Committee on the Elimination of Racial Discrimination adopted a general recommendation on gender-related dimensions of racial discrimination, in which it emphasised that racial discrimination does not always affect women and men equally, or in the same way, and

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1. See also Recommendation 1665 (2004) and Resolution 1385 (2004) of the Parliamentary Assembly of the Council of Europe on conflict prevention and resolution: the role of women.

that there are circumstances in which racial discrimination only, or primarily, affects women. Also in 2000, the outcome document of the special session of Beijing + 5 review demanded that governments take measures to address racism and racially motivated violence against women and girls and support programmes of non-governmental organisations which address all forms of violence against women and girls, including race- or ethnic-based violence. One year later, in 2001, the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance in its final declaration and programme of action also recognised the gender dimension of these phenomena and called for increased awareness and specific actions to address them.

179. At European level, issues related to age, gender, ethnicity, racial discrimination, situation of immigrant and ethnic minority women and women with disabilities have been addressed in relation to gender equality, both by the Council of Europe and the European Union in their work towards equality between women and men.

180. Within the Council of Europe, the impact on gender equality of the cultural diversity in European society resulting from recent demographic changes and immigration has been examined and the need to acknowledge and consider the gender dimension in all activities aiming at combating racism and intolerance has been pointed out. In this regard reference could be made to Articles 1 paragraph 2, 16 and 20 of the Revised European Social Charter, and to studies and proposals by the Working Group on Migration, Cultural Diversity and Equality between Women and Men in 1996 and the Specialist Group on Intolerance, Racism and Equality between Women and Men in 1996-1997. In 2000, the Political Conclusions and General Declaration of the European Conference against Racism, a European contribution for the World Conference against Racism, also called for the inclusion of a gender perspective into policies and practices to combat racism and intolerance envisaged in a human rights context. Of a particular importance in the context of the Council of Europe is the Framework Convention for the Protection of National Minorities, which was adopted in 1995 and entered into force in 1998. While being formulated in a gender-neutral way, its provisions must be, however, applied in a gender-sensitive manner, taking into account the specificities of the situation of women and men of the communities concerned.<sup>1</sup>

181. Regarding women with disabilities, they are subjected simultaneously to sex-based discrimination and to discrimination between people with disabilities and those without disabilities. This dual source of discrimination – largely unresearched and to some extent masked by its two components – is the subject of the document on “Discrimination against women with disabilities”, which was drawn in the framework of activities under the Partial Agreement in the Social and Public Health Field for the 2nd European Conference of Ministers responsible for integration policies for people with disabilities, which was held in 2003. This document identified and suggested thorough means of addressing those types of discrimination experienced by persons who are both female and disabled. As noted in the document “women with disabilities face greater difficulties than men because of the differences assigned to female and male roles in society. The fact of disability and the failure to distinguish the situation of women with disabilities from that of disabled people generally has obscured the fact that people with disabilities are also men and women”.

182. The recently adopted Convention on the Rights of Persons with Disabilities, at the UN level, that includes the principle of equality between women and men in its general principles (Article 3) and a specific article on “Women with disabilities” (Article 6), must also be considered, both taking into account these specific provisions as well as the need to include a gender dimension into all the other provisions.

183. One important requirement in addressing the specific situation of vulnerable groups exposed to multiple discrimination, and in addition to the legal prohibition of discrimination on any grounds and its enforcement, is to make women suffering sex-based discrimination as well as discrimination based on other grounds visible, especially in statistics and research, because their invisibility perpetuates discrimination. Obligations of states also encompass the integration of the gender equality dimension into all policies for people facing multiple discrimination, information and awareness-raising programmes

1. See also Resolution 1464 (2005) of the Parliamentary Assembly of the Council of Europe on women and religion in Europe.

undertaken at all levels, targeting the general public, women and girls in a specially vulnerable position due to multiple discrimination, their families and friends, professional groups, as well as political decision makers. Specific measures are also needed to address education and training, employment, social policy, participation and access to decision making, sexuality, prejudices and social representation, motherhood, family and domestic life and violence.

184. The present recommendation lists the main elements, which indicate states' political will and commitment in this regard.

### *C. Strategies, mechanisms and tools*

#### *1. Implementation of complementary strategies as obligations of the state in its commitment to equality*

185. Legislative and law enforcement strategies for respecting, protecting and ensuring full enjoyment of the human rights of women and men on an equal footing are basic requirements for achieving gender equality, but they alone cannot change attitudes or behaviour. In addition, they are not always efficiently implemented and remedies and sanctions for the infringement of the principle of gender equality are not effective enough. Therefore, the combination of various strategies and methods of working towards gender equality has been recognised as the most efficient approach in achieving real, substantive equality of women and men.

186. The Council of Europe's work towards gender equality has provided a solid background for the use of a holistic approach in achieving this objective and it has devoted much attention to the development of tools and strategies to promote gender equality.

187. To remedy or redress the present effect of past discrimination based on the grounds of sex, to reduce structural disadvantages and to overcome gender stereotypes and prejudices still existing in many societies which hamper the effective realisation of gender equality and limit women's and men's full enjoyment of human rights on equal terms, a wide range of specially tailored actions and measures is required. Specific actions, mainly addressed to women, and gender mainstreaming into all policies and plans are the main aspects of a dual approach to the building of gender equality.

188. **Specific actions** are seen as an excellent means for addressing the main problems affecting the situation of women and for achieving substantive gender equality. The designing and implementing of specific strategies and projects aimed at correcting the unequal position of women in one or more aspects of social life have been the traditional task of national gender equality mechanisms since they were created.

189. Specific actions include a variety of actions and measures, legislative, executive, administrative, policies and practices, such as outreach or support programmes, specific training and capacity-building programs, campaigns and educational activities addressing cultural negative stereotypes, etc. They can also include preferential treatment, namely targeted recruitment, hiring and promotion, numerical goals connected with time frames, quota systems, allocation and/or reallocation of resources, etc.

190. Specific actions, when performed through the use of justified and legitimate distinctions aimed to compensate for or prevent gender inequality are referred to in international law as temporary special measures, positive actions, or affirmative actions. In common language the term "positive discrimination" is also often used, although substantively incorrect and of a contradictory meaning in itself. While the CEDAW Convention uses the designation of "temporary special measures" (Article 4.1), according to the terminology of the European Court of Human Rights, special measures adopted to compensate for or prevent inequality are described as "positive differential treatment".

191. The aim of such measures is to attenuate or suppress conditions that perpetuate discrimination based on the grounds of sex and to accelerate change towards *de facto* equality. Although international human rights legal instruments do not impose a clear obligation on the State Parties to introduce such specific actions, they are obliged to promote the efficient realisation of the relevant rights to the maximum of their available resources, which certainly includes such differential treatment.

192. To complement the specific gender equality actions, which are usually limited to specific policy areas and mostly developed by institutional mechanisms for gender equality, **gender mainstreaming** was endorsed in the Platform for Action adopted at the UN 4th World Conference on Women and governments were called to promote this strategy in all policies and programmes. Since then many definitions of gender mainstreaming and policy papers on how to mainstream gender equality in practice and what it implies were adopted by international and regional intergovernmental and other organisations.

193. The Council of Europe's major contributions in this respect are the report "Gender mainstreaming: conceptual framework, methodology and presentation of good practice" published in 1998 and Recommendation (98) 14 on gender mainstreaming adopted by the Committee of Ministers of the Council of Europe the same year.<sup>1</sup>

194. Wherever gender mainstreaming is mentioned it is always stressed that this strategy does not replace and, therefore, does not render redundant specific gender equality policies. Both strategies, specific gender equality actions and gender mainstreaming, are dual and complementary strategies, often described as a "twin track" strategy or as a "dual track" policy. This dual track strategy represents two sides of the same policy: on the one hand, policy that places new issues on the political agenda, proposes new instruments and creates strategic alliances with social partners on the basis of an overall vision, and on the other hand, policy that anchors gender equality objectives in all areas of regular policy throughout its policy-making process. These two tracks of policy are closely inter-related. The expertise built in one track represents a key condition for the strategy applied in the other.

195. Application of gender mainstreaming in the budgetary process is known as **gender budgeting**. The Beijing Platform for Action recommends to governments to systematically review public sector expenditures and adjust budgets to ensure gender equality concerning access to expenditure. Since then, gender budgeting has become an internationally recognised strategy for enhancing gender equality. Gender budgeting makes the gender-specific effects of budgets visible and raises awareness about their frequently implicit dimension of discrimination against women. Gender budgeting allows for assessing whether states' commitments on gender equality are translated into budgetary commitments, it increases the transparency of the budget process and contributes to a better use of the consultative and participatory principle in the preparation of budgets and in monitoring their outcome and impact. In 2005 the Council of Europe published a report on Gender Budgeting, and the resolution adopted at the 6th European Ministerial Conference on Equality between Women and Men recommends the Committee of Ministers to start preparing a recommendation on this theme.<sup>2</sup>

196. Gender mainstreaming, including gender budgeting, cannot be implemented unless a certain number of conditions are fulfilled. In the first place, every government must have adopted the goal of gender equality as one of its important aims and must clearly state its intention, political will and firm commitment to mainstream the gender perspective into all policies and programmes. A strong national gender equality mechanism, having the necessary resources to influence policy making at all levels, is equally important. Another important condition is that all possible knowledge on the situation of women and men and on gender relations in each field is made available to those in charge of gender mainstreaming. It is also generally recognised that all policy levels – local, regional, national - are equally important and that gender mainstreaming must be promoted, executed and supported by a broad range of actors, that must include women and men.

197. To put the specific gender equality policies and gender mainstreaming in practice, it is important to use adequate tools and techniques. Analytical techniques and tools encompass statistics disaggregated by sex and other relevant background variables, surveys and forecasts, cost-benefit analysis from a gender perspective, research in gender studies, checklists, guidelines and terms of reference and gender impact assessment. In addition, it is very important to apply a co-operation and co-ordination approach

1. See also Recommendation 148 (2004) and Resolution 176 (2004) of the Congress of Local and Regional Authorities of the Council of Europe on gender mainstreaming at local and regional level: a strategy to promote equality between women and men in cities and regions.

2. See also Recommendation 1739 (2006) of the Parliamentary Assembly of the Council of Europe on gender budgeting.

and consultative and participatory principles in the implementation of gender mainstreaming, including through setting up working groups, establishing databases, ensuring gender-balanced participation in decision-making, organising conferences and seminars aimed at informing the general public and hearings for providing an opportunity for the direct participation of people in developing and deciding on policies which concern them.

198. **Gender impact assessment** is a policy tool for the screening of a given policy proposal, in order to detect and assess its impact or effects on women and men, so that possible imbalances can be redressed before the proposal is endorsed. It also helps to compare and assess the current situation and trends with the expected results of the proposed policy. Gender impact assessment can be applied in existing policies and in policy-making processes, from legislation, plans, programmes, budgets, and concrete actions to calls for research.

199. **Information and communication** are essential strategies for altering gender stereotypes, cultural changes and changes in perception. One important communication process is the provision of information on existing and new legislation, including international legal standards, that improve the status of women, as well as the dissemination of available official data, particularly statistics on various aspects of the lives of women and men and reports and analysis outcomes to highlight existing problems related to the equal enjoyment of human rights.

200. However, increased knowledge alone does not automatically lead to changes in perception and to different choices. Fostering behavioural and attitudinal change requires awareness – raising and changing awareness. To communicate successfully with the general public or targeted audiences, it is essential to know as much as possible about their current attitudes, opinions and behaviours.

201. It is also desirable to show results and good examples or to highlight bad examples. This should also be a focus of the governments' communication strategy. More generally, structural attention to the creation of perception is of critical importance to changing ingrained habits. Not only the government, but also social organisations in general, and the media in particular, have a role to play.

202. For the effective meeting of commitments to promote gender equality within a specific period of time, states' obligations should be reflected in **comprehensive action plans for gender equality**. Although national action plans for gender equality are a common instrument used in almost all member states of the Council of Europe, the potential of this instrument has not always been used to its full extent.

203. It is important to ensure that the debate on development of a national action plan is open to all and involves both women and men. Although national institutional mechanisms for gender equality should play a decisive role in the development, implementation and assessment of outcomes of action plans, all crucial actors, such as women's organisations and NGOs working for the promotion of gender equality, education and research institutions, media, employer's organisations, trade unions, and other public institutions, should have an active/productive role in the formulation and implementation of gender equality policy and its assessment process.

204. Because of the dynamism of our societies at economic, social and cultural levels, states must regularly evaluate measures used in the implementation of action plans and if necessary, adjust their strategies on the basis of these evaluations.

## *2. Establishment or reinforcement of institutional mechanisms/national machinery for gender equality*

205. The importance of gender equality mechanisms/machinery for the advancement of women has been repeatedly recognised by international organisations dealing with human rights and women's issues. Their status and roles have been progressively defined, as well as the strategies to be adopted to render their action fully effective.

206. From an emphasis on the status of women and their situation, as being the specific scope of action of these mechanisms, there has gradually been a shift, particularly after the 4th World Conference on Women (Beijing, 1995), to a focus on gender, that is, on women and men and their gender relations, and to a more global approach. The Platform for Action, under the chapter "Institutional mechanisms for the

advancement of women”, has also indicated the main requirements that these mechanisms must comply with, in order to guarantee their effectiveness.

207. Although there has, generally, been a diversification and multiplication of gender equality mechanisms at various levels of governance all over the world, some basic requirements for these different models and for their effective functioning must be respected, which the recommendation focus upon. Requirements that are, nowadays, considered as essential for the fulfilment of their catalytic role with regard to gender mainstreaming, as well as with regard to specific equality policies, their successful co-ordination and evaluation of results.

208. Such requirements concern, among others, the following aspects: the location and the status of the mechanisms, their legal basis and clear mandate, their authority and visibility, their political recognition and funding, the need for an interdepartmental structure to co-ordinate gender mainstreaming, that must be constituted by representatives with decision-making powers, the development of gender expertise with the necessary tools and instruments, the establishment of effective channels of communication and co-operation with civil society organisations at every level, as well as with international partners and organisations.

209. The need to establish gender equality mechanisms at the level of government, namely regarding the various policy areas – ministries, departments and other sectors – as well as at the various levels of governance – national, regional and local – has been generally acknowledged as a means to devise, implement and co-ordinate policies to achieve gender equality. However, such mechanisms have also proved to be necessary in other state institutions beyond governments, particularly at parliamentary level. The existence of independent agencies and other bodies, such as ombuds, either gender-specific or general ones, with competence to receive and analyse complaints for discrimination on the basis of sex, has also proved to be effective.

*3. Development of studies and instruments to evaluate women's and men's situation and measure progress of that situation*

210. To evaluate women's and men's situation in our societies, to make it possible for gender equality policy development to be undertaken with full consideration of gender aspects, of the nature of relationships between women and men and of their different social realities, life expectations and economic and social circumstances and to measure progress achieved with outcomes of the actions and strategies implemented, states must develop specific tools and instruments and systematically engage in assessment and monitoring activities.

211. In order to take informed decisions, understanding of social processes and regular keeping of updated evidence of gender specific data and information is a precondition. Such in-depth knowledge of the situation requires development and regular analysis of relevant quantitative and qualitative indicators in all areas, where gender equality must be achieved.

212. Equally necessary is the gathering and regular analysis of statistics disaggregated by sex. This requires the involvement of entities responsible for the statistic system at national level and also sectorial departments where statistics in different areas are dealt with.

213. Tools and instruments are necessary to make gender impact assessments of laws and policies, as well as for gender budgeting, meaning a balanced and fair distribution of resources taking gender into account and acknowledging different life situations of women and men. Such tools and instruments can have various forms and must be based on research and studies that are already being undertaken in various countries. Exchange of knowledge, experience and good practices in this regard is to be encouraged. Gender impact assessment and gender budgeting must become a regular exercise in policy making at all levels of power and decision making, if gender equality is to be fully achieved.

214. Other tools to support progress towards gender equality are the mechanisms, both institutional and operational, necessary for regular monitoring and evaluation of progress. And this is only possi-



ble if measurable indicators like targets, timeframes and benchmarks are included in the policies and programmes adopted in various areas.

215. Finally, the underlying basis for all these tools and instruments and for their effective functioning is the existence and support of research into gender issues in universities and research institutions, including the promotion and financing of projects, the establishment of courses, realisation of lectures and workshops, aiming at the building of a sound expertise on gender equality matters.

*4. Establishment of co-operation and partnerships*

216. Establishment of regular and consistent channels of co-operation with a large variety of social actors is an absolute necessity for the success of gender equality policies. The international community and society as a whole have gradually understood that the achievement of gender equality is a very global effort that concerns all citizens, both men and women, governments and authorities at every level of the social organisation, civil society organisations and all the living forces of any given community, national, regional or international.

217. As regards the government and its primordial role in this respect, regular and close links, of a formal and informal nature, must be established among all the actors concerned in governmental and administrative structures, both horizontally, within the various areas of government and vertically, with the different levels of power. Institutional mechanisms for gender equality have an essential, co-ordinating role in this regard, which must be complemented by an active involvement of all social actors, with such co-ordination and complementarity being a condition of success of equality policies.

218. As regards co-operation between official government institutions and civil society organisations, both formal and informal links with a diversity of social actors are necessary: with women's and human rights organisations, social partners, academic and research institutions, the media, etc. Regular dialogue with these groups will take different forms, according to their nature and aims, but all are essential partners of governments in the pursuit of gender equality. Either bringing the views of its members on matters relevant to gender equality, making proposals or suggestions, co-operating in specific projects, pursuing research in substantive issues, or, in the case of the media, giving visibility and legitimacy to gender equality matters, all social actors have a role to play in the achievement of gender equality, which must be valued and encouraged by states.

**Recommendation CM/Rec(2008)1  
of the Committee of Ministers to member states  
on the inclusion of gender differences in health policy**

*(adopted by the Committee of Ministers on 30 January 2008  
at the 1016th meeting of the Ministers' Deputies)*

The Committee of Ministers, under the terms of Article 15.b of the Statute of the Council of Europe (ETS No. 1),

Considering that the aim of the Council of Europe is to achieve a greater unity between its members and that this aim may be pursued, *inter alia*, in particular by the adoption of common rules in the health sector;

Bearing in mind the Convention for the Protection of Human Rights and Fundamental Freedoms (ETS No. 5) and its Protocols, in particular Protocol No. 12 (ETS No. 177);

Recalling Article 11 of the European Social Charter (ETS No. 35) on the right to health protection, and recalling that Article 3 of the Convention on Human Rights and Biomedicine (ETS No. 164) requires that Contracting Parties, taking into account health needs and available resources, take appropriate measures with a view to providing, within their jurisdiction, equitable access to health care of appropriate quality;

Having regard to Recommendation No. R (2000) 5 of the Committee of Ministers to member states on the development of structures for citizen and patient participation in the decision-making process affecting health care;

Considering that the principle of equality between women and men is an integral part of human rights and that discrimination on the ground of sex constitutes an impediment to the recognition, enjoyment and exercise of human rights and fundamental freedoms;

Recalling the work of the Council of Europe in the field of gender mainstreaming and in particular the message of the Committee of Ministers in 1998 to encourage the Steering Committees to implement gender mainstreaming in their work, and its report on "Gender mainstreaming: conceptual framework, methodology and presentation of "good practices"" (EG(99)3);

Convinced that, the objective to produce both equality, equity, respect for human rights and for the dignity of the individual in the health sector requires that the effects of gender differences are taken into account in health policy planning, delivery of health services, and monitoring of these;

Recognising that European countries face still in different degrees unacceptable gender inequalities between men and women and that health policy makers, health care providers and health professionals are increasingly challenged to understand and address the different needs of women and men;

Considering that many differences and inequalities between men and women's health status stem from social, cultural (including religion) and political arrangements in society, gender (which is a social construct) as opposed to sex (which is a biological attribute) should be considered as a key determinant of health;

Acknowledging that genders are not homogeneous groups and that different social circumstances may all distinctly affect health needs, interests and concerns of each gender and within genders;

Convinced that health policies should take social determinants of health into account since socio-economic factors, such as income, employment, education, living and working conditions, occupational

hazards and lifestyles are unevenly distributed among the population and result in inequalities which may account for many of the health disparities, including those between men and women;

Being aware of increasing evidence from all fields of health research (concerning both biomedical and psycho-social mechanisms) that risk factors, clinical manifestation, causes, consequences and treatment of disease may differ between men and women and that, in such cases, prevention, treatment, rehabilitation, care-delivery and health promotion need to be adapted according to women's and men's differing needs;

Noting that gender inequalities can result in problems of access to health services, including to information, and noting also the lack of resources to promote gender sensitivity in health care providers, which may all constitute structural barriers to quality of health care;

Concerned also, in this context, that gender differences and inequalities can be an obstacle to communication between health care providers and patients' to the detriment of patient's rights;

Convinced that the recognition of gender differences and inequalities would add to the efficiency and effectiveness of health policies and health care services for both women and men;

Convinced that the development of a gender sensitive social and health policy requires the integration of a gender dimension also in broader societal policy,

Recommends that the governments of member states,

1. in the context of protection of human rights, make gender one of the priority areas of action in health through policies and strategies which address the specific health needs of men and women and that incorporate gender mainstreaming;
2. promote gender equality in each sector and function of the health system including actions related to health care, health promotion and disease prevention in an equitable manner;
3. consider issues related to the improvement of access and quality of health services as these relate to the specific and differing needs and situations of men and women;
4. develop and disseminate gender sensitive knowledge that allows evidence-based interventions through systematic collection of appropriate sex-disaggregated data, promotion of relevant research studies and gender analysis;
5. promote gender awareness and competency in the health sector and ensure balanced participation of women and men in the decision-making process;
6. establish monitoring and evaluation frameworks on progress on gender mainstreaming in health policies;
7. adopt and implement the measures presented in the appendix to this recommendation;
8. ensure that this recommendation is brought to the attention of all relevant political institutions and health related bodies and inform the Council of Europe on the follow up undertaken at national level to the provisions of this recommendation.

#### **Appendix to Recommendation CM/Rec(2008)<sup>1</sup>**

##### *Specific measures*

1. Place responsibility for driving and implementing gender sensitive health policies at higher national, regional and local levels and ensure gender balanced representations in decision-making positions and establish posts for gender trained health experts;
2. Produce regular gender based health reports including systematic scientifically based gender analysis in order to increase knowledge of the health of populations and to introduce gender awareness in the health sector:

*a.* ensure that in health services and in the most relevant health surveys and programmes all routine data recording and collection systems are sex-disaggregated according to the health priorities of the country (e.g. taking into account patterns of mortality and morbidity);

*b.* promote gender sensitive information systems and performance indicators for accountability purposes in the health system;

*c.* include sex disaggregated information related to other social determinants that interact with gender: i.e. income, poverty levels, labour force participation, educations, housing;

*d.* promote the use of gender sensitive indicators (e.g. World Health Organisation) in the process of data collection for national health reports;

3. Promote the inclusion of gender aspects of health in the training and continuing education of all health and related social professionals at both undergraduate (e.g. medical and nurse training) and continuing education levels (in-service training) for all health workers including policy makers;

4. Promote the education of health and social professionals on specific situations:

*a.* on the consequences of domestic and other forms of violence for health;

*b.* on the needs that affect the health of vulnerable groups;

5. Promote scientific-based programmes and prioritise developing gender sensitive research programmes which will have an impact at the national level. The aim is to implement evidence-based public policies, anticipate challenges facing society, and develop adequate health promotion programmes;

6. Initiate and promote the evaluation and monitoring from a gender perspective of the policies, programmes and actions undertaken in their country to address inequalities in health;

7. Promote international networking between governmental and non-governmental organisations active in the domain of gender mainstreaming in health policy;

8. Support an active targeted dissemination of this recommendation, accompanied where appropriate, by a translation into local languages.



**Recommendation CM/Rec(2010)10  
of the Committee of Ministers to member states  
on the role of women and men in conflict prevention  
and resolution and in peace building**

*(adopted by the Committee of Ministers on 30 June 2010  
at the 1089th meeting of the Ministers' Deputies)*

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

Noting that women, together with children, comprise a large proportion of civilian victims of conflicts, and that women, compared to men, have less access to resources, power and decision making before, during and after conflicts, and that their experiences of situations of tension and war and post-conflict reconstruction are significantly different from those of men;

Recognising, consequently, that women are often powerless to prevent conflict, that they are excluded from the negotiation tables during the resolution process and marginalised in post-conflict reconstruction and reconciliation initiatives;

Considering that democracies can no longer afford to ignore the competencies, skills and creativity of women and must include women with different backgrounds and of different age groups in conflict prevention, resolution and peace building;

Recalling the Convention for the Protection of Human Rights and Fundamental Freedoms (ETS No. 5), adopted in 1950 and its Protocols;

Recalling the European Social Charter (ETS No. 35), adopted in 1961 and revised in 1996;

Recalling the Council of Europe Convention on Action against Trafficking in Human Beings (CETS No. 197), adopted in 2005;

Taking into account Recommendation Rec(2002)5 of the Committee of Ministers to member states on the protection of women against violence and Recommendation Rec(2003)3 of the Committee of Ministers to member states on balanced participation of women and men in political and public decision making;

Bearing in mind the Parliamentary Assembly Resolution 1212 (2000) on "Rape in armed conflicts" and Parliamentary Assembly Recommendation 1665 (2004) on "Conflict prevention and resolution: the role of women";

Recalling the four Geneva Conventions of 1949 on the protection of war victims and their two Additional Protocols of 1977, in particular, the provisions guaranteeing gender-sensitive treatment;

Having regard to the United Nations Convention on the Elimination of all forms of Discrimination against Women (1979) and its Optional Protocol of 10 December 1999;

Having regard to the Rome Statute of the International Criminal Court which entered into force in 2002;

Taking into account the United Nations Security Council Resolutions 1325 (2000) and 1820 (2008) on women, peace and security and 1612 (2005) on children and armed conflict;

Bearing in mind the OSCE decision on women in conflict prevention, crisis management and post-conflict rehabilitation, adopted in December 2005;

Bearing in mind European Parliament Resolutions 2000/2025(INI) on participation of women in peaceful conflict resolution and 2005/2215(INI) on the situation of women in armed conflicts and their role in the reconstruction and the democratic process in countries after a conflict;

Recalling the Action Plan adopted at the Third Summit of Heads of State and Government of the Council of Europe (Warsaw, 16-17 May 2005) where the heads of state and government of member states underlined that equal participation of both women and men is a crucial element of democracy and confirmed their commitment to achieving real equality between women and men and to combating violence against women;

Recalling the Declaration on gender equality: a core issue in changing societies and the Programme of Action and the Resolution on the roles of women and men in conflict prevention, peace building and post-conflict democratic processes – a gender perspective, adopted by the 5th European Ministerial Conference on Equality between Women and Men (Skopje, 22-23 January 2003), which encourages the integration of a gender perspective in all activities aimed at conflict prevention and resolution;

Reaffirming the Beijing Declaration and Platform for Action (4th United Nations World Conference on Women, 1995) which recognise that women are increasingly establishing themselves as central actors in a variety of capacities in the movement for peace, and that their full participation in decision making, conflict prevention and resolution and all other peace initiatives is essential to the realisation of lasting peace;

Aware that, despite the international instruments and the action of non-governmental organisations, violations of women's human rights continue to occur in conflict areas and that without appropriate measures being taken to ensure their empowerment and security, balanced participation of women and men in conflict prevention and resolution and in peace building will not be achieved;

Considering that the maintenance and promotion of international peace and security cannot be realised without fully understanding the impact of conflicts on women and men;

Recognising that balanced participation of women and men in all phases of conflict prevention and resolution and in the peace process is a prerequisite for establishing lasting peace, sustainable democracy and economic development;

Recognising that women can bring alternative perspectives to conflict prevention at local and community level,

Recommends that the governments of member states:

1. acknowledge that equality between women and men, strengthening the role of women in society and making full use of their knowledge and expertise promote peace and are a prerequisite for conflict prevention and resolution and peace building;
2. integrate a gender perspective into conflict prevention and resolution and peace building activities, including the allocation of necessary budgetary resources;
3. ensure a balanced participation of women and men at all levels of decision making in local, regional, national and international institutions, and mechanisms for conflict prevention and resolution, including peace negotiations and the democratisation of societies after conflicts;
4. ensure that women and men representing all spheres of society take part in conflict prevention and resolution and peace building using multitrack diplomacy;
5. effectively prosecute and punish gender-related crimes committed during and after conflicts, and provide mechanisms to prevent such crimes;
6. draw this recommendation to the attention of all national political institutions and international organisations;
7. adopt and implement the measures described in the Appendix to this recommendation;

8. monitor and evaluate progress arising from the adoption of this recommendation and inform the competent steering committees, in particular the Steering Committee for Equality between Women and Men (CDEG), of the measures undertaken and the progress achieved in this field.

## **Appendix to Recommendation CM/Rec(2010)**

### **General measures**

#### *Legal framework and policy*

1. Guarantee the protection of and respect for human rights of women before, during and after conflicts;
2. Guarantee that girls and boys are protected in accordance with their specific needs and taking account of their interests, and ensure that they are not exploited in any way. Girls and boys must be protected from falling victim to trafficking in human beings and must not be recruited as child soldiers and/or used as sex slaves;
3. Include provisions in national legislation that allow the prosecution of perpetrators of gender-based violence, including domestic violence, as contained in Recommendation Rec(2002)5 of the Committee of Ministers to member states on the protection of women against violence;
4. Intensify efforts to implement United Nations Security Council Resolution 1325 (2000) on women, peace and security, *inter alia*, by devising measures such as national action plans, allocate resources and determine responsibility for its implementation;
5. Promote exchange of good practice between member states on the role of women and men in conflict prevention and resolution and in peace building;

#### *Gender mainstreaming strategy*

6. Set up mechanisms for enhancing gender mainstreaming in all processes of conflict prevention and resolution and peace building, and adopt measures to involve both women and men in all processes;
7. Explore the use of gender budgeting of all conflict prevention and resolution and peace building activities to ensure a more efficient use of resources;
8. Integrate a gender perspective in the recruitment processes of international staff and in the training given to staff taking part in conflict prevention and resolution, and peace building missions;
9. Publish, on a regular basis, gender-disaggregated data and statistics on the participation of women and men in conflict prevention, resolution and peace building and monitor progress in this area;

#### *Education*

10. Introduce and develop education on human rights, including gender equality, in school curricula, and remove gender-based stereotypes from curricula, text books and educational materials at all education levels;
11. Ensure that adequate systems are in place to guarantee education of children in conflict, post conflict and fragile situations;
12. Support and/or establish gender-sensitive peace studies within higher education programmes;

#### *NGOs and civil society*

13. Acknowledge the crucial role of civil society and support its conflict prevention and resolution and peace building activities so as to establish long-lasting peace, and allocate resources for developing non-violent models for conflict prevention and resolution;
14. Promote the establishment of international networks of women who have experienced conflicts and/or have been involved in peace building initiatives with a view to pooling examples of good practice;



15. Involve young people, girls and boys, in conflict prevention and resolution, peace building, reconstruction of society after conflicts, and in the setting up and development of effective communication processes;

#### *Media*

16. Encourage the media to:

- present all the different roles both women and men play in conflict;
- avoid stereotypical representation systematically presenting women as victims and men as aggressors;
- promote research on the media coverage of women and women's initiatives in the field of conflict prevention and resolution, and peace building;
- take part in public debate on this issue, in both towns and rural areas;
- promote educational programmes on television, radio and on the Internet on the different roles both women and men play in conflict prevention and resolution, and peace building;

#### **Specific measures concerning conflict prevention**

17. Adopt national conflict-prevention policies and strategies integrating a gender perspective;
18. Develop and promote early warning mechanisms integrating gender-specific indicators to prevent conflict;
19. Promote the role of women in intercultural and inter-religious dialogue to open new opportunities for dialogue and pave the way for new models of conflict prevention;
20. Organise training seminars in intercultural learning and conflict prevention with a special focus on gender-specific issues for policy makers and civil servants, especially those sitting on decision-making bodies at the highest level;
21. Grant resources and give support to NGOs, in particular to women's NGOs working at grassroots level, to prevent conflict and build peace;
22. Publish and disseminate studies on the impact of conflict on women and men, and their roles and relations;
23. Fund research on root causes of masculine violence, which can often lead to severe problems in post-conflict societies, and devise global responses to this violence, based on an integrated and multi-disciplinary approach;

#### **Specific measures concerning conflict resolution**

24. Progressively increase the number of women nominated to high-level decision-making posts in international organisations and international missions, including diplomatic posts;
25. Appoint more women as mediators in international mediation committees in charge of peace negotiations, and facilitate and promote the participation of women in field missions, including reconstruction, peace building and observation missions, in order to achieve a gender balanced participation;
26. Engage in multitrack diplomacy so as to involve the largest possible number of actors in resolving conflicts within and between states, and ensure the equal participation and input of women's organisations in informal and formal peace initiatives at all levels through systematic consultation with them, ensuring that their expertise and women's priorities are reflected in formal and informal peace processes;
27. Ensure that third parties involved in peace negotiations, including mediators, are trained to take a gender sensitive approach;
28. Ensure that women benefit from humanitarian aid by providing better control over access to and distribution of such aid, and that they play an active part in all stages of humanitarian assistance operations;

29. Integrate a gender perspective in the arrangements and procedures for granting asylum and receiving refugees and other displaced persons;
30. Give women refugees and other displaced women the opportunity to play a key role in camp planning, management and decision-making so that women's interests are taken into account in all aspects of running a refugee camp, especially resource distribution, security and protection;

#### **Specific measures concerning human security**

31. Ensure the protection of human rights defenders, both women and men, in conflict and post-conflict situations;
32. Take account of the important role and the particular needs of women when implementing protection policies and sustainable solutions, including voluntary return, repatriation, resettlement and reintegration of refugees and displaced persons in safety and dignity;
33. Ensure that security measures do not restrict freedom of movement for women and girls in post-conflict situations;
34. Ensure the protection of women and girls inside refugee camps against violence and sexual abuse by providing better security measures;
35. Ensure that, in the context of humanitarian assistance, sufficient attention is given to assistance concerning sexual and reproductive health, including obstetric care, nutritional support for women during pregnancy and breastfeeding, family planning, and HIV prevention and treatment services;
36. Acknowledge the importance of continuous education during and after conflicts as a survival strategy and, to this end, provide a safe environment for educational activities;
37. Pay the utmost attention to cases of men, women and children reported missing in connection with armed conflicts, and take appropriate measures to search for, locate and identify them;
38. Support trans-border co-operation between women's NGOs in combating gender based violence and disappearances;
39. Encourage women's access to the media and to information and communication technologies so that their expertise can influence public debate and decision making with regard to peace and security;

#### **Specific measures concerning peace building**

##### *International criminal law*

40. Ensure that national legislation is compatible with the substantive and procedural provisions regarding gender related crimes as laid down in the Rome Statute of the International Criminal Court;
41. Take all the necessary steps to ensure in particular that rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilisation, or any other form of sexual violence of comparable gravity are recognised as war crimes by the national legal order, when these acts are committed in the course of armed hostilities;
42. Take all the necessary steps to ensure in particular that rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilisation, or any other form of sexual violence of comparable gravity are recognised as crimes against humanity by the national legal order when these acts are committed as part of a widespread or systematic attack directed against any civilian population, with knowledge of the attack and are recognised as genocide by the national legal order if committed with intent to destroy, in whole or in part, a national, racial, ethnic or religious group;
43. Punish gender-related crimes, committed by combatants and all other actors, including peacekeepers and international and humanitarian staff, and take measures to prevent trafficking in human beings, especially in women and girls;

44. Ensure appropriate protection to all persons called to testify before the national courts and international tribunals in cases of genocide, crimes against humanity and war crimes committed during and after conflicts;
45. Ensure special legal protection and provide legal assistance free of charge and social support to victims in order to facilitate their reporting of perpetrators of war crimes and human rights violations committed during and after conflicts, and in order to prevent them from becoming repeat victims;
46. Establish mechanisms to guarantee compensation for victims, in accordance with the conditions under national law;

#### *Transitional justice and reconciliation*

47. Set up, as far as possible, mechanisms such as truth and reconciliation committees to deal with past human rights violations;
48. Put an end to the culture of silence, support the victims of gender-based violence so that they are accepted by their community and society as a whole, and in the event that truth and reconciliation committees are set up, establish places where women and men feel safe to talk;
49. Draw up programmes designed to introduce new strategies for working with those who are both the victims and the perpetrators of gender-based violence;
50. Provide relevant information, documents and results of research concerning all the institutions/bodies which are responsible for transitional justice;

#### *Combating violence*

51. Include in peace building programmes, action plans to combat violence against women;
52. Ensure that a gender perspective is fully integrated in demilitarisation, demobilisation and reintegration programmes;
53. Pay particular attention to the integration of female combatants recruited by armed groups or armed forces in demilitarisation and demobilisation programmes, provide adequate reintegration programmes, and support vulnerable male groups, such as conscientious objectors, forced conscripts and war prisoners;
54. Provide gender-specific psycho-social support as a peace building tool in order to reduce hatred, fear and traumatism, and create opportunities for confidence building activities between women and men;
55. Ensure that all parties included in peace building missions have, and implement, a code of conduct;
56. Ensure that a gender perspective is fully integrated in the security sector reform;
57. Provide training in gender equality and in dealing with gender violence for all actors involved in peace building, including police officers and armed forces;

#### *Empowerment of women*

58. Take all the necessary steps to ensure that women are informed of their political and civil rights and involved in drafting and/or reviewing national laws;
59. Take all the necessary steps to ensure that women are registered on the electoral rolls and abolish family voting; substantially increase the number of women on electoral committees and the number of female electoral observers with a view to achieving the balanced participation of women and men;
60. Take all the necessary steps to guarantee women's socio-economic rights, including employment, as well as their property ownership and inheritance rights, and support in particular female-headed households and female orphans in so far as they may suffer particular gender-based discrimination;
61. To promote the access and rights of women to health information and services, in particular as regards sexual and reproductive health, including women's access to post exposure prophylaxis and

emergency contraception for rape victims, whilst affirming strong support for and a commitment to the full implementation of the Cairo Programme for Action, adopted at the International Conference on Population and Development (ICPD) 1994, as well as of the ICPD Programme of Action agreed at ICPD+5, the Copenhagen Declaration and Action Programme, the Beijing Platform for Action and the Millennium Development Goals;

62. Ensure that the women affected by conflicts, including refugee women and other displaced women, are actively involved in peace building activities and in the planning and implementation of reconstruction initiatives;

63. Ensure that equal consideration is given to women's and men's specific needs and interests when formulating reconstruction programmes and devising development co-operation programmes, and explore the use of a gender budget analysis of humanitarian assistance and post-conflict reconstruction in order that both women and men benefit equally from the resources provided by international and national donors;

64. Ensure the availability of translations of international documents on gender equality and peace building, and their dissemination, targeting in particular decision-makers, civil servants and the wider public at local, regional and national levels;

65. Translate into national languages important decisions, including peace treaties, and disseminate them to the wider public, in particular to women in both towns and rural areas, and ensure that women and men have the opportunity to provide and receive information to and from national and international actors without discrimination based on the grounds of sex;

66. Encourage the media to use the information provided by civil society, including women's NGOs, to ensure regular and informed media coverage of issues concerning women and of civil society's contribution to national reconstruction and rehabilitation;

67. Encourage research on the consequences of women's exclusion from and/or men's over-representation in peace negotiations, and on women's contribution to conflict resolution and peace-building activities, and the impact they have on peace processes; disseminate the results widely and use them in framing national and regional policies that respect and make creative use of women's potential.

**Explanatory memorandum  
to Recommendation CM/Rec (2010) 10  
of the Committee of Ministers to member states,  
Adopted by the Committee of Ministers on 30 June 2010  
at the 1089th meeting of the Ministers' Deputies**

**I. Background to the recommendation**

**Introduction**

1. Gender inequality reflects power imbalances between women and men that exist in pre-conflict periods and are exacerbated by violent conflict and its aftermath. Gender inequality affects women and men's different roles in conflict prevention, conflict resolution and peace-building and addresses different types of responsibilities. The international community took without doubt an interest in the situation of women in conflict but mainly as regards violence incurred by women during conflicts. As a first step, international instruments related to human rights aimed mainly at protecting civilian populations, in particular women, against any form of violence. The 1949 Geneva Conventions, related to the protection of civilians in war time and their 1977 additional protocols provide that women will be specially protected against any attack against their honour, in particular against any humiliating and degrading treatment, rape, forced prostitution and indecent assaults (Article 3 common to the 1949 Geneva conventions, and Additional Protocol II, Article 4).
2. Conflict prevention and resolution became a central issue in the international community in the 90's, but the activities undertaken by women in favour of peace have been unknown, even ignored for a very long time. Even though women, together with children, had been the principal victims of conflict, their need had not been taken into account in post-conflict reconstruction programmes and they were not associated with peace processes.
3. At international level, several initiatives have been carried out in order that the essential role of women in conflict prevention and resolution and in peace building could be recognised. The Beijing Platform for Action, adopted during the *4th World Conference of the United Nations on Women*, devoted an entire chapter to women and armed conflict. The adoption by the *Security Council of the United Nations of Resolution 1325 (2000) on Women, peace and security* concerning the need to increase women's representation in institutions and other bodies responsible for managing and resolving conflicts was a major step in the right direction.
4. The Beijing Platform for Action recognised that "an environment that maintains world peace and promotes and protects human rights, democracy and the peaceful settlement of disputes, in accordance with the principles of non-threat or use of force against territorial integrity or political independence and of respect for sovereignty as set forth in the Charter of the United Nations, is an important factor for the advancement of women. Peace is inextricably linked with equality between women and men and development."
5. It recalled that "violations of human rights in situations of armed conflict and military occupation are violations of the fundamental principles of international human rights and humanitarian law as embodied in international human rights instruments and in the Geneva Conventions of 1949 and the Additional Protocols thereto and recommended, in addressing armed or other conflicts, an active and visible policy of mainstreaming a gender perspective into all policies and programmes.
6. To this end, the Platform for Action fixed four objectives:
  - increase the participation of women in conflict resolution at decision-making levels and protect women living in situations of armed and other conflicts or under foreign occupation;
  - reduce excessive military expenditure and control the availability of armaments;
  - promote non-violent forms of conflict resolution and reduce the incidence of human rights abuse in conflict situations;
  - promote women's contribution to fostering a culture of peace.

7. *Resolution 1325 (2000) on Women, Peace and Security*, adopted afterwards by the Security Council of the United Nations, recalled this commitment and urged “member states to ensure increased representation of women at all decision-making levels in national, regional and international institutions and mechanisms for the prevention, management, and resolution of conflict” and “to adopt measures that ensure the protection of and respect for human rights of women and girls, particularly as they relate to the constitution, the electoral system, the police and the judiciary.”

8. The Council of Europe followed with attention the work of the international community on women’s role in conflicts before starting its work in this field. At the end of the 90’s, in view of specific situations occurring in some regions of Europe, the Council of Europe took up the theme of women’s participation in conflict prevention and resolution and peace building, in particular during the *5th European Ministerial Conference on Equality between Women and Men* (Skopje, 22-23 January 2003), and it tried to diversify its strategies in order to eradicate the roots of conflict in general and ensure their effective implementation as regards women. This work led to the setting-up of a *Group of Specialists on the role of women and men in conflict prevention, resolution and peace building* which main aim was to study women’s participation in conflict prevention and resolution as well as peace building in Council of Europe member states and to give more visibility to this issue with the preparation of a draft recommendation in this field.

## II. The work of the Council of Europe

9. The aims of the Council of Europe are to promote democracy, human rights and the rule of law, through the development of common standards for its member states in response to their political, social, cultural and legal challenges, and to promote awareness of a European identity based on shared values and cutting across different cultures and create an area of democratic security. During their 3rd Summit (Warsaw, 16-17 May 2005), the Heads of State and Government of member states of the Council of Europe declared that European countries have today overcome painful divisions and have enlarged their area of democratic security, but that they were concerned by unresolved conflicts that still affect certain parts of the continent, putting at risk the security, unity and democratic stability of member states and threatening the populations concerned.

10. Gender equality is one of the conditions which contribute to European democratic security. One of the Council of Europe priorities’ in the field of gender equality has been for many years now to promote the balanced representation of women and men in the political and public decision-making process, considering that balanced participation of women and men in political and public decision making, in particular as regards conflict prevention and resolution and in peace building, is a matter of full enjoyment of human rights and a necessary condition for the better functioning of a democratic society. In 1988, in its *Declaration on Equality of Women and Men*, the Committee of Ministers affirmed that equality between women and men is an integral part of human rights and that sex-related discrimination is an impediment to the recognition, enjoyment and exercise of human rights and fundamental freedoms. The *Declaration on gender equality as a fundamental criterion of democracy* adopted during the *4th European Ministerial Conference on Equality between Women and Men* (Istanbul, 1997) constitutes a practical instrument for all those working to increase the participation of women in decision-making in general.

11. However, in the vast majority of European countries, women are still very much under-represented in decision-making positions in political and public life. In the member states of the Council of Europe, men still occupy 79% of elected positions in national parliaments, and 80 % in government.<sup>1</sup> This means that women’s ideas, interests, needs and competences are likely to be left out in policy-making. When it comes to taking decisions concerning war, peace and security issues, women are hardly ever consulted. Women’s voices and concerns are rarely heard in peace negotiations and reconstruction programmes. Even if it is increasingly recognised that women are frequently victims of war and conflicts and they are

1. *Sex-disaggregated statistics on the participation of women and men in political and public decision-making in Council of Europe member states. Situation as at 1 September 2005*. Document CDEG (2006) 15. Steering Committee on Equality between Women and Men/Comité directeur pour l’égalité entre les femmes et les hommes (CDEG).

often designated as a “vulnerable group”, their experience as survivors, leaders and actors during conflict is seldom used to empower them and seldom used for the benefit of society after conflict.

12. Gender equality can make real progress only in a society which seeks peaceful solutions to conflict. An international Seminar on *Participation of women in the prevention and resolution of conflicts* (Strasbourg, 20-21 September 2001), initiated discussion on various issues regarding women, activities for peace and the reconstruction of post-conflict societies. It allowed in particular, to prepare the *5th European Ministerial Conference on Equality between Women and Men* (Skopje, 22-23 January 2003) the theme of which was: *Democratisation, conflict prevention and peace building: the perspectives and the roles of women*. The Conference focused its discussions on the roles of women and men in conflict prevention, peace-building and post-conflict democratic processes. During the conference, the participants adopted a *Resolution on the roles of women and men in conflict prevention, peace building and post-conflict democratic processes – a gender perspective* that, among other things, calls on governments to promote the full participation of women at all levels of decision-making and to encourage the integration of a gender perspective in all activities aimed at conflict prevention and resolution. They also adopted a Declaration and Programme of Action outlining Council of Europe priorities in the field of gender equality for the coming years.

13. In this regard, it should be mentioned that paragraph 13 of *Recommendation Rec (2003) 3 of the Committee of Ministers to member states on balanced participation of women and men in political and public decision-making*<sup>1</sup> invites member states to “consider adopting appropriate legislative and/or administrative measures to ensure that there is gender-balanced representation in all national delegations to international organisations and fora” and that paragraph 14 invites member states to “take due account of gender balance when appointing representatives to international mediation and negotiating committees, particularly in the peace process or the settlement of conflicts”.

14. As a follow-up to the Conference, a *Report on the role of women and men in interreligious and intercultural dialogue for conflict prevention, for peace building and for democratisation* was prepared by a Group of Specialists whose task had been to take stock of the situation and propose follow-up action. The Group concluded its work by recommending that the Council of Europe draft guidelines for member states on the promotion of women’s participation in conflict prevention. The drafting of a legal instrument had also been suggested by the participants to the 5th European Ministerial Conference on Equality between women and men (Skopje, 22-23 January 2003). They considered that such a regional instrument would be a useful complement to the *United Nations Security Council Resolution 1325 (2000) on Women, Peace and Security*.

15. A *Group of Specialists* was set up with terms of reference<sup>2</sup> for drafting a recommendation on the role of women and men in conflict prevention and resolution and in peace building, containing guidelines for the development and the implementation of strategies and mechanisms aimed at to increasing women’s participation and reinforcing their role in conflict prevention and resolution and in peace building within the Council of Europe member states as well as at international level.

### III. Comments

#### A. General comments

16. The Group of Specialists in charge of drafting the recommendation examined the role of women as active actors in the reconciliation post-conflict reconstruction process. It took into account the need to increase the number of women in decision making at all levels of society as well as the need to set up peaceful behaviour between communities. It also took into account the need to re-establish peaceful human relationships through reconciliation, instead of concentrating only on the public sphere in the reconstruction of society after a conflict, and thus improve the opportunities to solve conflict in a non-violent way for the interest of the whole society. In this framework, it examined the different roles

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1. *Recommendation Rec (2003) 3 of the Committee of Ministers to member states on balanced participation of women and men in political and public decision-making*, adopted on 12 March 2003, during the 831st meeting of the Ministers’ Deputies.

2. Terms of reference for a Group of Specialists on the Role of Women and Men in Conflict Prevention, Resolution and Peace Building (EG-S-CP) adopted by the Committee of Ministers during its 916th meeting, on 23 February 2005.

of women and men as victims of violence and as authors of violence. It examined in particular the role of women in peace building and how a multitrack and transformative approach to conflict prevention, resolution and peace building could increase women's participation in these processes and allow for sustainable peace.

### *Women's and men's role in conflict prevention, conflict resolution and peace-building*

#### *Women and men, victims of violence*

17. During their preparatory work, the experts in charge of drafting the recommendation discussed women's and men's vulnerabilities in conflicts. So far, the perception of women as victims has obscured their role as peace builders. However, as victims of conflicts women were generally more severely affected than men by an increase in variety of humiliations, suffering, violation of their human rights and violent acts in general and sexual violence in particular. These violations of human rights of women and girls by governmental and non governmental bodies, in particular sexual violence used as war strategy are now explicitly recognised as crimes against humanity and war crimes by the *Rome Statute of the International Criminal Court*.<sup>1</sup>

18. This increase in violence against women and girls not only results in enormous distress and mental trauma for the women and families concerned, but it also affects the entire society that bears the long term social and economic costs of the consequences of this violence: unsafe abortions, unwanted children, infections with HIV/AIDS or other sexually transmitted diseases, and social exclusion of raped women. During the past decade women's groups across the world have succeeded in broadening the understanding of the cycle of violence. According to their experiences of violence, conflict resolution and prevention and peace building require the inclusion of an agenda to combat violence against women occurring within the family home.

19. Although to a much lesser extent, men and boys are also victims of gender-based violence, for example as war prisoners or because of their ethnic or religious origin, or their sexual orientation. Other taboo vulnerable male groups are conscientious objectors, and forced conscripts. From a men's perspective, peace building initiatives need to address the question how to deal with long term psychosocial needs of male vulnerable groups. To change persisting stereotypes about women's position as victims and men as aggressors it is important that the understanding of vulnerability is broadened. In this respect, the experts concluded that peace building activities need to address the multiple vulnerabilities of women and men before, during and after conflicts.

#### *Women and men, perpetrators of violence*

20. The experts also discussed the role of women and men as perpetrators of violence. The roles women and men played in society were determined by their gender, but women were not necessarily more peace-loving than men; they were often the main victims of conflicts but, like men, they could also be protagonists. The experts noticed that in armies and armed groups, women and girls take up various roles as (non-) combatants. As civilians, women could also contribute to stir up tensions and instigate others to hurt and kill the perceived enemies. On the other hand, violent acts are still mostly carried out by men and boys. The experts stressed that a lot had been said and written about the role of women, but little about that of men and they underlined that there were a lot of stereotypes on this issue.

#### *Women in peace building*

21. The experts finally examined women's role in peace building. Women and girls across the globe have taken up numerous active roles as peace builders. Despite their unequal access to resources and power and the persistent portrayal of women as victims, especially by the media and the warring parties, they have resisted violence and have upheld social and political networks within their communities and across conflict lines. The experts considered that it is precisely the different socialisation processes of women

1. The *Rome Statute of the International Criminal Court* was adopted on 17 July 1998 and entered into force on 1 July 2002.



and men and the historical experience of unequal relations that contribute to the unique insights and values that women bring to the process of peace building.

22. For example, the “Women in Black” in Belgrade provided the only clear public opposition to the conflict in the former Yugoslavia; women’s NGOs had created a newspaper for Armenian and Turkish women informing them about problems they shared (health, education and housing). In Rwanda women built model villages where Hutus and Tutsis could live together; the women of Bougainville planned a peace settlement between secessionists and the Papua New Guinean government; the Sudanese Women’s Voice for Peace promoted dialogue between different ethnic groups and guerrilla factions; Muslim and Hindu women crossed enemy-lines in Kashmir in India to initiate development projects and trauma healing and reconciliation efforts.<sup>1</sup> Experiences in regions such as the Middle East and Pakistan and India point to another significant role that women play in peace building. In times of intense conflict, often, women’s dialogue initiatives have continued even when the official communication has been stuck in war rhetoric and political jingoism and civil society: dialogue has been irregular and limited.

23. In the context of the Israeli/Palestinian conflict, the “Jerusalem Link” and “Women in Black” serve as two important examples of such a process. In different regions of conflict, women from hostile communities/nations are transcending similar “fault-lines”, at times representing the only group of civil society doing so. For instance, there are the empowering examples of the “Northern Ireland Women’s Coalition”, the “Women in Black”, the “Mothers’ Movements” in different regions. By providing opportunities for face-to-face interaction and dialogue in settings of hostility, they facilitate a much-needed humanisation of perceived enemies.<sup>2</sup> Some examples of good practice are appended to this explanatory report (see appendix, Appendix: good practice).

24. More inclusive peace building spaces, networks and structures are needed in order to overcome the persistent exclusion of women from peace processes.

#### *Multitrack approach to conflict prevention, resolution and peace building*

25. The experts found that multitrack conflict prevention and resolution and peace building was a good entry point to make women’s unofficial activities more visible. Many women’s initiatives are based on a multitrack approach as a means through which to attain a peace that is sustainable and inclusive. For instance, the women’s groups working in the context of the peace process between Pakistan and India ensure that they engage with government interlocutors as well as with a broad cross-section of civil society including NGOs, media, the business community, educators and grassroots’ leaders in the two countries.<sup>3</sup> Involving a wide range of governmental, non-governmental and private actors at different levels of society is essential to introduce a gender sensitive peace agenda and to achieve balanced participation of women and men as mediators as well as amongst the conflict parties.

26. This multitrack approach is known as “multitrack diplomacy”. This concept is based on the distinction established in 1981<sup>4</sup> between official, governmental actions to resolve conflicts (track one) and unofficial efforts by non- governmental professionals to resolve conflicts within and between states (track two). In 1991, the relationship between the various tracks were reorganised<sup>5</sup> and proposed a non hierarchical organisation of the tracks connected to each other in a circle. No one track is more important than the other, and no one track is independent from the others. Each track has its own resources, values, and approach, but since they are all linked, they can operate more effectively when co-ordinated.

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1. Schirch, Lisa, Sewak, Manjrika, “The role of women in peace building, European Centre for Conflict Prevention: Global Partnership for the Prevention of Armed Conflict, <http://www.gppac.net/>, 2005, pp. 7-8.

2. *Ibid.*, pp. 7-8.

3. *Ibid.*, pp. 7-8.

4. John W. McDonald and Louise Diamond from the Institute of Multitrack Diplomacy.

5. *Ibid.*

*Transformative approach to conflict prevention, resolution and peace building*

27. Gender based conflict prevention and resolution and peace building is a complex and long term process that seeks not only to prevent or end violent conflicts, but that seeks to transform and help people to recover from violence in all forms, even structural violence that has not yet led to massive civil unrest. It empowers people, women and men, to foster relationships at all levels of society that sustain people and their environment and that enhance human security. Therefore, by using different models of actions such as early warning and transitional justice, the goal of gendered peace building is the development of networks of relationships between individuals, families, communities, organisations, businesses, governments and cultural, religious, economic and political institutions and movements that allow people to co-operate and co-ordinate to constructively address and prevent violent conflict.

28. To this end, a gender perspective in conflict prevention and resolution and in peace building should:

- consider all levels of society (individual, domestic, local, regional, national and international) and all the actors involved, as well as the possible impact of policies programmes/projects, according to men and women, and their role, function, actions, vulnerability, demands, needs, etc.;
- always look at both the “public” and the “private” sphere;
- analyse the relationship between women and men as part of the social network and reveal inequalities;
- acknowledge that conflicts between women and men are an integral part of conflict and peace building systems and help to resolve these conflicts constructively;
- aim to reduce the incidence of violence and discrimination against women, as well as encouraging the empowerment of women;
- create and promote an awareness of non-discriminatory concepts of men and women and their roles;
- make men and women recognisable as such through the language used.

**B. Comments on the recommendation***Scope of the recommendation*

29. As the Council of Europe plays a standard-setting role in human rights and democracy, the experts agreed that it was in that framework that the draft recommendation should be prepared and that the principle behind the recommendation was that of gender equality as an integral part of human rights. It also agreed that the respect of this principle was a prerequisite to conflict prevention and resolution and to peace building.

30. This recommendation provides specific guidelines on how to address the different roles attributed to women and men in conflict prevention, resolution and peace building activities and for the development of strategies and mechanisms pushing for the inclusion of women as actors in conflict prevention, resolution and peace building within the Council of Europe member States as well as at international level and developing peace building strategies in the following fields: respect of human rights and non-violent conflict resolution; combating gender based violence; balanced participation of women and men in decision-making, gender equality and gender mainstreaming for the empowerment of women.

*Key terms*

31. The experts of the Group of specialists in charge of drafting the recommendation considered it was necessary to give a gendered explanation of key terms used in the Recommendation particular concerning the fact that there could be no neutral definition.

32. In this regard, they stressed that the term “gender” was often misunderstood and used only as a substitute for “women’s issues”. For example, the term gender-based violence not only encompasses violence against women and girls, but also violence directed toward men and boys by virtue of their gender. For the purpose of the present recommendation, the Group proposed to use the term “gender-related crimes” and to explain it as “crimes directed against women or men on account of their gender”.

This explanation includes all crimes in which the perpetrator employs the gender-specific attributes of the victim to harm him/her.

33. For the purposes of this recommendation, they decided to give an explanation integrating a gender perspective to the following key terms:

#### *Conflict*

In the context of this recommendation, *conflict* means threats of violence or the use of violence which pervades human relationships, including between women and men, and has a negative impact on human security. Taking into account the gender issue in this explanation allows to distinguish the many different types of private or public violence against women and men and their impact and to take into account a social environment that is characterised by the imbalance of power between women and men.

#### *Violence*

*Violence*, taking account of gender aspects, covers personal (direct, physical), structural (indirect) and cultural (legitimising) violence against women, men, girls and boys. Violence does not only occur in armed conflict, but also within structures and actions that disadvantage certain people because of their sex, origin, ethnic group or political or religious beliefs, or because of purely personal factors (such as sexual orientation, age, handicap) or any other circumstances. It follows that the prevention of violence does not only entail preventing armed conflicts, but also influencing all people, structures and symbols that use, encourage, propagate or legitimise violence in any form against women, men, girls and boys.

#### *Multitrack diplomacy*

*Multitrack diplomacy* acknowledges the importance of involving a wide range of actors in conflict prevention and resolution and peace building, at all levels of society. These levels operate together as a single system. Each level has its own resources, values and approaches but, given that they are all connected, they can have a greater impact if they are properly co-ordinated. It is essential to involve a very large number of governmental, non-governmental and private actors at the different levels of society to establish a gender-sensitive peace agenda and achieve the balanced participation of women and men as mediators and also as representatives of the parties to the conflict.

#### *Conflict prevention*

*Conflict prevention* includes those factors and actions that prevent violence from breaking out. Conflict prevention measures should not be restricted to pre-conflict prevention, but can be implemented at all stages of conflict. Practical measures to prevent conflicts can be divided into two types. One is aimed at preventing situations with a clear capacity for violence from degenerating into the use of direct (physical) violence. This is called *light prevention*. Their aim is to prevent latent or threshold conflicts from becoming severe armed conflicts. *Deep prevention* (or structural prevention), in contrast, aims to address the root causes, including underlying conflicts of interest and unequal relationships. Gender-sensitive conflict prevention must entail *deep prevention* because it takes into account the unequal power relationships between women and men, aims to overcome gender-based violence and promote balanced participation of women and men in conflict prevention.

#### *Conflict resolution*

The aim of *conflict resolution* is not the elimination of conflict, but rather to actually or potentially transform violent conflict into peaceful (non-violent) processes of social and political change. Conflict resolution comprises mechanisms and actions which address the deep-rooted sources of conflict. These mechanisms must take account of both the individual and collective dimensions of conflict, such as violent behaviour, the attitudes of the parties to the conflict, unequal power relationships between women and men.

### *Human security*

The human security concept is based on the premise that traditional, i.e. mainly military, security measures for the defence of the territorial integrity of states hardly contributes to protect the civilian population against violent attacks. The human security approach consequently focuses on the security needs of the individual person and concerns all aspects of the security of individuals and their survival, well-being and freedom. In order to have peace, there must be a safe environment, a stable community and mechanisms for protecting people against danger.

The gender-sensitive human security approach comprises the full guarantee and implementation of women's human rights in all spheres of life and also makes it possible to create systems which increase freedom and the chances of life and gives women a complete feeling of security.

### *Transitional justice*

*Transitional justice* is a way of dealing with conflicts which acknowledges and takes account of the complex relations between people, problems of inequality in society, in particular inequalities between women and men, and the injustices inherited from the past, i.e. the different types of damage and human rights violations caused by conflicts. It covers a number of interconnected activities and mechanisms designed to redress the unfair consequences of past injustices, human rights violations, war crimes, genocides and other injustices of the past.

### *Reconciliation*

*Reconciliation* should be understood as part of a process of conflict transformation, the goal of which is to establish respectful relationships between people, within the community and between divided parties. The focus is therefore not on re-establishing conditions as they were before the conflict, but rather on restoring and reworking relationships, in particular relationships between women and men, as part of a new social contract.

### *Peace*

A gender-sensitive peace covers freedom from violence at personal, structural and cultural level, as well as a just social system. This includes gender equality: the same rights, opportunities and powers of decision-making for women and men – a *sine qua non* for democracy. Gender-sensitive peace building efforts help abolish all forms of violence against women, men, girls and boys, at all levels of society (individual, domestic, local, regional, national and international) and contribute actively to effective gender equality.

### *Peace building*

Peace building involves a full range of approaches, processes, and stages necessary for establishing sustainable, peaceful relationships and governance modes and structures. To be effective, peace building activities must take account of all levels of society (the individual, the family, the community and the regional, national and international levels) and all the actors concerned, as well as the possible impact of policies/programmes/projects on both women and men.

### *Preamble*

34. The preamble of this recommendation lists the main conventions and recommendations of the Council of Europe concerning action against discrimination and the respect of the principle of gender equality, in particular the *European Convention on Human Rights* and its protocols. These instruments guarantee the right to non-discrimination and security and recall that everyone should enjoy his/her rights fully. The Preamble to the Convention reaffirms in particular that "the profound belief in those fundamental freedoms which are the foundation of justice and peace in the world and are best maintained on the one hand by an effective political democracy and on the other by a common understanding and observance of the human rights upon which they depend".

35. The preamble of the recommendation also quotes the Social Charter which guarantees the right to non discrimination in the enjoyment of social and economic rights and the *Council of Europe Convention on action against trafficking in human beings* which aims to prevent trafficking, protect the victims and prosecute traffickers. It also recalls the declarations adopted by the governments of the Council of Europe member states and their international commitments in the field of gender equality.

36. The governments of member states have on numerous occasions acknowledged and declared that the sharing of power between women and men is a prerequisite for genuine democracy and a better functioning of a democratic society. The preamble of this recommendation recalls this fact and refers, in particular to *Recommendation Rec (2003) 3 of the Committee of Ministers to member states on balanced participation of women and men in political and public decision making* which provides Council of Europe member states with guidelines in order that the representation of either women or men in any decision-making body in political or public life should not fall below 40% and thus achieve balanced participation of women and men. It also recalls the *Council of Europe Parliamentary Assembly Recommendation 1665 (2004) on conflict prevention and resolution: the role of women*, which states that women should be involved in preventive diplomacy, conflict resolution, peace-making and post-conflict peace building debates and activities at all levels.

37. It also recalls that women should be protected against all forms of violence and refers to *Recommendation Rec (2002) 5 of the Committee of Ministers to member states on the protection of women against violence*, and points out that without appropriate measures to ensure women's empowerment and security, balanced participation of women and men in conflict prevention and resolution and in peace building cannot be achieved.

38. This protection is ensured, in particular, by the four 1949 Geneva Conventions and their two 1977 additional Protocols referred to in the Preamble of this recommendation. By referring to the four Geneva conventions<sup>1</sup> and their two 1977 protocols,<sup>2</sup> the experts wished to recall the importance of international humanitarian law and its implementation by member states, in particular as regards women's protection. International humanitarian law protects women when they are combatants by limiting admissible means of combat, when as combatants they are war prisoners, sick, wounded or shipwrecked and when they are part of the civilian population not taking part actively in the hostilities.

39. The preamble recalls that the *Rome statute of the International Criminal Court* considers rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilization, or any other form of sexual violence of comparable gravity as a crime against humanity when committed as part of a widespread or systematic attack directed against any civilian population, with knowledge of the attack. It also refers to the *Council of Europe Parliamentary Assembly Resolution 1212 (2000) on rape in armed conflicts* which invites the governments of member States to take appropriate measures to ensure that rape in armed conflicts is irrevocably treated as a war crime.

40. The Preamble also lists the international commitments undertaken by the governments of the member States of the Council of Europe, in particular within the United Nations. It refers in particular to *Resolution 1325 (2000) of the United Nations Security Council on Women, Peace and Security*, which represents an important tool for women to participate equally in all negotiation and for the protection of and respect for the human rights of women and girls during armed conflict, to ensure increased representation of women at all decision-making levels in national, regional and international institutions and mechanisms for the prevention, management, and resolution of conflict. The resolution recognises officially, for the first time, the integration of civil society groups, in particular of women in peace processes and in the implementation of peace agreements.

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1. *Convention (I) for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field*. Geneva, 12 August 1949; *Second Convention: Geneva Convention for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea*, 12 August 1949; *Third Convention: Geneva Convention relative to the Treatment of Prisoners of War*, 12 August 1949; *Fourth Convention: Geneva Convention relative to the Protection of Civilian Persons in Time of War*, 12 August 1949.

2. *Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts* (Protocol I) 8 June 1977. *Additional Protocol to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-International Armed Conflicts* (Protocol II), 8 June 1977.

41. Finally it lists the instruments of the European Union and the OSCE which are a follow-up to the implementation of *Resolution 1325 (2000) of the United Nations Security Council on Women, Peace and Security*. These instruments call on their member States to promote equal participation of women in diplomatic conflict resolution and reconstruction initiatives at all levels.

42. By ratifying the human rights conventions and by implementing the various recommendations mentioned in the preamble, governments oblige themselves to work towards gender equality and genuine democracy in their society, thus contributing to conflict prevention and resolution and in peace building.

#### *Provisions of the recommendation (I-VIII)*

##### *Provision I*

43. Gender equality is one of the conditions contributing to democratic security. Gender equality is an integral part of human rights and a fundamental criterion of democracy. The aim of this provision is to remind governments that the reinforcement of women's role in society and utilising their competences and experience acquired during conflict could lead to conclude peace more rapidly while respecting gender equality and thus contributing to the establishment of a space of democratic security.

##### *Provision II*

44. Despite *de jure* gender equality, the distribution of power and responsibilities as well as access to economic, social and cultural resources between women and men still remain unequal, due to the persisting roles traditionally accorded by society to men and women. To achieve *de facto* gender equality, it is necessary to use the gender mainstreaming strategy and integrate a gender perspective in all policies and measures taken in conflict prevention and resolution and peace building activities in order to take into account both women's and men's specific needs. It is a parallel strategy which complements policies and measures undertaken. The Declaration on "Gender equality: a core issue in changing societies" adopted during the *5th European Ministerial Conference on Equality between Women and Men* (Skopje, 22-23 January 2003) recalls that "equality between women and men can only be reached by using the dual and complementary strategies of specific gender equality policies and gender mainstreaming".

##### *Provision III*

45. For many years now the Council of Europe has sought to promote the balanced representation of women and men in the political and public decision-making process, considering that balanced participation of women and men in political and public decision making, in particular as regards conflict prevention and resolution and peace building, is a matter of full enjoyment of human rights and a necessary condition for the better functioning of a democratic society.

46. The aim of the provision is to draw the attention of people at the highest political level to the consequences of under-representation of women in decision-making when issues related to conflict prevention and resolution, peace and security issues are dealt with. The underlying aim is to improve the possibilities to solve conflicts in a non-violent manner for the benefit of society as a whole. Governments play a key role in promoting a balanced participation of women and men at all levels of political and public decision-making, in particular in conflict prevention and resolution and in peace building

##### *Provision IV*

47. "Multitrack diplomacy" is based on the original distinction made between official, governmental actions to resolve conflicts (track one) and unofficial efforts by non-governmental actors to resolve conflicts within and between states (track two). The adoption of such an approach by including civil society groups, in particular women's groups, could allow to better take into account the specific needs of women and men, thus contributing to gender equality. *Resolution 1325 (2000) of the United Nations Security Council on women, peace and security* recognises officially the integration of civil society groups, in particular women in peace processes and in the implementation of peace agreements.

#### *Provision V*

48. Finding sustainable solutions guaranteeing peace requests that all parties are committed to respecting human rights and punishing gender related crimes and that the persons responsible of these violations are sanctioned. Peace cannot be guaranteed if gender related crimes committed during and after conflicts are not punished, whatever the perpetrator (combatant, member of armed groups or forces, national and international NGOs representatives, humanitarian organisations, etc.) These crimes cannot stay unpunished as their non punishment brings resentment among the victims, constitutes a potential source of new violence and is a threat for peace and security. It is therefore extremely important to ensure that gender related crimes are sanctioned and their authors effectively punished.

#### *Provision VI*

49. When putting this recommendation into practice at national level, it is of great importance that each government make a public commitment to implement the recommendation and that the text be disseminated as widely as possible in order that all actors involved in conflict prevention and resolution and in peace building are informed and can take into account the proposals of the recommendation.

#### *Provision VII*

50. All the measures contained in this recommendation concern the roles of women and men in conflict prevention and resolution and in peace building. Some of the measures listed in the recommendation may not be relevant for application in all Council of Europe member States. However, it is important that member states take into account all these measures in order to combat violence, promote balanced participation of women and men in political and public life, thus contributing to achieving real gender equality which is a major factor for peace and democratic stability in Europe.

#### *Provision VIII*

51. It is important that the Council of Europe be informed on the follow-up given at national level to the implementation of the measures contained in the Recommendation. The need for monitoring is certainly crucial for evaluating the progress made at national level in the field of conflict prevention and resolution and peace building, but also in effectively achieving gender equality.

## **Appendix**

### **General measures – paragraphs 1-15**

52. In times of conflict, as well as in times of peace, the roles of women and men carry a lot of prejudices. “We know” what the typical roles for men and for women are. This is the reason why the experts of the group of specialists in charge of drafting the recommendation decided to focus on long-term activities that will change attitudes that prevail today. The following general measures aim to change this situation.

### **Legal framework and policy – paragraphs 1-5**

#### *Paragraph 1*

53. Due to an over-representation of men in most of the places where decisions are made concerning conflict prevention and resolution and peace building, women’s human rights are sometimes “sold out” to speed up the negotiation process. The protection of and respect for women’s human rights including their right of freedom of movement and their right to meet should be ensured in all circumstances. No cultural tradition or social custom that affects the human rights of women or their human dignity should be accepted or tolerated and no social or economic circumstance should be ever invoked to deny or not fulfil gender equality requirements or the enjoyment by women of their human rights.

54. The Platform of Action adopted by the *4th World Conference of the United Nations on Women* (Beijing, 1995) states for this purpose that “The full realisation of all human rights and fundamental freedoms of all women is essential for the empowerment of women. While the significance of national and regional

particularities and various historical, cultural and religious backgrounds must be borne in mind, it is the duty of states, regardless of their political, economic and cultural systems, to promote and protect all human rights and fundamental freedoms of women.”

### Paragraph 2

55. Article 38 of the *United Nations Convention on the Rights of the Child* recalls the obligations of States Parties as regards the respect for and application of rules of international humanitarian law and recalls that these rules are also relevant to the child in armed conflicts. It provides in particular in its paragraph 4 that “[...] States Parties shall take all feasible measures to ensure protection and care of children who are affected by an armed conflict”. The restriction to recruiting children is included in paragraphs 2 and 3 of Article 38 and in the *Rome Statute of the International Criminal Court* which provides that conscripting or enlisting children under the age of fifteen years into armed forces or groups or using them to participate actively in the hostilities is a serious violation of the laws and customs applicable in armed conflicts not of an international character.

56. These provisions are completed by the provisions of the *Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflicts*, entered into force in February 2002, which provides that “States Parties shall take all feasible measures to ensure that members of their armed forces who have not attained the age of 18 years do not take a direct part in hostilities.”

57. Despite these provisions, in the modern world children are involved in armed conflicts; they are most often victims and sometimes also combatants enlisted or conscripted in contempt of their rights, their physical integrity and their lives. In 2000, the Parliamentary Assembly of the Council of Europe in *Resolution 1215 (2000) Campaign against the enlistment of child soldiers and their participation in armed conflicts* invited the member states and states enjoying observer status with the Council of Europe” to undertake to end permanently in their own countries the enlistment and participation of children under 18 years of age, both girls and boys, in armed forces and in armed conflicts, by modifying their legislation and current practice if necessary;” and to express this undertaking at international level by ratifying the relevant legal instruments.

58. The *Convention on the Rights of the Child* and its *Optional Protocol on the sale of children, child prostitution and child pornography*<sup>1</sup> also contain provisions to protect the child from all forms of sexual exploitation and sexual abuse. The *Council of Europe Convention on Action against trafficking in human beings* also contains provisions related to children’s protection against trafficking in human beings.

59. The Council of Europe also launched a three-year programme “Building a Europe for and with children” which is being implemented in follow-up to the Third Summit of Heads of State and Government of the Council of Europe (Warsaw, 16-17 May 2005). It is a response to the Organisation’s mandate to guarantee an integrated approach to promoting children’s rights. This programme covers the social, legal, educational and health dimensions relevant to protecting children from various forms of violence. The programme comprises two closely related stands: the promotion of children’s rights and the protection of children from violence.

### Paragraph 3

60. As regards the adoption of national laws and/or provisions on the protection of women against violence, *Recommendation Rec (2002) 5 of the Committee of Ministers to member states on the protection of women against violence*<sup>2</sup> is a legal reference text which governments can use as a basis for supplementing, amending, adjusting or drafting legislation to successfully combat violence against women in each member state. Taking into account domestic violence in this framework is important because it means that the cycle of violence can only be understood if it includes violence against women occurring within the family home.

1. Adopted by the United Nations on 25 May 2000; entered into force on 18 January 2002.

2. Adopted by the Committee of Ministers on 30 April 2002, at the 794th meeting of the Ministers’ Deputies.



#### Paragraph 4

61. *United Nations Security Council Resolution 1325 on Women, Peace and Security* provides countries with a solid legal basis on which to achieve some progress on balanced participation of women and men in conflict prevention and resolution and in peace building. Adopting plans of action shows a clear political will to implement this instrument and all the measures and mechanisms it entails could ensure a comprehensive, gender sensitive peace agenda (i.e. “en-gendering” peace). For example, Switzerland is currently finalising a national action plan for the implementation of Resolution 1325. It sets great store by measures to prevent gender based violence and protect women’s and girls’ human rights during and after conflicts. In order to fulfil the requirements of Resolution 1325, Austria is also currently working on a National Action Plan that covers the activities of several ministries. The Action Plan will be a rolling plan with annual reports to the Council of Ministers on progress in the implementation of the resolution.

#### Paragraph 5

62. In terms of practical measures to enhance the political visibility of the role of women in conflict prevention, it is essential that the exchange of good practice in this regard should take place between member states. During the *5th European Ministerial Conference on Equality between Women and Men* (Skopje, 22-23 January 2003), participants underlined that conflict prevention, *inter alia*, called for the study, the analysis and the implementation of the good practices as referred to during the conference. It was stressed that, to extend the role of women in conflict prevention within the geographic area of the Council of Europe, close co-operation and an exchange of good practices was indispensable.

### Gender mainstreaming strategy – paragraphs 6-9

#### Paragraph 6

63. A gender equality policy, if it is to be carried out fully, must be supported by gender mainstreaming strategies.<sup>1</sup> The use of gender mainstreaming in all policies is one of the tools to achieve gender equality; it should not be seen as a goal in itself, but should be integrated into a dual strategy that includes specific gender equality measures and policies and uses gender mainstreaming in all policies and all programmes, including those related to conflict prevention and resolution and peace building. The national institutional mechanisms could be in charge of monitoring the implementation of gender mainstreaming in all phases of conflict prevention and resolution and peace building and governments should set up such a mechanism if it does not already exist. As regards men’s participation in such mechanisms, it is more necessary than ever. The participants in the *5th European Ministerial Conference on Equality between Women and Men* (Skopje, 22-23 January 2003) already insisted on the necessary involvement of men in the promotion of gender equality in this framework.

#### Paragraph 7

64. The concept of gender budgeting, as defined by the Council of Europe,<sup>2</sup> is based on the idea that budgets are not neutral and that they should take into account the social reality to which they apply, mainly that society is composed of women and men and that their needs are not always the same. It is necessary to undertake gender budgeting to make sure that the funds that are directed towards conflict prevention and resolution and peace building, humanitarian assistance as well as post-conflict reconstruction equally benefit men and women. By improving the possibilities for determining the real

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1. In 1998, the Council of Europe defined gender mainstreaming as: the (re)organisation, improvement, development and evaluation of policy processes, so that a gender equality perspective is incorporated in all policies at all levels and at all stages, by the actors normally involved in policy-making. In: *Gender mainstreaming. Conceptual framework, methodology and presentation of “good practices”. Final Report of Activities of the Group of Specialists on Mainstreaming (EG-S-MS)*, Council of Europe, Strasbourg, 1998.

2. “Gender budgeting is an application of gender mainstreaming in the budgetary process. It means a gender-based assessment of budgets, incorporating a gender perspective at all levels of the budgetary process and reconstructing revenues and expenditures in order to promote gender equality”. In: *Gender budgeting. Final report of the Group of Specialists on Gender Budgeting (EG-S-GB)*, Council of Europe, Strasbourg, 2005.

amount of resources allocated to women and men, gender budgeting gives a better understanding of how resources are spent and therefore increases the effectiveness of measures taken.

65. Further action should also be undertaken to help develop and promote gender budgeting in order to analyse with a gender perspective how resources are distributed among NGOs, in particular women's NGOs involved in conflict prevention.

#### *Paragraph 8*

66. Integrate a gender perspective in the recruitment processes of international staff and in the training given to staff taking part in conflict prevention and resolution and peace building missions helps to raise awareness of the specific problems of both women and men, but also to explain to the different actors how to put gender mainstreaming into practice into their work. It enables them to understand precisely the implications of gender, to detect gender issues and to formulate concrete answers to them.

#### *Paragraph 9*

67. One prerequisite to the implementation of the gender mainstreaming strategy is to collect sex-disaggregated data and statistics. For this recommendation the experts wanted to especially stress the need to publish sex-disaggregated data and statistics on the participation of women and men in conflict prevention and resolution and in peace building. Strengthening the collection and analysis of sex-disaggregated data and statistics and publishing them regularly would be a tool for making changes as it is important to have the current facts to measure progress and make change happen.

### **Education – paragraphs 10-12**

#### *Paragraph 10*

68. To ensure the participation of young people, both girls and boys, in conflict prevention and resolution and in peace building, focus needs to be set on education. The experts therefore suggested that educational curricula should include education on human rights, including gender equality which should favour a culture of peace and tolerance. The *Council of Europe report on the role of women and men in intercultural and interreligious dialogue for conflict prevention, for peace building and for democratisation*<sup>1</sup> already pointed out that there was a lack of gender-sensitive education emphasising a culture of peace and peace building [...]. This measure had been proposed by the participants of the *5th European Ministerial Conference on Equality between Women and Men* (Skopje, 22-23 January 2003), as a good practice for conflict prevention and resolution and peace building.

69. In this framework there is a clear need to work towards erasing the gender stereotypes that can often be found in schoolbooks and educational materials. The *report of the Council of Europe on the promotion of gender mainstreaming in school*<sup>2</sup> has shown that the gender stereotyping in school material is still rather the norm and this has consequences on how boys and girls view the roles of men and women in society.

### **NGOs and civil society – paragraphs 13-15**

#### *Paragraphs 13-14*

70. Since its foundation the Council of Europe has recognised the need to work with non-governmental organisations which it considers an essential part of the democratic process. As early as 1952, it established the possibility for non-governmental organisations to acquire "consultative status". Over the years, the rules for co-operation have been improved and updated. *Committee of Ministers Resolution (93) 38 on relations between the Council of Europe and international non governmental organisations* specified that

1. *The role of women and men in intercultural and interreligious dialogue for the prevention of conflict, for peace building and for democratisation*. Final report of the Group of Specialists on the role of women and men in intercultural and interreligious dialogue for the prevention of conflict, for peace building and for democratisation, Council of Europe, 2005.

2. *Promotion of gender mainstreaming in school*. Final report of the Group of specialists on gender mainstreaming in school (EG-S-GS (2004) RAP FIN., Council of Europe, Strasbourg, 2004.

the Council of Europe could grant “consultative status” to INGOs which are particularly representative in the fields of their competence at European level. In 2003, the Committee of Ministers adopted *Resolution (2003) 8 on participatory status for international non-governmental organisations with the Council of Europe*,<sup>1</sup> making it the first international organisation to offer INGOs a participatory status. At present around 400 international NGOs enjoy participatory status with the Council of Europe. Through their work, they are capable of supporting the achievement of closer unity as stated in Article 1 of the Statute of the Council of Europe, by contributing to its activities and by publicising its work among European citizens.

71. It is important to establish a solid partnership between women working in the different fields of conflict prevention and resolution and peace building – national and international policies, diplomacy, peace education, mediation, defence of peace, religious communities and local groups of women peace activists. Networks interlinking the various levels of participation need to be set up/supported. One of the major obstacles seems to be that dialogue ends at local level. There is a need to connect it with the work that has already been done by the higher tiers of government (regional, national and international) in order to achieve a wider outreach and broader impact. Networks, which are usually based on personal contacts, are an excellent mechanism of enhancing the dialogue that exists at community or local level. It is especially important to co-ordinate efforts made by NGOs with those made at governmental level.

72. This partnership contributes to the dissemination of ideas, lessons learned and good practices from different regions of conflict and latent conflict, to give support through networking and make progress in the knowledge of the different approaches in the field of conflict prevention and resolution and in peace building. Co-operation between international, national and local non-governmental organisations is of the utmost importance in this regard. Many positive examples of such co-operation exist, particularly in the Balkans: assistance to women traumatised by war, the setting up of information centres for refugees and the development of handicraft workshops for women which also provide training in respect for human rights and peace building.

#### Paragraph 15

73. The next generation should bring fresh and innovative perspectives to the debate on conflict prevention and resolution and in peace building, in particular through effective communication processes. Thus, involving young girls and boys in conflict prevention and resolution and in peace building, with the development and setting-up of effective communication processes, would be a significant part of an overall strategy for the future.

74. For the Council of Europe, youth activities aim to encourage youth participation in society by promoting citizenship, mobility, human rights, democracy and multiculturalism. *Recommendation No. R (97) 3 of the Committee of Ministers to member states on youth participation and the future of civil society*<sup>2</sup> reaffirms “the crucial role of youth participation in the development of civil society, serving to introduce a resolutely positive perception of young people as a resource for the constant renewal of democratic society”. It recommends in particular to “promote partnership between youth organisations and authorities at national, regional and local levels, and encourage young people to participate in the voluntary sector.” The Parliamentary Assembly of the Council of Europe in its *Resolution 1215 (2000) – Campaign against the enlistment of child soldiers and their participation in armed conflicts* invited “states that have signed and ratified the 1989 United Nations Convention on the Rights of the Child to promote education for peace and tolerance through awareness-raising campaigns, particularly in countries where the risk of conflict is high.”

75. The *Resolution on the roles of women and men in conflict prevention, peace building and post-conflict democratic processes – a gender perspective* adopted during the 5th European Ministerial Conference on Equality between Women and Men, (Skopje, 22-23 January 2003) also invited governments to take measures

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1. Resolution Res (2003) 8 on participatory status for international non-governmental organisations with the Council of Europe, adopted by the Committee of Ministers on 19 November 2003 at the 861st meeting of the Ministers’ Deputies.

2. Adopted on 4th February 1997 by the Committee of Ministers at the 583rd meeting of the Ministers’ Deputies.

aiming at encouraging young people, and particularly young women, to participate in conflict prevention and resolution and in the peace building process.

### **Media – paragraph 16**

76. The media have an important role at local, national and international levels. They sometimes can deepen divides, exacerbate conflicts, especially by causing tension to escalate, exaggerate differences and make opposing sides more radical, as well as portray people who are different in confused and rudimentary ways. In many cases, the media also convey stereotypical roles for women and men, often portraying women as sex objects and as passive victims or in “traditional” roles, undermining their worth and worsening the political and social situation in the various communities in which they live.

77. The national and local media, by taking sides and stereotyping people generally and parties involved in conflicts in particular, especially according to their gender, and by oversimplifying sometimes international news, can contribute to a lack of understanding of the complexity of conflict situations and this may, to some extent, have an effect on conflict resolution.

78. The media are consequently fairly influential in shaping people’s perception of war and peace and the role of women and men in these contexts. The media might therefore be one of the mechanisms that could be used by the various groups and the different networks involved in conflict prevention and resolution and in peace building. Working together with the media is an important mechanism of enhancing the efforts made. Furthermore, by presenting and endorsing good examples of the role of women in conflict prevention and resolution and in peace building, the media could change the widespread perception of women as victims. *Recommendation No. R (84) 17 of the Committee of Ministers to member states on equality between women and men in the media*<sup>1</sup> advocates awareness raising of the media and the public in general to the problems of equality between women and men in the media, in particular through the organisation in the national framework of meetings and seminars on this issue.

### **Specific measures concerning conflict prevention – paragraphs 17-23**

79. Promoting gender equality and increasing parity between women and men entail their balanced participation in conflict prevention as a part of early-working policy to identify dangerous root-causes of conflicts and factors threatening democratic values, institutions and achievements. It is the responsibility of governments to create opportunities for women and men to fully involve themselves, without any discrimination, in activities aimed at conflict prevention.

#### *Paragraph 17*

80. National policies and strategies on conflict prevention should integrate a gender perspective. Taking into account the specific needs of women and men should be considered as a prerequisite to any genuine democracy and for a better functioning of democratic societies, and a major guarantee for sustaining the European continent free of disorder, extremist action, xenophobia, racism and nationalist drives. A gender perspective should also be integrated in assessments relating to political and social activities, and legislative, administrative measures. Constructive public dialogue should be encouraged, in particular with women’s grass-root NGOs, for creative approaches to conflict prevention, and to elaborate joint result-oriented proposals.

#### *Paragraph 18*

81. Concerning the machinery of conflict prevention, indicators of a society’s stability should be taken into account, such as democracy, human rights, social justice, equal opportunities, economic and social balance. Underground economies and corruption and economic and social violence were among the multiple sources of conflicts and violence.

1. Adopted by the Committee of Ministers on 25 September 1984, during the 375th meeting of the Ministers’ Deputies.

82. In early warning efforts or situation analyses for conflict prevention, gender issues are still not widely addressed. Yet gender indicators – those signs that reflect the changing situations of women and men in society – are often the earliest signs of impending conflict. The incorporation of gender-sensitive indicators into the collection and analysis processes of early warning makes existing models more comprehensive and allows for even earlier early warning by anticipating macro-level conflict through micro-level conflict events. That is to not only focus on state-based structures and relations but also on the micro-level factors that lead to conflict.

83. There is a need to fully recognise the gender aspects in early-warning systems and post-conflict reconstruction and rehabilitation. In particular data on gender inequality and violence against women could be elaborated and used in a more systematic way. In an early warning system, an increase in domestic violence can indicate an increased level of violent tendencies and therefore an escalation of conflict in society. It was for example reported that 44% of women in a specific country (participating in a survey conducted by UNIFEM) experienced domestic violence for the first time in 1998 or 1999. This coincided with an escalation of an armed conflict that blew up in spring 1999.

84. In light of the above, the rationale behind introducing gender into early warning rests on the argument that to view early warning in the light of gender differences enriches the analysis and allows for more appropriate response options equally benefiting men and women. Activities of early warning could be more efficient by using women's unexploited potential, women's networks and NGOs as peace actors.

#### *Paragraph 19*

85. Intercultural and interreligious dialogue makes for respect for other cultures and religions, exchange, confidence and mutual acknowledgment, and provides the opportunity to share differences. Dialogue as such serves and enhances intercultural communication<sup>1</sup> by providing an opportunity for discussion involving representatives of various religions and cultures, activists and experts in conflict prevention and human rights, and for presenting, sharing and introducing good practice and drawing up joint action plans to prevent conflicts and build peace. Women's proactive involvement in this dialogue is needed to change the culture of negotiation by using mechanisms for intercultural and interreligious dialogue integrating a gender perspective which supports values of pluralisms, inclusiveness and gender mainstreaming. The *Council of Europe report on the role of women and men in intercultural and interreligious dialogue for conflict prevention, for peace building and for democratisation*, recommended in particular that member states "In keeping with United Nations Security Council Resolution 1325, build and support women's leadership skills and develop their leadership potential so that they can perform an appropriate and constructive role in interreligious and intercultural dialogue".

#### *Paragraph 20*

86. To be efficient, conflict prevention should be integral part of routine activities of governmental actors. The organisation of interactive seminars introducing strategies for conflict prevention with a gender perspective, are therefore crucial.

#### *Paragraph 23*

87. The support to research on understanding the multiple root causes of masculine violence is particularly important. It is not possible to describe a violent act by just using a "single" aspect, and therefore it is not possible to treat violence, or rather to diminish the level of violence in a society by programmes that only address for example the perpetrator's violence itself. The multiple categories of the causes of violence and an integrated response – cultural, socio-economic, personal and medical – are a way towards the reduction of masculine violence. In order to develop intervention strategies that address the totality of the context and to come to terms with this widespread problem, political will should be expressed by allocating sufficient financial resources to develop research in this field.

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1. In: *Intercultural Dialogue and Conflict Prevention, Action Plan for 2002-2004* (CDCULT – PREV (2002) 1), 8 April 2002, Council of Europe, p. 3.

## Specific measures concerning conflict resolution – paragraphs 24-30

### Paragraph 24

88. Women must be more present at all levels of decision-making of national, regional and international institutions and mechanisms. The minimal participation of women in decision-making bodies at national level is all the more blatant in international negotiations, particularly in peace negotiations. For example, no women were involved in the 1995 Dayton Peace talks that ended the conflict in Bosnia and Herzegovina. Only one Kosovar woman participated in the Rambouillet talks. Few women are to be seen in the higher ranks of international organisations.

89. Women's participation in decision-making is a critical element both in conflict prevention and in peace building processes in the post conflict situation. Lasting peace cannot be established without women's active participation at all levels and at every stage. There is a need to include women in official negotiations and diplomacy aimed at ending conflicts as well as in peacekeeping missions. It is obvious that in non-violent conflict resolution, women have at least as much to say as men. The portrayal of women as victims not only neglects the significant roles women have played in conflict and post-conflict, but also undermines their future potential as key participants in formal peace processes. It would be a serious mistake not to give women a place at the negotiating table when decisions were being taken on reconstructing communities in the wake of conflicts. The skills, experience and knowledge which they gained during the conflicts would be then completely ignored, despite the fact that their presence during peace negotiations might well make it possible to achieve peace more swiftly, while respecting gender equality.

90. International instruments already exist such as *United Nations Security Council Resolution 1325 (2000) on Women, peace and security* or *Recommendation Rec (2003) 3 of the Committee of Ministers to member states on balanced participation of women and men in political and public life* which require states to increase the number of women in order to ensure a balanced participation of women and men in decision-making. In particular, Recommendation (2003) 3 invites member states in its paragraph 13 to "consider adopting appropriate legislative and/or administrative measures to ensure that there is gender-balanced representation in all national delegations to international organisations and fora."

### Paragraph 25

91. *Recommendation Rec (2003) 3 of the Committee of Ministers to member states on balanced participation of women and men in public and political decision-making* provides Council of Europe member states with guidelines for increasing and affirming women's participation, in particular, its paragraph 14 which calls on member states to "take due account of gender balance when appointing representatives to international mediation and negotiating committees, particularly in the peace process or the settlement of conflicts". Moreover, the Committee of Ministers recommends member states to monitor and evaluate progress in achieving balanced participation of women and men in political and public life, and report regularly to the Committee of Ministers on the measures taken and progress made in this field.

### Paragraph 29

92. The report of the *4th World Conference on Women (Beijing, 1995)* stated, in its Platform for Action, that women and children constitute some 80% of the world's refugees and other displaced persons. They are threatened by deprivation of property, goods and services and deprivation of their right to return to their homes of origin as well as by violence and insecurity. Women can also be forced to flee as a result of well founded fears of persecution, in particular through sexual violence and they continue to be vulnerable to violence and exploitation while in flight, in countries of asylum and resettlement. They often experience difficulty in some countries in obtaining refugee status and documentation where only men are registered as head of the family. This is the reason why the experts considered it necessary to recommend integration of a gender perspective in mechanisms and procedures for granting asylum and receiving refugees and other displaced persons in order that the interests of both women and men are taken into account without discrimination.

93. Moreover, in some asylum countries, women victims of persecution through sexual violence have difficulty in being recognised as refugees when their claims are based on such persecution. Isolated women can also become victims of sexual attacks and manipulation from persons in authority in the asylum country. Mechanisms and proceedings for giving asylum and receiving refugees should integrate a gender perspective in order to take these problems into account.

#### Paragraph 30

94. Even if women do not, as a general rule, participate directly in armed conflicts, they do not suffer less than men from violent conflicts. Women, children and the elderly make up the majority of refugees and other displaced persons. Women are often primarily responsible for maintaining the family and the social functions in refugee camps often in very dangerous conditions. This is the reason why they should be associated with the camp organisation and management. In particular the camp organisation can be of capital importance for women's security. The settlement of questions such as lighting, camp protection, situation of toilets is essential if we want security, in particular women's security, to be insured.

#### Specific measures concerning human security – paragraphs 31-39

95. The concept of human security was developed for the first time in the *1994 Human Development Report of the United Nations Development Programme*.<sup>1</sup> While national security focuses on the defence of the state from external attack, human security is about protecting individuals and communities from any form of political violence.

96. By shifting focus from national/state to an individual-centred approach to security, the international community now acknowledges that this view is necessary for regional and global stability as well as for the protection of individuals and individual well-being. At present, a new approach to human security can be an appropriate problem-solving answer to the various urgent concerns nowadays such as missing people, forced migration, mass atrocities, epidemics and trafficking in human beings and may help reduce human suffering along with human rights violations.

#### Paragraph 31

97. Human rights defenders, both women and men, are fundamental actors in implementing the international human rights and peace framework, in promoting and defending democracy, preventing conflict, maintaining and consolidating peace and security. Unfortunately, the defence of human rights and fundamental freedoms can be presented in many countries as a threat to national and international security: "Defenders whose work challenges social structures, economic interests, traditional practices and interpretations of religious precepts face greater risks. Women human rights defenders, in particular, are targeted by various social and private actors, such as religious groups and institutions, community or tribal elders, or even members of their own family. They become particularly vulnerable to prejudice, to exclusion and to public repudiation, not only by State forces but by social actors as well when they are engaged in the defence of women's rights."<sup>2</sup>

98. The experts in charge of the drafting of this recommendation wished to reaffirm this responsibility of states included in the *Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognised Human Rights and Fundamental Freedoms (Declaration on Human Rights Defenders)*.<sup>3</sup> The Parliamentary Assembly of the Council of Europe also dealt with this problem and in a document on human rights defenders<sup>4</sup> "forcefully reaffirmed that human rights defenders,

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1. *Human Development Report 1994* published for the United Nations Development Programme by Oxford University Press, 1994.

2. OSCE Supplementary human dimensions meeting. "Human rights defenders and National Human Rights Institutions." Keynote Address by Hina Jilani, Special Representative of the United Nations Secretary General on Human Rights Defenders, Vienna, 30 March 2006.

3. Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms adopted by General Assembly resolution 53/144 of 9 December 1998.

4. In: "The situation of human rights defenders in Council of Europe member states", Parliamentary Assembly 27 June 2006, Doc. 10985.

individually or in association with others, play a primary role in the establishment and the strengthening of the rule of law, democracy and the protection of human rights, as well as in the prevention of conflicts” and “considers the establishment of a protection mechanism for human rights defenders as necessary, in order to protect them against any violations of their rights and freedoms, and to ensure the good functioning of a pluralist democracy in the member states”.

99. A colloquy, *Protecting and Supporting Human Rights Defenders in Europe*, was organised by the Council of Europe<sup>1</sup> in November 2006. As a follow-up to this colloquy, the reflection undertaken at intergovernmental level led to the adoption by the Committee of Ministers of the Council of Europe of a *Declaration on Council of Europe action to improve the protection of human rights defenders and promote their activities*.<sup>2</sup> This Declaration shows member states’ commitment in the field and foresees that the role of the Commissioner for Human Rights in favour of the protection of human rights defenders will be reinforced. The adoption of this instrument corresponds to the 10th anniversary of the *United Nations Declaration on the right and responsibility of individuals, groups and organs of society to promote and protect universally recognised human rights and fundamental freedoms*, which had been used as a reference for this work.

#### Paragraphs 32-35

100. The experts stressed the need for improving the safety of civilians during conflict and post conflict situations and to insure after the conflict their voluntary return or their repatriation and their reinstallation in the most appropriate manner keeping in mind the respect for dignity and human rights of individuals and in particular the respect for dignity and human rights of women and girls as among the worst personal threats are those to women (from domestic violence to conflict violence and trafficking in human beings, from food and health security to economic and political ones).

101. A multiplicity of actions/programmes should be developed in order to ensure basic needs and rights that make people feel secure in their communities such as humanitarian intervention mechanisms, enlarging access to vital resources for underprivileged populations, especially women and children, safeguards and preventive measures against all aspects of violence, etc.

#### Paragraph 36

102. The right to education should be preserved and defended in times of conflict (before, during and after) and can be seen as a survival strategy. Both girls and boys should have access to uninterrupted education, and the places where this education is given should be for them safe places. Priority should be given to solving the issues around a secure place for, in particular girls’ education. Sometimes, attacks on school establishments put the lives of girls at risk when they attempt to exercise their basic rights to education. There have been examples where checkpoints and rumours of sexual harassment have made parents keep their daughters at home.

103. The Preamble to the *United Nations Convention on the Rights of the Child* recognises that, in all countries in the world, there are children living in exceptionally difficult conditions and that such children need special consideration. Article 28, paragraph 1.e of the Convention requests that States Parties recognise “the right of the child to education, and with a view to achieving this right progressively and on the basis of equal opportunity, they shall, in particular [...] take measures to encourage regular attendance at schools and the reduction of drop-out rates”. Article 38, paragraph 4 of the Convention, points out that “In accordance with their obligations under international humanitarian law to protect the civilian population in armed conflicts, States Parties shall take all feasible measures to ensure protection and care of children who are affected by an armed conflict.”

1. Colloquy, *Protecting and supporting human rights defenders in Europe*, organised by the Directorate General of Human Rights and the Office of the Commissioner for Human Rights, 13-14 November 2006.

2. Adopted by the Committee of Ministers on 6 February 2008 at the 1017th meeting of the Ministers’ Deputies.



### Paragraphs 37-38

104. The unsolved problem of missing persons represents an enormous humanitarian problem. When people remain uncertain about the fate of their relatives, they cannot rebuild their lives and this undermines the relationships between communities and constitutes a threat for peace and security. It is of utmost importance to take the necessary measures, such as exchange of information, in collecting the *ante-mortem* data on missing persons and compiling the lists of missing persons, in providing legal assistance to their families and raising awareness among local authorities and the general public of the problems faced by these families, as well as by providing psychosocial support to these families and support to their associations.

### Specific measures concerning peace building – paragraphs 40-67

105. The term *peace building* came into widespread use after 1992 when Boutros Boutros-Ghali, then United Nations Secretary-General, announced his Agenda for Peace. Since then, “peace building” has become a broadly used but often ill-defined term connoting activities that go beyond crisis intervention such as longer-term development, and building of governance structures and institutions. To be effective, peace building activities require: careful and participatory planning, co-ordination by both women and men of different activities and sustained commitments by both local and donor partners. Peace building addresses structural reconciliation and long-term relationships between those in conflict. It includes building the capacity of non-governmental organisations (including religious institutions) for peacemaking and peace building: “peace building involves a long-term commitment to a process that includes investment, gathering of resources and materials, architecture and planning, coordination of resources and labour, laying solid foundations, construction of walls and roofs, final touches work and ongoing maintenance.”<sup>1</sup> Peace building also centrally involves the transformation of relationships. “Sustainable reconciliation” requires both structural and relational transformations.<sup>2</sup>

### International criminal law – paragraphs 40-46

106. Finding lasting solutions to ensure peace requires that the parties to the conflict undertake to defend human rights and bring to justice those responsible for the violation of these rights, who are guilty of crimes against humanity and war crimes.

107. The *ad hoc* International Criminal Tribunals for the former Yugoslavia and Rwanda are important developments in the realisation of more effective mechanisms for enforcing international criminal law. For example, the fact that rape and other forms of sexual violence in armed conflict have been prosecuted as war crimes is a major step forward in the fight against impunity. Furthermore, under the *Rome Statute of the International Criminal Court*, rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilisation and any other form of sexual violence constitute grave breaches of the Geneva Conventions, and are war crimes when committed in international or non-international armed conflict (Articles 8 (2) (b) (xxii) and 8 (2) (e) (vi) of the ICC Statute).

### Paragraphs 40-42

108. Taking into account the proposal made in *Resolution 1212 (2000) on rape in armed conflicts of the Parliamentary Assembly of the Council of Europe*, the experts considered that it was indispensable that the member states take the necessary measures for their legislations to be compatible with the substantive and procedural provisions regarding gender related crimes as laid down in the *Rome Statute of the International Criminal Court* and that gender related crimes are recognised by their national legal order as a war crime if committed in the course of armed hostilities, as a crime against humanity if committed during a widespread or systematic attack directed against any civilian population and as a genocide if committed with intent to destroy, in whole or in part, a national, ethnical or religious group.

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1. John Paul Lederach, professor of international peace building, University of Notre Dame, South Bend, Indiana, USA.

2. In: *Peace. Sustainable Reconciliation in Divided Societies*, USIP, 1997.

*Paragraph 45*

109. Although it is important for victims to report the crimes they were affected by in order to facilitate or support the prosecution of these crimes it should be recognised that women, especially women who were victims of sexual crimes sometimes run the risk of becoming repeat victims when reporting facts of the crime. Appropriate legal protection and social support should, among other things, include the right to be interrogated by specially trained, preferably female, judicial staff.

*Paragraph 46*

110. Compensation for victims should be attributed in accordance with the conditions under national law of member states, for instance through the establishment of a fund for victim compensation or measures or programmes aimed at social assistance and social integration of victims.

**Transitional justice and reconciliation – paragraphs 47-50**

111. Human rights, in particular women's human rights should be protected in times of conflict, but this is not sufficiently far-reaching. This procedure could be expanded to overcome war traumas and offer the possibility to open dialogue between former enemies, between victims and perpetrators.

112. The emerging field of transitional justice needs to be more widely developed. Transitional justice is often seen as an extension of regular criminal justice systems in order to assist in a more comprehensive manner countries and communities dealing with past mass atrocities such as ethnic cleansing, genocide, human rights abuse.

*Paragraph 47*

113. Transitional justice that includes multiple interventions and mechanisms – from war crimes tribunals, truth and reconciliation commissions and alternative courts for justice to public hearings, public apologies and trauma relief programs – differs according to different local cultural traditions, causes and duration of conflicts, needs of combatants and their broader societies and perspective of victims, including women. Over the past thirty years a number of official, temporary investigative bodies, often referred to as “truth commissions”, have been established to clarify the “truth” about atrocities and events that took place during an earlier period of repression or conflict. They are non-judicial bodies that generally produce a report of their findings with conclusions and recommendations for future reform. Some examples over the last two decades underline the positive impact of this concept – Chilean Truth Commission, South African Truth and Reconciliation Commission (TRC), Tokyo Tribunal on behalf of “comfort” women (victims of sexual slavery during the Second World War), public testimonies concerning rape of women from Bosnia and Herzegovina, among others. A new means of generating lessons learned is made possible through the international network of “1000 Women for the Nobel Peace Prize”.

114. These mechanisms allow account to be taken of the difficulties encountered during the judicial process and encourage reconciliation. Considered as an essential process to prevent certain forms of violence and to ensure sustainable peace, reconciliation allows for appeasement, recognition and reparation, and for a possible future to be envisaged, based on a constructive knowledge of the conflict, on the renewal of relations and the acceptance of common features and differences.

115. In this regard, these mechanisms could help women and men to report and to be listened to helping them to renew their sense of dignity and self-worth. Further, by introducing new perspectives about the conflicts and historical memory these mechanisms can promote reconciliation and dampen the desire for revenge and contribute to ending cycles of violence.

*Paragraph 48*

116. Difficulties exist in societies in which the discussion of gender topics is still very much a “social taboo” – how to encourage women and men to speak about issues relating to sexuality or about sexual abuse in an open-minded manner. Having in mind that changes do not happen overnight, respecting the fact that, in various societies, there are different ways of addressing gender-specific issues, might be one

of the answers. The Courts of Women organised by AWHCR and El Taller in the last decade are valuable examples where women could bring their personal testimonies of violence, speak of their sufferance, name the crimes and seek for redress, even reparation.

#### Paragraph 49

117. While there are many national and international organisations that address the needs of women survivors, only a very few deal with male perpetrators and male victims. Among the very rare examples are a few projects in the Balkans supported by Political Division IV of the Swiss Ministry of Foreign Affairs that work with war veterans, such as the Centre for Non Violent Action in Belgrade and the Trauma Centre in Novi Sad.

118. Therefore special emphasis should be given to solving trauma based on gender-based violence in terms of support to victims: survivors of violence should be able to tell their stories in the most sensitive and appropriate manner and to receive help to enable them to regain control over their lives (emotional, psychological, social ...). A general awareness of the importance of public testimonies of women is of great importance and can contribute to finding adequate solutions for working with male perpetrators.

#### Combating violence – paragraphs 51-57

119. Violence against women is a crucial aspect of both conflict and patriarchal societies. This violence exists in all societies and as long as it is part of the life of many men and women will contribute to the fact that violence is considered as a legitimate solution in case of conflict. Violence against women is a violation of human rights, the very nature of which deprives women of their ability to enjoy fundamental freedoms. It often leaves women vulnerable to further abuse and is a major obstacle to overcoming inequality between women and men in society. Violence against women is a detriment to peace, security and democracy in Europe. Moreover, a hostile and aggressive environment as well as the socially, economically and morally destabilised post-conflict society leads to an increase of violence, including domestic violence.

120. To better combat this violation of women's human rights, there is a need to include integrated responses to masculine violence<sup>1</sup>. Equally important is to include action plans to combat violence against women in peace-building programmes. Consequently, the experts stressed the need for member states to implement fully the measures of *Resolution 1325 (2000) on Women, Peace and Security of the Security Council of the United Nations* and *Recommendation Rec (2002) 5 of the Committee of Ministers to member states on the protection of women against violence*.

#### Paragraphs 52-53

121. The disarmament, demobilisation and reintegration programmes (DDR) have not yet managed to reach both male and female combatants. The programmes have not been constructed to be gender-specific and special measures for girls and women have not been prioritised. For example, the DDR programme in Sierra Leone is seen as a good practice when women and girls were targeted alongside boys and men. But even this programme was lacking a vital element. The women and girls who had played support roles in the warring parties did not get enough help and attention. One main problem was that they were considered as dependants of demobilised male soldiers and were not granted individual rights. Only a few efforts were made to provide them with protection and support, and these were mainly done outside the official DDR programme. The result was, in Sierra Leone as much as elsewhere, that the girls and women either stayed as "wives" of combatants, or became prostitutes, having given up any hope of coming back to the society. The integration of specific measures with a gender perspective in these programmes should be taken for the inclusion of female combatants in disarmament, demobilisation and reintegration programmes.

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1. See comments under paragraph 23.

122. Concerning demobilisation/demilitarisation of women and men after armed conflicts, women and men often suffer from post-traumatic stress disorder. This disorder manifests itself differently in women and men. While in a statistically significant number of cases men demonstrate aggressive behaviour (leading frequently to domestic violence), women are more often victims of depression and self-harm behaviour. Moreover, the symptoms women demonstrate are frequently overlooked or taken less seriously, and the treatment options addressing the specific needs of women with post-traumatic stress disorder are far more limited than in the case of men. The experts considered that this dimension should also be taken into account in the demilitarisation, demobilisation and reintegration programmes and demonstrated the need for the integration of a gender perspective in these programmes.

123. Moreover, as the recommendation concerns both the roles of women and men in conflict prevention and resolution and in peace building, the experts focused on the need to support also specific male groups which are also victims of conflict, such as consciousness objectors, forced conscripts and war prisoners. Peace building initiatives should also address the question how to deal with psychosocial needs of male vulnerable groups.

124. To change persisting stereotypes about women's position as victims and men as aggressors it is important that the understanding of vulnerability is broadened. In this respect, peace building activities need to address the multiple vulnerabilities of women and men.

#### *Paragraph 54*

125. In the aftermath of war and conflict, the healing process of the people that have lived through the war needs to be a priority. For people to be able to move forward and think of the future there is a need to deal with what happened during the conflict. Firstly, to be able to speak of the feelings of hatred, then to find ways out of the hatred turns insight into a conflict-prevention tool that we have not yet seen its full potential. Psychosocial support should be seen as a measure to reduce hatred and build peace.

126. One activity to overcome the violence that has taken place during a conflict, as well as the fact that women and men have often lived in different places with different experiences of the conflict, is to create opportunities for confidence-building activities between women and men. This could reduce the level of frustration and violence between women and men and therefore clearly contributes towards peace-building.

#### *Paragraph 55*

127. As regards the question of the behaviour and answerability of international personnel, codes of conduct exist, but it is difficult to ascertain whether the sanctions provided for in the event of transgression of the rules are currently applied and by what authority. This state of affairs can give populations the impression that international personnel enjoy virtual impunity, thus tarnishing their reputation and undermining their credibility. The experts wished to recall, in this framework, the importance of having codes of conduct which are effectively implemented.

128. The participants in the *5th European Ministerial Conference on Equality between Women and Men* (Skopje, 22-23 January 2003) supported the elaboration of codes of conduct for staff participating in conflict resolution and peace keeping operations in order to prevent all forms of violence against women, as proposed in the *Resolution on the roles of women and men in conflict prevention, peace building, processes of democratisation after conflict – a gender perspective* adopted during the conference.

129. The experts also took into account, in this respect, the report prepared for the Special Committee on Peacekeeping Operations of the United Nations.<sup>1</sup> This report entitled *A Comprehensive Strategy to Eliminate Future Sexual Exploitation and Abuse in United Nations Peacekeeping Operations*, released in March 2005, concluded that the United Nations often lacks legal powers to prosecute abusers and that

1. *A Comprehensive Strategy to Eliminate Future Sexual Exploitation and Abuse in United Nations Peacekeeping Operations*. Report prepared by the Permanent Representative of Jordan, HRH Prince Zeid Ra'ad Al-Hussein, published in March 2005.

nations supplying the peacekeepers often decline to pursue charges when staff return home. The report calls on nations to more diligently prosecute cases of alleged abuse.

#### *Paragraph 56*

130. Despite variations in definition of a state's security sector, it is commonly admitted that it includes all the organisations that have the authority to use, or order the use of force to protect the state and its citizens. Security is an essential condition for peace building and sustainable development. The role of the state and its security forces directly impacts upon the opportunities for peace building, sustainable development and peoples' physical security. Peace building needs an effective and adequate security sector. If this sector is inadequate and ineffective the consequences can be dramatic, ranging from the inability to prevent violent conflict, rising criminality, increasing corruption, from non democratic governance to harassment and repression of citizens. These consequences often affect women, men, girls and boys in different ways. On the basis of these findings, the debate on the security sector reform began in the late 1990s. Though no specific international agreements on security sector reform exist, the growth in research and policies on the topic provides an increasingly large foundation for security sector reform initiatives. The United Nations, in the form of the UNDP Bureau for Crisis Prevention and Recovery (BCPR), has contributed to this foundation through the establishment of a Justice and Security Sector Reform Team as well as publishing a paper on whose programmatic approach structures.

131. The security sector reform should be understood as a means to ensure human security, sustainable development as well as post conflict reconstruction and peace building. Security sector reform is a long-term, holistic process which is part of the process of guaranteeing the day-to-day human security of individuals and communities. This process can provide an accountable, equitable, effective and transparent security sector that ensures the security and well-being of women, men, girls and boys only if it benefits from a large participation and the support of civil society.

132. There is now an agreement that the security sector reform agenda must address four key dimensions (political, institutional, economic and societal) and address the security sector with a global and integrated approach. Unfortunately, the emerging field of security sector reform remains largely blind to issues of gender and women's security. As security sector reform is increasingly legitimised as a crucial realm for development, reconstruction, conflict prevention and peace building it is essential to develop tools and methodologies to ensure that gender is addressed and mainstreamed into all security sector reform initiatives in order to ensure the right to security for women, men, girls and boys as well as to create a just, democratic and effective security sector.

#### *Paragraph 57*

133. Concerning gender sensitive training, the Resolution adopted during the *5th European Ministerial Conference on Equality between Women and Men* (Skopje, 22-23 January 2003) already invited governments to provide training in human rights and gender equality, as appropriate, for those involved in conflict prevention, peace building and post-conflict democratic processes.

#### **Empowerment of women – paragraphs 58-67**

134. Being put aside from the decision making processes, women do not have much to say in reconstruction. The portrayal of women as victims not only neglects the significant roles women have played in conflict and post-conflict, but also undermines their future potential as key participants in formal peace processes. As equality between women and men is a criterion for democracy, the fact that women do not participate, or very little, in negotiations when reconstruction issues are discussed, the fact that they cannot defend their rights and their specific circumstances is certainly a denial of democracy which must be corrected.

135. Moreover, women do not always have access to sufficient information on their political, civil and socio-economic rights and they seldom have the opportunity to participate in decision-making when it comes to the distribution of economic and other resources. Sometimes they do not even have the right

to participate in elections either as voters or as candidates. To focus on women's rights is necessary as a post conflict situation can be an exceptional opportunity for introducing institutional and legislative changes in order to secure and strengthen women's rights and guarantee gender equality in all aspects of life. This window of opportunity is often missed and the experts considered it was essential to propose measures that would ensure that this would not happen. In countries where women's rights have been seriously flouted, such changes should be introduced as soon as peace negotiations begin.

#### Paragraphs 58-59

136. Many constitutions ensure that women enjoy the same political, civic, social, cultural and economic rights as men. It is vital that governments protect and promote the rights of women to engage in political life, in particular voting and running for office.

137. The protection of individual voting rights is a fundamental basis for democracy and is provided for in the constitutions of member states in the Council of Europe. The constitutional provisions of member states provide for universal suffrage for all citizens over 18 years, direct and free elections to parliamentary and local assemblies and a secret ballot. The right of women to exercise their vote is also protected by international law enforceable in member states, in particular by Article 7 of the *Convention on the Elimination of All Forms of Discrimination Against Women*. However, cultural practices that reflect the dominance of patriarchy over democracy in some member states lead to women being disenfranchised.

138. This transgression of international, constitutional and electoral law results in many women being denied their right to vote. The right to vote and the right to take part in political activities are human rights and fundamental criteria for democracy and several Council of Europe legal instruments propose measures to ensure women's right to vote and to take part in political activities, in particular *Recommendation Rec (2003) 3 of the Committee of Ministers to member states on balanced participation of women and men in political and public decision-making*, the *Code of good practice in electoral matters of the European Commission for Democracy through Law (Venice Commission)* and *Recommendation 111 (2002) on women's individual voting rights: a democratic requirement of the Congress of Local and Regional Authorities of the Council of Europe*.

#### Paragraph 60

139. The experts wished to stress the importance of economic and social rights, in particular the difficulties that women face in post-conflict situation. Women are more often unemployed; they are often alone in bringing up children and caring for elderly persons and other dependants. Generally their earnings are lower and they have fewer financial and other assets.

140. "Economic and social rights" are to be understood as the rights listed in the main relevant international legal texts, such as the *International Covenant on Economic, Social and Cultural Rights* (1966), the *European Social Charter* (1961) and the *Revised European Social Charter* (1996). The European Social Charter, which is the counterpart to the European Convention on Human Rights in the sphere of economic and social rights, guarantees the enjoyment, without discrimination, in particular on the grounds of sex, of fundamental rights such as the right to work, the right to just conditions of work, to a fair remuneration, etc. Going beyond non-discrimination, it also provides the right to equal remuneration. Its Additional Protocol opened for signature in 1988, guarantees, *inter alia*, the right to equal opportunities and treatment in occupational and employment matters without discrimination on grounds of sex. A revised version of the Social Charter was adopted by the Committee of Ministers in April 1996 which extended the protection of women in these fields.

#### Paragraph 61

141. Article 12, paragraph 1 of the *Convention on the Elimination of All Forms of Discrimination against Women* provides that "States Parties shall take all appropriate measures to eliminate discrimination against women in the field of health care in order to ensure, on a basis of equality of men and women, access to

health care services, including those related to family planning.” On this basis, the experts considered it of uttermost importance to include measures on the need to guarantee women this right.

142. The right to take decisions concerning your own body is a prerequisite for achieving real equality between women and men and must therefore be recognised and protected. Thus, the right of individuals to control their lives and to decide for themselves in the fields of sexuality, including the health aspects of sexuality and reproduction, should be regarded as being an integral part of human rights. The right of access to information and health services is one of the conditions, in particular in the framework of the full implementation of the Cairo Programme for Action, adopted at the International Conference on Population and Development (ICPD) 1994, as well as of the ICPD Programme of Action agreed at ICPD+5 and its key actions, the Copenhagen Declaration and Action Programme, the Beijing Platform for Action and the Millennium Development Goals.

143. Women’s reproductive health problems during conflict range from life-threatening pregnancies, injuries from gender-based violence to the lack of sanitary supplies. During and after conflict women’s sexual and reproductive rights tend to be neglected. Women are subject to the worst personal threats (domestic violence, war violence and trafficking in human beings) and they should benefit from appropriate assistance in case of rape or sexual abuse and have access to emergency health care. Council of Europe Parliamentary Assembly *Resolution 1212 (2000) on rape in armed conflicts* and European Parliament *Resolution 2005/2215 (INI) on the situation of women in armed conflict and their role in reconstruction and democratic process in post conflict countries* invite member states to take appropriate measures to assist women who are victims of rape and to set up specific programmes for them.

#### *Paragraphs 62-63*

144. During the preparation of reconstruction programmes, it is also very important that the expertise of gender mainstreaming be taken into account with all the other expertise to implement a gender equality policy. In providing a gender budget analysis, funds given by multilateral and bilateral donors will be adapted to the specific needs of women and men. Moreover, in the rebuilding of societies after conflict, donors should also be invited to support gender equality in constitutional, legislative and political reforms as well as in all programmes of assistance and democratisation.

#### *Paragraphs 64-66*

145. It is essential that the public has access to important decisions such as peace treaties or international documents on gender equality, in their national language, especially women in rural areas where they have tremendous difficulty accessing information. Media should be encouraged to contribute in this process and take into account information provided by NGOs and civil society to contribute as much as possible to diversified information. This wide access to different sources of information should contribute to fight propaganda, help women to know their rights and to defend them and thus allow them to participate actively in conflict prevention and resolution and in peace building.

#### *Paragraph 67*

146. There is a lack of appreciation and even knowledge of women’s peace building activities in Europe. As most such activities are initiated by grass root groups, they are not always taken seriously by governmental bodies and institutions. Research into and evaluation of the outcomes of various peace building activities and how they affect gender is scarce. It is essential to encourage research in this field and disseminate widely the results, and to take them into account for the preparation of national and regional policies. These policies could then really contribute to peace building and to the effective achievement of gender equality taking into account specific needs of both women and men.

## **Appendix: good practice**

### **1. International Women's Commission for a Just and Sustainable Palestinian-Israeli Peace**

*International Women's Commission established by Palestinian, Israeli and International Women for a Just and Sustainable Peace (UNIFEM press release, 28 July 2005, Istanbul, Turkey)*

In an energetic effort to work for a genuine negotiation towards a just and sustainable peace based on a two-state solution, 35 Palestinian, Israeli and international women leaders and activists met in Istanbul July 26-28, 2005.

The group decided to establish for the first time an International Women's Commission to ensure the implementation of the groundbreaking UN Security Council Resolution 1325 (October, 2000) that calls upon all state parties to ensure increased representation of women at all decision-making levels.

"After three intensive days, women were able to overcome differences and agree upon what I view to be the most effective and substantive vehicle to bring about the change so urgently needed in the Palestinian-Israeli conflict," said Noeleen Heyzer, Executive Director of *United Nations Development Fund for Women (UNIFEM)*, who convened and chaired this meeting.

The *International Women's Commission (IWC)* will work to guarantee women's full participation in formal and informal Israeli-Palestinian peace negotiations, based upon principles of gender equality, women's human rights, international human rights and humanitarian law in any future resolution of the conflict to bring about an end to the Israeli occupation and a just and sustainable peace.

The Commission's work will be guided by a charter of principles that was developed and adopted at the Istanbul meeting. The goal of the IWC is to incorporate diverse women's perspectives, voices, and experiences into the peace process, and make sure that the rights and issues of women affected by the conflict are raised and effectively addressed including issues dealing with women's political, economic, social and cultural rights, and human security.

The group expects to formally launch the Commission in September 2005.

*Charter of Principles adopted 27 July 2005, Istanbul*

The *International Women's Commission (IWC)* brings together Palestinian, Israeli and international women dedicated to an end of the Israeli occupation and a just peace based on international law, human rights and equality. The IWC aims to address the Israeli-Palestinian conflict through immediate final status negotiations leading to a viable sovereign Palestinian state alongside the state of Israel on the 4 June 1967 borders. The IWC works for an ongoing and comprehensive reconciliation in order to realise a mutually secure and sustainable peace and co-existence. The IWC is a coalition of Palestinian, Israeli and international women who recognise the urgent need to achieve a meaningful peace between Israelis and Palestinians and feel a shared commitment to accomplish this goal. Participation in the IWC is grounded in mutual respect for diversity and the rights and dignity of all parties.

United Nations Security Council Resolution 1325 and other international conventions and instruments call upon state parties to ensure increased representation of women at all decision-making levels for the prevention, management and resolution of conflict. In accord with this resolution, the absence of Palestinian and Israeli women from the decision-making processes and official negotiations must be rectified. Women from all ethnic and national communities must be full partners in the resolution of the Israeli-Palestinian conflict, not only on the basis of principle, as re-affirmed by Resolution 1325, but also on the basis of the significant contributions made by Palestinian and Israeli women over the years in developing alternative models of political dialogue and engaging in peace-making efforts.

#### *Mission*

The goals of the IWC are to:

- ensure the meaningful participation of diverse women, including those from civil society, in any Israeli-Palestinian peace process, including negotiations and supportive initiatives;



- guarantee gender equality and that women’s perspectives and experiences be incorporated in any future resolution of the conflict;
- work for an end to the occupation and genuine negotiations towards a just and sustainable peace;
- promote a process of political dialogue that rectifies ongoing asymmetries and addresses all elements of reconciliation.

The objectives of the IWC are to:

- set forth principles and suggest concrete, substantive and procedural measures within reasonable timeframes to facilitate constructive engagement and political progress between Palestine and Israel based upon the principles of fairness, justice, and equality;
- insert a gendered perspective, voice, and experience into the peace process;
- ensure that the rights and issues of women affected by the Palestine-Israel conflict are raised and effectively addressed including issues dealing with women’s economic, social and cultural rights, and human security;
- push for transparency, accountability, and respect for rules and principles to be maintained throughout the peace process;
- provide an early warning of obstacles that undermine the two-state solution (Jerusalem, the wall, settlements) and activate interim preventive measures;
- contribute to the mobilization of civil society in support for a peace built within a legal, humanitarian and human rights framework.

### *Implementation*

To achieve these aims, the IWC will:

- advocate IWC principles among policy and decision-makers at the national and international levels;
- seek the active participation of women in all formal and informal peace-related processes;
- review and make recommendations on all relevant multilateral, bilateral, and intra-governmental structures;
- make suggestions for facilitating constructive political dialogue and ways of reframing divisive issues and rectifying ongoing asymmetries;
- assess all existing and future peace proposals and make recommendations to ensure full incorporation of a gender perspective, as well as human rights, international law and human security;
- incorporate into their recommendations the experiences and expertise of international women, specialists, peace activists and organizations engaged in conflict resolution around the world;
- mobilise local and international support for a just and sustainable Israeli-Palestinian peace through public and media outreach, networking, dialogue and political efforts and actions;
- constantly evaluate and adapt its own structure and mechanisms to changing needs, circumstances, and new opportunities.

## **2. Feminists in Serbia and Kosovo unite<sup>1</sup>**

The Network of Kosovar Women and Serbia’s Women in Black have come together to form a *Feminist Pacifist Coalition*, which intends to bring its weight to bear on the negotiations concerning the status of Kosovo. It invokes *Resolution 1325 (2000) of the United Nations Security Council on women, peace and security*, and furthermore intends to launch parallel negotiations.

The recently formed *Feminist Pacifist Coalition* has just issued its first press release, which focuses on negotiations on protection of cultural heritage. It makes the point that the Serbian and Kosovar authorities have ignored United Nations Security Council Resolution No. 1325, which urges governments to

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1. Article published in *Le Courier des Balkans*. Resource: newspaper Danas. Translated by Persa Aligrudic. Published in the press: 3 June 2006. On line: 6 June 2006.

involve more women in post-conflict political processes, and states that the Coalition has decided to hold parallel negotiations.

In fifteen years of feminist activism on the territory of the former Yugoslavia, for the first time, two major organisations have formed an official alliance in Serbia and Kosovo. Obviously, women in Kosovo and Serbia have affirmed their solidarity more than once in that time – but there has never been such powerful institutional co-operation.

So what are the Coalition's demands for the negotiations on the status of Kosovo?

- United Nations Security Council Resolution on 1325 on women, peace and security must be respected.
- Women must be involved in the status negotiations.
- Peace initiatives which they have taken in connection with those negotiations must be recognised and respected.
- The peace negotiations must be evaluated by women's pacifist networks (in Serbia and Kosovo).
- International women's networks must support the Coalition's platform.
- The international community's leading actors must recognise and respect its members, not as "adjuncts" or "ornaments" in the negotiations, but as playing a vital part in the peace process and negotiations.

The series of meetings held between Serbia's Women in Black and the Network of Kosovar Women has led to an independent civil initiative, based on women's solidarity. The Network's co-ordinator, Igballe Rogova, and the Women in Black representatives, Stasa Zajovic, Jovana Vukovic and Vera Markovic, met in Belgrade early in March 2006. This meeting was held at the occasion of a regional meeting of the Swedish foundation, Kvinna till Kvinna, to discuss the political situation in Serbia, security, peace in the region and women's part in the peace process.

They also laid plans for future co-operation: joint meetings, round tables, the women's angle on security issues, women's participation in peace-building processes, and parallel negotiations, with women were critical of the lines adopted by the Serbian and Kosovar teams in the official negotiations.

#### *Parallel negotiations*

Six weeks later, on 23 May, the two organisations issued their first press release, dealing with the negotiations on protection of the cultural heritage, under the joint name, *Feminist Pacifist Coalition*. Pointing out that the Serbian and Kosovar authorities had ignored United Nations Security Council Resolution 1325, which called on governments to bring more women into post-conflict political processes, this press release declared that the new Coalition would be holding parallel negotiations and making recommendations on all the issues discussed in Vienna.

Although the *Convention on the Elimination of all Forms of Discrimination against Women* has been ratified by most United Nations member states, Resolution 1325 is the first binding legal instrument on participation by women in peace and security matters. It was unanimously adopted by the United Nations Security Council on 31 October 2000, and particularly emphasises the importance of involving women in peace processes. It also insists on the need to protect women in war and crisis zones against violence (in particular sexual violence), and to cover these issues in the machinery for enforcement of peace agreements.

The *Feminist Pacifist Coalition* proposes depoliticising cultural and religious monuments, bringing communities which live close to them into the negotiations, setting up an independent professional conservation body, and involving the people of Kosovo in heritage protection via public debates, discussions and meetings. In its press release, the Coalition emphasises that "churches, cathedrals, minarets and other buildings are part of the cultural heritage and history of all ethnic groups", and that "this is why all ethnic groups are entitled to share, conserve and protect them".

### *Women working for peace*

It is true that, internationally, women are usually seen only as the passive victims of war, nationalism and militarism. The part they play in working for peace and promoting peace initiatives is almost totally ignored. This is confirmed by the composition of peace missions worldwide, obviously including Kosovo. No women are involved in top decision-making in UNMIK, KFOR, OSCE and the other international institutions. In the negotiations on the status of Kosovo, women are present as “window-dressing” only; indeed, the two delegations include just one woman. This fact combined with mounting nationalist resistance makes the negotiations even shakier.

“The women’s groups who have maintained contact with the groups in Kosovo are the ones who need to be consulted in the negotiations”, says Borka Pavicevic, director of the Belgrade Centre for Cultural Decontamination. But she warns: “There is a danger that the ongoing alternative talks between feminist groups in Serbia and Kosovo may look like an unconnected sideshow”. She insists that the civil society and state approaches must meet and acknowledge each other and produce results together.

“It was women who changed things in Kosovo. When they emancipated themselves, it was a real revolution. Obviously, women must be included on both sides, but that isn’t what happens when you get to politics. The whole region is polluted by *machismo* and wrong-headed attitudes. That’s typical of societies which are closing, and shows the way they are going. Women have an instinct for the various stages in change, since the thing they really want to know is: How are we going to live? How will society be organised? The women on the negotiating teams must defend the interests of ordinary people. We’ve got to sort out the real from the virtual, the truths from the myths”, she concludes.

### *The Coalition’s platform*

Human and particularly women’s rights, and the individual’s quality of life, must count for more than territory and borders. The right to self-determination for us women means controlling our own lives, bodies and minds, and having the right to integrity, and to economic political, moral, emotional and sexual autonomy. As civilian activists, feminists and pacifists, we support the right to self-determination, which implies greater freedom and more rights for all men and women, and rejects all imposed uniformity and ethnic exclusion. We commit ourselves resolutely to separation of Church and State, which means that religious communities may not take decisions on matters of state or on school or health systems. The right to self-determination must not endanger existing rights. Laws which seriously threaten the rights of women must not be retained on the pretext of preserving “cultural identity”, regardless of whether majority or minority religious communities are involved.

Human and particularly women’s rights are more important than state sovereignty: all countries signatory to international human rights agreements must primarily support the interests of individual women and men, and not those of the state.

Security of persons is more important than state sovereignty: this means (economic, political, personal, health, etc.) security of individual women and men, respect for human rights, and in particular women’s human rights; penalties for all forms of violence against women, in private or in public and demilitarisation of society. Security of persons involves full co-operation with the Hague Tribunal, the sentencing of all persons guilty of war crimes on the territory of the former Yugoslavia, and the requirement that all those who have committed crimes in our name and in the name of others accept responsibility for them.

Our right and duty is to participate in peace processes and influence peace negotiations. As women, we pay most heavily for war, militarism and all forms of violence. As women citizens, we have the right to demand that our countries and the international community account for their use of funds: this money belongs to all citizens, both women and men, and we have a right and duty to demand that it be invested in peace, development and welfare, and not in war. We demand of all the international community’s leaders that they treat women’s rights as a vital international issue, and recognise and respect us as working for peace.

### **3. Women for peace – peace for all. An experience of the UNIFEM regional project “Women for conflict prevention and peace-building in South Caucasus”**

#### *Bridging the gap*

In situations where the conflicts are frozen, gender has proven to be a strong entry-point to encourage track-two diplomacy among conflicting parties. In discussing how to bridge the gender gap in citizen's participation in the peace, conflict resolution and reconstruction processes world-wide, one must first address the gender imbalance that exists within the societies in conflict, and among state and non-state actors. If women and women's voices are not being incorporated at the local, national or regional level, then in times of conflict, peace negotiations and reconstruction, where decision-makers distinguish between “urgent” and “important”, women face the two-fold challenge of penetrating the traditions that restrict their full participation, as well as the challenge of impacting those processes supporting stability and peace.

To address this gender gap, UNIFEM launched a programme in South Caucasus entitled “Women for Conflict Prevention and Peace Building in South Caucasus” in 2001. Supported by the Governments of Finland and Sweden and the UN Foundation, UNIFEM Regional Project has offices located in the UN Houses in Azerbaijan, Armenia and Georgia. Working in partnership with government and women's peace networks, the goal of the project is to support the advancement of gender equality, increased participation of women in decision making, and the creation of an enabling environment in support of conflict prevention and peace building in South Caucasus.

#### *Mobilising women to speak for peace*

Targeting the conflicts in South Caucasus region, the UNIFEM Project has focused largely on mobilising the women's movement and youth in the three countries around the concept of peace and conflict resolution. To this end, UNIFEM facilitated the creation of “women for peace” networks/coalitions in each country, with these networks began awareness-raising among communities about conflict resolution. Using the CEDAW and UNSCR 1325 as guiding frameworks, these coalitions/networks link the peace building agenda with women's political participation and translate that political outreach to specific local, national and regional actions. Representatives of these three networks have created a Regional Coalition “Women for Peace” within South Caucasus.

When mobilising women around peace building, UNIFEM also worked with these groups to lay the ground work for conducting people-to-people diplomacy between the women most affected by the conflicts. Given the direct impact that the political contexts have on the UNIFEM programme's ability to push the gender and peace agenda, the programme has adopted a flexible, two-pronged strategy. In times when contexts have allowed for people-to-people and advocating for a “culture of peace”, the UNIFEM initiative has supported conflict resolution/peace building skills development and people-to-people meetings between women from conflict zones on mobilising youth on peace.

In times when contexts have not welcomed such initiatives, UNIFEM uses people to people diplomacy as the strategy but not the goal, fostering partnerships and trust across conflict zones by having organisations of the civil society work together on shared gender issues. For example, at one time in Abkhazia, UNIFEM focused on supporting teachers skills training in the area of conflict resolution/peace-building and the development of curriculum on “gender and peace-building” for the Universities. At present, UNIFEM instead is now supporting ethnic Georgian and ethnic Abkhaz NGOs to work together in conducting a survey and awareness raising campaign on women's rights over their bodies (with a focus on Reproductive Health and Gender-Based Violence). While not directly discussing peace-building, the strategy used ensured the co-ordination and co-operation between ethnic Georgian and ethnic Abkhaz civil society, authorities and experts on the topic of domestic violence and reproductive health.

#### *For without gender equality ...*

In order to close the gender gap in citizen's participation in and around the conflict, peace and reconstruction processes in South Caucasus, UNIFEM has also adopted a separate national strategy which pushes for increased gender equality at the national level within these three countries.

To this end, UNIFEM has brought the “women for peace” networks together to raise awareness and jointly advocate for the improved implementation of CEDAW and UNSCR 1325 in the three countries.

To this end, close partnerships have been developed with the networks and gender equality institutions and advocates in government, including Parliament. Through these partnerships, and using CEDAW and UNSCR 1325 as the guiding frameworks, the project has worked to build the governments’ capacities to identify gender priorities, mainstream these into core policies and programmes (i.e. Poverty reduction strategy, community development programmes, Millennium Development Goals), and monitor implementation therein. Core to this process has been improved co-ordination and collaboration between the women’s movement and governments around the issues of gender equality and peace building.

*And without a true belief in peace ...*

Regardless of gender issues, without an environment open to the concept of peace and reconstruction, no sustainable and secure peace can be realised. To this end, the UNIFEM programme mentioned above has worked strategically with partners over the past five years to develop an enabling environment for increased trust and understanding around gender and peace building issues. In particular, the project and partners have targeted work with youth. For example, the “women for peace” networks in all three countries have worked with universities in developing university readers and curriculum on “Peace-building, conflict resolution and gender”, a subject which is subsequently now actively taught in both public and private universities, including in Abkhazia.

The joint development of advocacy messages and information materials by women’s organisations from all sides of a conflict is an excellent catalyst for increasing mutual trust and laying the ground work for multitrack diplomacy. Often, despite the tensions and rhetoric around the conflicts, the women’s networks and the organisations of the civil society will continue to push for a peace building agenda when others will back down. For example, through UNIFEM support, while certain planned “people-to-people” activities have had to be suspended due to political tensions, overall regional co-operation has increased. Under the framework of the Regional Coalition – Women for Peace – the three networks, with UNIFEM coordination, have begun to jointly develop knowledge products, such as a “Gender and Peace Education” Manual for those organisations working with youth, and a CEDAW/UNSCR 1325 Training Module.