

# Submission to the Committee on Economic, Social and Cultural Rights

## Review of GERMANY

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WOMEN'S INTERNATIONAL LEAGUE FOR  
**PEACE & FREEDOM**



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## I. Introduction

1. This report draws from a WILPF submission for the Universal Periodic Review (UPR) of Germany, 1 which took place in May 2018. To prepare that UPR submission, WILPF Germany and WILPF International reviewed Germany’s National Action Plan for the period 2017-2020 on the implementation of the Security Council Resolution 1325 (NAP 1325) and subsequent resolutions on Women, Peace and Security. This analysis was done from various angles at both the national and international level. Among the areas of concern included in the UPR submission were: the role of Germany in relation to austerity measures implemented in other countries, the human rights impact of Germany’s arms transfers, concerns about the increased domestic securitisation and the situation of women asylum seekers and refugees. Concerns and recommendations relating to austerity measures, increased domestic securitisation and the situation of women asylum seekers and refugees are highlighted in this submission to the CESCR. The ones relating to the impact on ESCRs of Germany’s arms transfers are addressed in a separate submission made jointly with the European Center for Constitutional and Human Rights (ECCHR).

2. A copy of the WILPF UPR submission on Germany is provided as an annex to this report and will be referred to as “the Annex” when cited in the text.

3. As a candidate for a non-permanent seat on the Security Council for 2019/20, Germany promised that the agenda for Women, Peace and Security (WPS) would be a priority in its work. Heiko Maas, German Foreign Minister, has emphasised that “there is a close connection between equal opportunities, the protection of human rights, sustainable development and the preservation of peace and security.”<sup>2</sup> Recommendations made in this WILPF submission to CESCR, as well as in the joint one with the ECCHR focusing on arms transfers, provide options for Germany to fulfill that commitment in progressive and active manner.

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<sup>1</sup> “Women, Peace and Security, A review of Germany’s National Action Plan 1325”. Available at: [https://wilpf.org/wilpf\\_publications/women-peace-and-security-a-review-of-germanys-national-action-plan-1325-joint-upr-submission/](https://wilpf.org/wilpf_publications/women-peace-and-security-a-review-of-germanys-national-action-plan-1325-joint-upr-submission/).

<sup>2</sup> Speech at the opening of the Women, Peace and Security Focal Points Network Meeting. Available at: <https://www.auswaertiges-amt.de/en/newsroom/news/maas-rede-frauen-frieden-sicherheit/1897650> .

## II. Germany's extraterritorial obligations in relation to austerity measures implemented in other countries

4. Germany, as any other State, has extraterritorial obligations to respect, protect and fulfil human rights in external interventions whether when acting bilaterally or as a member of a multilateral institution.<sup>3</sup> Such obligations demand, at a minimum, for Germany to avoid conduct that would create a foreseeable risk of impairing the enjoyment of human rights by persons living beyond its borders, to refrain from imposing measures that would lead to retrogression on economic and social rights in other countries, and has a policy, whether on trade, aid or development, predicated by human rights, gender and environmental impact assessments of the extraterritorial impacts of its policies and practices. Such assessments should be done with community participation and consultation, as required by the European Union regulation 472/2013.<sup>4</sup> Germany's international human rights obligations as a member of international bodies are elaborated in the Appendix.

5. In addition, under its National Action Plan 1325 for the period of 2017-2020, Germany has committed to ensure "the social and political participation of women and girls", and has committed itself to "the equal involvement of women in crisis and violence prevention, promotion of peace, conflict resolution and negotiation processes".<sup>5</sup> One of the major inhibitors to women's participation is the lack of enjoyment of economic and social rights. The absence of such rights confines women to traditional gendered roles and limits the opportunities to be active participants in political life and peace and mediation efforts. It renders language on women's meaningful participation meaningless.

6. Moreover, in the negotiations on the 2030 Agenda, Germany actively supported an independent goal on gender equality and the empowerment of women as well as on peace, security and good governance. Germany's Sustainability Strategy in its new 2016 version provides an essential framework for the national implementation of the 2030 Agenda. Through it, the Federal Government has set itself several targets of its own for women's equality in society and for strengthening their economic participation at the

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<sup>3</sup> See, for instance,, WILPF (2017) "A Feminist Perspective on Post-Conflict - Restructuring and Recovery. The Case of Bosnia and Herzegovina", pages 53- 68. Available at: <http://wilpf.org/wp-content/uploads/2017/08/Feminist-political-economy-ENG-FINAL.pdf>. The Independent Expert on foreign debt has also highlighted that: "States retain their international human rights law obligations when they participate in multilateral institutions or exercise effective control over lending institutions" (see paragraph 19, UN Index A/HRC/31/60/Add.2) and in later report on the European Union, he reiterated that: "States cannot circumvent their human rights obligations by acting through an institution they create, even if the institution is autonomous and a separate legal entity"(UN Index A/HRC/34/57/Add.1, paragraph 27.) The Committee on Economic, Social and Cultural Rights has also underlined that States parties must respect rights under the Covenant when acting as a member of international organisations. General comments No. 14 (2000) on the right to the highest attainable standard of health, paragraph 39 and No. 23 (2016) on the right to just and favourable conditions to work, paragraph 71.

<sup>4</sup> The guiding principles on foreign debt and human rights (UN Index A/HRC/20/23, paragraph 40) and the guiding principles on extreme poverty and human rights (A/HRC/21/39, paragraphs 61 and 92) require carrying out human rights impact assessments before implementing policies based upon international agreements. Principle 13 of the guiding principles on foreign debt and human rights specify that impact analyses should pay special attention to, inter alia, women. Furthermore, in its Concluding Observations, the CEDAW Committee has recommended to Greece, European Union Institutions and the IMF to "cooperate in setting up an observatory to fully evaluate the impact on women of the many measures taken during the economic and financial crisis". UN Index CEDAW/C/GRC/CO/7, paragraph 40. See also: Concluding Observations on Greece. UN Index CRC/C/GRC/CO/2-3, paragraph 29; UN Index A/HRC/25/50/Add.1, paragraph 91 and UN Index A/HRC/31/60/Add.2, paragraphs 75, 81 a) and b). As highlighted by the Independent Expert on foreign debt, the European Union regulation 472/2013 also contains an article requiring member States undergoing adjustment to "seek the views of social partners as well as relevant civil society organisations when preparing its draft macroeconomic adjustment programmes, with a view to contributing consensus over its content" and recommends that "member States should involve social partners and civil society organisations in the preparation, implementation, monitoring and evaluation of financial assistance programmes, in accordance with national rules and practice."(See UN Index A/HRC/31/60/Add.2, paragraph 30).

<sup>5</sup> Germany's NAP1325 from 2017-2020, page 18. Available at: [http://www.peacewomen.org/sites/default/files/170111\\_Aktionsplan\\_1325.pdf](http://www.peacewomen.org/sites/default/files/170111_Aktionsplan_1325.pdf).

national and international level as a contribution to SDG 5.<sup>6</sup>

7. It is within this framework that WILPF draws attention to the direct role and responsibilities of Germany as a member of multilateral international bodies, specifically the International Monetary Fund (IMF), the World Bank (WB), and the European Union (EU), and the policies of such bodies in respect of human rights and non discrimination, and provides as examples Greece, Ukraine and Bosnia and Herzegovina (BiH). These are examples where such policies have had a devastating impact on the enjoyment of human rights, especially economic and social rights of the population there, compound by gendered impacts. These country examples are illustrated in the Annex to this submission.<sup>7</sup>

8. Germany is one of the most influential member states both in the EU and in the IMF. It is the strongest economic power in the EU and is the EU's largest creditor.<sup>8</sup> It has therefore been in a position to exert considerable influence on the conditions under which countries in the Eurozone can apply for credit and support. Germany is also one of the strongest members in the IMF, as each member's quote determines its relative voting power: it is the IMF's fourth-largest shareholder.<sup>9</sup>

9. The IMF and the EU are among the international organisations that have promoted economic development strategies based on neoliberal assumptions underpinning their interventions such as privatization and introduction of austerity measures.

10. WILPF research has shown that conditionalities, imposed by international organisations, contingent on structural reforms and austerity measures, often have devastating impacts on the economic and social rights of the host countries' populations. Specifically, WILPF has highlighted how austerity measures have a disproportionate impact on the economic and social rights of women, which further poses obstacles to women's meaningful participation in decision-making processes in countries such as Bosnia or Ukraine.<sup>10</sup> Various human rights bodies, including CESCR and the Committee on the Convention on Elimination of

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<sup>6</sup> [https://www.bundesregierung.de/Content/DE/\\_Anlagen/2017/02/2017-02-27-nachhaltigkeit-neuaufgabe-engl.pdf?blob=publicationFile&v=1](https://www.bundesregierung.de/Content/DE/_Anlagen/2017/02/2017-02-27-nachhaltigkeit-neuaufgabe-engl.pdf?blob=publicationFile&v=1).

<sup>7</sup> See section on "Germany's International Human Rights Obligations as a Member State of International Bodies and Case Studies on Greece, Bosnia Herzegovina and Ukraine", pages 28 to 33, of the report "Women, Peace and Security, A review of Germany's National Action Plan 1325". Available at [https://wilpf.org/wp-content/uploads/2017/12/Germany-UPR\\_FINAL\\_WEB.pdf](https://wilpf.org/wp-content/uploads/2017/12/Germany-UPR_FINAL_WEB.pdf).

<sup>8</sup> As a founding member of the European Union and the Eurozone, Germany has established itself within the EU as the strongest economic power. As of July 2017, its GDP lied at 3,134bn EUR, far ahead of the UK (2,367 n EUR) or France (2,229bn EUR). In 2016, Germany's trade surplus had reached a new record of 252.9bn EUR, the largest gap between exports and imports since registration, having now the largest trade surplus worldwide. See: [https://www.destatis.de/Europa/EN/Country/Comparison/GER\\_EU\\_Compared.html](https://www.destatis.de/Europa/EN/Country/Comparison/GER_EU_Compared.html) and <http://www.spiegel.de/wirtschaft/soziales/deutsches-exportplus-ist-laut-ifo-institut-weltweit-das-groesste-a-943507.html>.

<sup>9</sup> [https://www.bundesbank.de/Navigation/EN/Tasks/Financial\\_and\\_monetary\\_system/Cooperation/IMF/imf.html](https://www.bundesbank.de/Navigation/EN/Tasks/Financial_and_monetary_system/Cooperation/IMF/imf.html)  
To illustrate: Germany has cast in total 267,809 votes in the Special Drawing Rights Department, which is 5.32 % of total voting power (<http://www.imf.org/external/np/sec/memdir/members.aspx>). Voting power varies on certain matters pertaining to the General Department with use of the Fund's resources in that Department. In comparison, the UK and France both have 4.03 % of total voting power, respectively. Germany's influence in the IMF was further illustrated, for instance, when the German government successfully pressured the IMF in 2016 not to grant a debt cut to Greece (<http://www.imf.org/external/np/sec/memdir/members.aspx> and <https://www.thenationalherald.com/125023/germany-makes-imf-blink-over-greek-debt-relief-tsipras-loses-big/>)

<sup>10</sup> See, for instance, WILPF et al. (2017), "Obstacles to Women's Meaningful Participation in Peace Efforts in Ukraine. Impact of Austerity Measures and Stigmatisation of Organisations Working for Dialogue". Joint submission to the Universal Periodic Review of Ukraine, 28th Session. Available at: [http://wilpf.org/wp-content/uploads/2017/04/UKRAINE.UPR\\_JointSubmission-30-Mar-2017.pdf](http://wilpf.org/wp-content/uploads/2017/04/UKRAINE.UPR_JointSubmission-30-Mar-2017.pdf). See also: WILPF et al. (2017), "The Effects of Intervention by International Financial Institutions on Women's Human Rights in Ukraine". Joint Shadow Report to the CEDAW Review of Ukraine, 66th Session. Available at: [http://wilpf.org/wp-content/uploads/2017/02/CEDAW-Shadow-Report-on-Ukraine\\_20170124.pdf](http://wilpf.org/wp-content/uploads/2017/02/CEDAW-Shadow-Report-on-Ukraine_20170124.pdf). See also: WILPF (2017) "A Feminist Perspective on Post-Conflict Restructuring and Recovery. The Case of Bosnia and Herzegovina". Available at: <http://wilpf.org/wp-content/uploads/2017/08/Feminist-political-economy-ENG-FINAL.pdf>.

Discrimination against Women (CEDAW Committee) have emphasised specifically the threat of austerity measures to economic and social rights and women's rights.

11. Particular conditionalities linked to the funding by international bodies such as the EU and the IMF have been shown to contribute to the feminisation of poverty, and the deepening of gender inequalities within the family and society as a whole. This is because firstly, women are among the primary beneficiaries of pro-social spending. For example, cutbacks in public health and social service expenditures rely on shifting the burden of care to women. Gendered social norms mean women are expected to compensate for reduced state support by spending more time to care for sick and elderly family members. This, in turn, also reduces the amount of time available for remunerated work. Secondly, due to the feminisation of care in both paid and unpaid work, women tend to be employed in the sectors where most job cuts have taken place.<sup>11</sup>

12. It is incumbent upon Germany and indeed International Financial Institutions (IFIs) and other international organisations to ensure that policies do not undermine human rights.<sup>12</sup> Hence, there is a need for *ex ante* and *ex post facto* human rights and gender impact assessments that identify the distributive effects of austerity policies so as to prevent them from having a disproportionate impact on sectors of society.

## Recommendations

13. In line with its international human rights obligations, Germany should

13.1. Push for the conduct of human rights and gender impact assessments before supporting and approving additional adjustment programmes in other countries;

13.2. Ensure that gender and human rights impact assessments are transparent and envisage community participation and consultation, and include, at a minimum, an evaluation of past failures to protect economic, social and cultural rights and *ex ante* forecasts of the social and human rights impacts of particular adjustment measures;

13.3. Push, as a member of the relevant international organisations, for:

- reviews economic reform policies and adjustment measures to ensure they do not undermine the progressive realisation of economic, social and cultural rights, giving priority to safeguarding the enjoyment of minimum essential levels of economic and social rights by all individuals disproportionately impacted; and
- the development of guidelines for comprehensive human rights and social impact assessment of adjustment programmes;

13.4. Make policy changes and decisions, as a member of the relevant international organisations, based on assessments and ensure mitigation strategies to prevent violations of rights including violations of economic, social and cultural rights linked to conditionalities.

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<sup>11</sup> WILPF et al. (2017), "The Effects of Intervention by International Financial Institutions on Women's Human Rights in Ukraine". Joint Shadow Report to the CEDAW Review of Ukraine, 66th Session. Available at: [http://wilpf.org/wp-content/uploads/2017/02/CEDAW-Shadow-Report-on-Ukraine\\_20170124.pdf](http://wilpf.org/wp-content/uploads/2017/02/CEDAW-Shadow-Report-on-Ukraine_20170124.pdf).

<sup>12</sup> Various human rights bodies have confirmed that international institutions are to respect international human rights bodies. See for example: UN Index A/HRC/31/60/Add.2, Report by the Independent Expert on foreign debt on the impact of austerity measures on the Greek population, paragraphs 19, 21, 25.

### III. Increased domestic securitisation

#### a) Steep increase in demands for ‘small’ licences for weapons

14. One of the main pillars of WPS agenda encompasses prevention of conflict and violence, including sexual and gender-based violence. Conflict prevention requires creating human security and tackling root causes of conflict and violence through long-term prevention rather than through continued cycles of crisis response. Preventing and responding to acts of gender-based violence, promoting women’s meaningful participation and livelihoods and upholding women’s rights are therefore vital preventing conflicts and sustaining peace.

15. The principles of the WPS agenda have to be applied to the national German context as well and mainstreamed on domestic policies, legislation and linked with everyday actions. The OCSDE’s analysis also emphasises that national implementation strategies on WPS are relevant for all countries, and not only for those involved in conflict and that states should examine how women and gender issues are included in their own structures and mechanisms dealing with peace and security domestically.<sup>13</sup> Crucially, the absence of generalised violence does not mean that there is no risk of gender-based violence. Germany has committed to take measures to improve gender equality<sup>14</sup> and to increase women’s representation in decision-making positions,<sup>15</sup> a crucial component of the WPS agenda.

16. In light of these commitments, WILPF draws attention to the steep increase in the demand of so-called ‘small’ licences for weapons (*Kleiner Waffenschein*). These include licences for alarm pistols, gas pistols, riot agents and similar weapons. From June 2015 to June 2016, the number of owners of *Kleine Waffenschein* grew by 54 per cent.<sup>16</sup> Furthermore, registered *Kleiner Waffenschein* increased from 273’000 in September 2016 to 440’000 in the same month of 2017, according to the Ministry of Interior.<sup>17</sup>

17. The weapons covered by the *Kleiner Waffenschein* are comparatively easy to acquire. If they are kept at home, individuals above the age of 18 are allowed to acquire such weapons without the need for a licence. It is crucial to highlight that there is no official data of individuals possessing such weapons in their home. If they are carried on the street, individuals have to apply for a licence with the German Arms Agency. If the agency finds no previous criminal record, any individual is allowed to carry a weapon for a fee between 50 and 100 Euros, depending on the state (*Länder*), without being trained on the weapon’s responsible and proper use and without prior experience.<sup>18</sup> Experts have doubted the effectiveness of such weapons as a means of self-defence due to owners’ lack of experience and have highlighted that they could even be used against owners of attacked.<sup>19</sup> Weapons such as alarm pistols can cause serious bodily harm and may burst eardrums. They can also cause death when blood vessels burst, caused by pulling the trigger in close proximity to the targeted individual. WILPF cautions that the increased availability of these weapons may contribute to a rise in all forms of violence, including gender-based violence, which may therefore pose a threat to women’s security in particular.<sup>20</sup>

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<sup>13</sup> OSCE (2014), “OSCE Study on National Action Plans on the Implementation of the United Nations Security Council Resolution 1325”. Available at: <http://www.osce.org/secretariat/125727?download=true>.

<sup>14</sup> UPR II 124.71.

<sup>15</sup> UPR II 124.74; UPR II 124.157.

<sup>16</sup> <https://deutsche-wirtschafts-nachrichten.de/2016/08/21/deutsche-bewaffnen-sich-deutlicher-anstieg-bei-kleinem-waffenschein/>.

<sup>17</sup> <http://www.spiegel.de/panorama/gesellschaft/kleiner-waffenschein-in-deutschland-laien-am-abzug-a-1118109.html#waffenschein/>.

<sup>18</sup> <http://www.spiegel.de/panorama/gesellschaft/kleiner-waffenschein-in-deutschland-laien-am-abzug-a-1118109.html> .

<sup>19</sup> <http://www.zeit.de/gesellschaft/zeitgeschehen/2016-10/waffenbesitz-kleiner-waffenschein-deutschland-kriminalitaet>.

<sup>20</sup> Whilst it should be emphasised that arms such as alarm pistols, gas pistols etc. are not in the same category as firearms, they may be mistaken for real guns. The CEDAW Committee, OHCHR and the Human Rights Council are among the human rights bodies that

## b) Increase in anti-immigrant sentiments

18. The surge in ownership of *Kleine Waffenscheine* is partly fuelled by an amplified climate of fear and anti-immigrant sentiments.<sup>21</sup> Far-right political groups such as Pegida or *Alternative für Deutschland* (AfD), continue to fuel such fears with the perceived threat and “otherness” of refugees. Seeking to mobilise the voting public, far right politicians deploy narratives about the threat of ‘islamisation’ and refugees’ criminal tendencies.<sup>22</sup> Frauke Petry of AfD has welcomed the increase of applications for the ‘small’ licences for weapons and claimed that every family should be able to protect itself.<sup>23</sup> Biased media reports and so-called ‘fake news’<sup>24</sup> further contribute to increased sentiments of insecurity and a perceived disproportionate threat from refugees. New arguments are also being brought to demonstrations organised by Pegida or AfD, such as ‘we just protect our German population and values/traditions.’ Nonetheless, openly racist speeches are also heard in the demonstrations.

19. In 2016, according to the Standard Eurobarometer 85 survey, 59 per cent of German respondents had negative attitudes towards non-EU immigrants;<sup>25</sup> 61 per cent believed that welcoming refugees would increase domestic terrorism.<sup>26</sup> One of the most striking illustrations of the German population becoming worryingly xenophobic is the outcome of the September 2017 elections: the far-right party AfD has entered parliament as the third-largest party.<sup>27</sup> Other illustration is the growing numbers of hate crimes. In March 2018, the Interior Ministry of Germany reported that at least 950 hate crimes had been committed against Muslims or mosques in Germany in 2017. Crimes included physical assault, threatening letters, hate speech and spraying Nazi-themed graffiti on mosques.<sup>28</sup> In some cases, pig’s blood was smeared on buildings or Nazi symbols were sprayed on walls.<sup>29</sup> The Ministry also reported around 90 demonstrations against the alleged ‘Islamisation’ of Germany (marches organised by Pegida not included in that figure).<sup>30</sup>

20. In the context of the UPR, Germany has committed to takes measures to avoid such stigmatisation

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have recognised that the presence of arms threatens women’s security. See for instance CEDAW Committee General Comment 35, UN Index CEDAW/GR/35 14 July 2017, paragraph 42; OHCHR report on human rights and the regulation of civilian acquisition, possession and use of firearms UN Index A/ HRC/32/21, 5 April 2016, for instance paragraphs 7, 21, 22, 23, 26; and HRC Resolution 24/35 (2013): “Impact of arms transfers on human rights in armed conflicts”, paragraphs 1 and 2; HRC Resolution 26/16 (2014): “Human rights and the regulation of civilian acquisition, possession and use of firearms”, paragraph 1; HRC Resolution 29/10 (2015): “Human rights and the regulation of civilian acquisition, possession and use of firearms”, paragraph 1; and HRC Resolution 32/12 (2016): “Impact of arms transfers on human rights”, paragraphs 1 and 2. WILPF has also pointed out that femicides are strongly correlated with the level of firearms availability. See <http://wilpf.org/the-impact-of- rearms- on-women/>.

<sup>21</sup> <http://www.spiegel.de/panorama/gesellschaft/kleiner-waffenschein-alle-infos-im-ueberblick-a-1071966.html>.

<sup>22</sup> <http://www.abendzeitung-muenchen.de/inhalt.lumpenproletariat-quotenneger-schiessbefehl-so-fremdenfeindlich-ist-die-afd-eine-zitatesammlung.7608283f-6291-44bf-b4f0-16033928e83c.html>. <https://www.theguardian.com/world/2018/aug/31/germany-chemnitz-far-right-neo-nazis-not-neighbour>. See also: Koch (2016), AfD und Pegida: Rassismus im Anmarsch? Rechtspopulismus, Fremdenfeindlichkeit und Islamophobie 2015-2016.

<sup>23</sup> <https://deutsche-wirtschafts-nachrichten.de/2016/08/21/deutsche-bewaffnen-sich-deutlicher-anstieg-bei-kleinem-waffenschein/>.

<sup>24</sup> <http://www.faz.net/aktuell/politik/inland/geruechte-im-internet-wie-falschmeldungen-die-terrorangst-schueren-14356204.html>

<sup>25</sup> [http://data.europa.eu/euodp/en/data/dataset/S2130\\_85\\_2\\_STD85\\_ENG](http://data.europa.eu/euodp/en/data/dataset/S2130_85_2_STD85_ENG)

<sup>26</sup> <http://www.pewresearch.org/fact-tank/2016/09/16/european-opinions-of-the-refugee-crisis-in-5-charts/>.

<sup>27</sup> <https://www.theguardian.com/world/ng-interactive/2017/sep/24/german-elections-2017-latest-results-live-merkel-bundestag-afd>

<sup>28</sup> <https://www.aljazeera.com/news/2018/03/anti-muslim-hate-crimes-surge-germany-spain-180303142227333.html> and <https://www.dw.com/en/germany-sees-almost-1000-anti-muslim-crimes-in-2017/a-42810445>.

<sup>29</sup> <https://www.dw.com/en/germany-sees-almost-1000-anti-muslim-crimes-in-2017/a-42810445>.

<sup>30</sup> Ibid.

and negative stereotyping of migrants and minorities.<sup>31</sup> Furthermore, it has committed to “take effective measures to prevent the dissemination of racist and xenophobic speeches on the Internet and through the media.”<sup>32</sup>

21. Against this backdrop, WILPF welcomes the development of an updated National Action Plan against Racism and specifically its implemented and envisioned measures and policies to prevent the increase of racist attitudes and actions towards refugees.<sup>33</sup> We also particularly welcome the establishment of the joint “Forum against Racism” of civil society organisations and the government as an internal platform for exchange and discussions.<sup>34</sup>

## Recommendations

22. Germany should:

22.1. Follow up on commitments in its updated National Action Plan against Racism and in the UPR and take necessary measures to counter the narrative by media and right-wing political groups that stereotypes migrants and refugees and that could lead to perceived increased levels of insecurity;

22.2. Specifically, implement measures to promote a welcoming political climate for refugees, including by raising public awareness about the impact of xenophobic propaganda. Germany should implement positive awareness-raising campaigns, together with civil society, counteracting fearful tendencies and stereotypes against refugees and immigrants and seeking to integrate them;

22.3. Support civil society groups that carry out awareness raising campaigns about the risks associated with an increase of ‘small’ weapon licence ownerships;

22.4. Collect data about a potential correlation between an increase of *Kleine Waffenscheine* and incidents of violence, including gender-based violence, and consider each licence application carefully;

22.5. Collect data on the use in public spaces of unlicensed weapons of the type covered by the *Kleiner Waffenschein* and consider always licencing those types of weapons even those that are supposedly only kept at home.

## IV. Women Asylum Seekers and Refugees

23. The following information is relevant to both asylum seekers and refugees, accordingly references to refugees in this document include asylum seekers. In 2011, in its Concluding Observations on Germany, the CESCR noted “with deep concern the situation of asylum-seekers who do not receive adequate social benefits, live in inadequate and overcrowded housing, have restricted access to the labour market and have access only to emergency health care (art.2(2)).”<sup>35</sup> It urged Germany “to ensure, in line with international

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<sup>31</sup> Recommendations: UPR I 81.18; UPR II 124.189; UPR II 24.192; UPR II 24.85; UPR II 124.95; UPR II 124.96..

<sup>32</sup> UPR II 124.88. See also: UPR I 81.17; UPR II 124.114; UPR II 124.98; UPR II 124.99; UPR II 124.105.

<sup>33</sup> See here for the updated National Action Plan against Racism <https://www.bmfsfj.de/blob/116798/5fc38044a1dd8edec34de568ad59e2b9/nationaler-aktionsplan-rassismus-data.pdf>.

<sup>34</sup> Ibid. page 187.

<sup>35</sup> UN document E/C.12/DEU/CO/5, 12 July 2011. Available at [https://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolno=E%2fC.12%2fDEU%2fCO%2f5&Lang=en](https://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=E%2fC.12%2fDEU%2fCO%2f5&Lang=en).

standards, that asylum-seekers enjoy equal treatment in access to non-contributory social security schemes, health care and the labour market.” It called on Germany “to ensure that national regulations on housing standards, particularly on overcrowding, also apply to reception centres”. In 2017, the CEDAW Committee expressed its concerns regarding “reported incidents of sexual and domestic violence against women in refugee shelters by their partners, shelter staff or security staff; and the legal restrictions on their freedom, which often force them to wait several months before they can be transferred to an alternative safe shelter” in Germany.<sup>36</sup>

24. Despite Germany’s commitment as per UPR II 124.75<sup>37</sup> and its commitments set out in the NAP 1325<sup>38</sup> refugee women face numerous forms of gender-based violence. Refugee centres are typically overcrowded, often with no sex-separated toilet facilities, no separate housing and lack of proper locks, which has led to many cases of sexual assaults. For instance, a 2017 report by IRIN (formerly Integrated Regional Information Networks) indicates that women in refugee camps in Berlin face grossly inadequate protection from sexual and gender-based violence. According to the report, “minimum standards are not legally binding and rarely enforced or monitored [and] dozens of women [...] experienced sexual harassment, a lack of support, and reported living in fear of being assaulted.”<sup>39</sup>

25. In 2016, the German government introduced minimum standards for the protection of women in refugee accommodation centres, which include gender-sensitive analysis such as calling in trained specialist advisors in case of sexual violence.<sup>40</sup> The guidelines include a code of conduct for shelter staff as well as training in violence recognition and prevention. However, the standards are not legally binding and an investigation from 2017 found that they are rarely enforced or monitored and have done little to improve the safety of female residents.<sup>41</sup> Furthermore, cases of gender-based violence remain largely under-reported as female refugees are hesitant to report incidences of sexual assault. This is partly due to their inexperience with regards to the German legal system, and partly due to the fact that the likelihood of reporting is further diminished when the perpetrators are family members or security guards working at the centres.<sup>42</sup>

26. In 2017, WILPF Germany spoke to some women and men refugee activists, who themselves had to live in refugee camps in Berlin for more than a year. Whilst they appreciated the existence of so-called *Frauenhäuser* (women’s houses) for women refugees to go if they have suffered from violence, interviewees highlighted that many women do not know about their existence due to a lack of information and language barriers<sup>43</sup> and that sometimes, *Frauenhäuser* do not have sufficient capacities to take in all the women in need of protection.

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<sup>36</sup> See CEDAW/C/DEU/CO/7-8, paragraph 26 (d). Available at: [https://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolno=CEDAW/C/DEU/CO/7-8&Lang=En](https://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CEDAW/C/DEU/CO/7-8&Lang=En).

<sup>37</sup> UPR II 124.75: “Continue its efforts in combatting discrimination of women, particularly in its public policies for immigrant women and refugee women as well as those belonging to minorities, which CEDAW pointed out may be subject to multiple forms of discrimination in respect of education, health, employment and social and political participation (Paraguay)”.

<sup>38</sup> See page 22: “Advocate for women and girls to receive better protection from sexual and gender-specific violence both in their countries of origin and in contexts of displacement, and for survivors to have access to medical, psychological and legal support.” “Support for the development and dissemination of sensitisation campaigns in situations of displacement (camp / non- camp, refugees and internally displaced persons) on gender- specific violence, especially for men and boys.”

<sup>39</sup> For more information, see IRIN (2017), “Women refugees at risk of sexual assault in Berlin shelters”. Available at: <https://www.irinnews.org/investigations/2017/05/10/women-refugees-risk-sexual-assault-berlin-shelters>.

<sup>40</sup> <https://www.bmfsfj.de/blob/113620/90c9798c71d5e12918850c50fbc2f3cb/schutzkonzept-mindeststandards-unterkuenfte-engl-data.pdf>.

<sup>41</sup> <https://www.irinnews.org/investigations/2017/05/10/women-refugees-risk-sexual-assault-berlin-shelters>.

<sup>42</sup> <https://www.hertie-school.org/the-governance-post/2017/04/strangers-strange-land-experience-female-refugees-germany/>.

<sup>43</sup> For instance, interviewees reported that the hotline for Frauenhäuser requires the women to find somebody who speaks fluent German for translation. English is not enough.

27. They confirmed sexual harassment in Berlin's refugee camps being common. They noted that often, security guards are of the same cultural background as refugee women and if women decide to abandon traditions and practices from their country of origin, they may not only face violence by their own family members, but also by security guards. The interviewees also noted that even if the police are called, cases of gender-based violence perpetrated by security forces are being dropped due to language barriers and a supposed lack of witnesses.

28. Berlin's LAF (*Landesamt für Flüchtlingsangelegenheiten*, County Office for Matters relating to Refugees) has put in place a control mechanism by which office representatives announce their visit to camps in advance, and question few refugees living in that camp about their living conditions. WILPF Germany was told that sometimes, language barriers and security guards' denial of any wrongdoing result in a lack of accountability. The fact that refugees have to continue living in the same camp and have to see the same security guards every day may also prevent them from reporting any abuses against them. Refugee activists have also highlighted the absurd securitisation of refugee camps that are exclusively for women and children. According to one interviewee, who stayed in the refugee camp *Rathaus Friedenau* in Berlin, for 400 individuals there were less than ten social workers and teachers, while there were 70 security guards, with 50 of them present at any given shift. She highlighted the stressful and often re-traumatising impact that the presence of security men can have on women coming from highly violent, repressive and volatile conflict settings.

29. In its 2017 submission for the UPR of Germany, the *Deutsches Institut für Menschenrechte* (German Institute for Human Rights) stated that the measures introduced by the Federal Government to protect asylum seekers from violence in refugee accommodation facilities was financed until the end of 2017 and that implementation of such measures would only in part be complete by then. It stressed that "genuinely sustainable implementation of the extensive measures set out in the concepts within the segments cooperation, underlying conditions, risk management, staff development, as well as monitoring and evaluation, calls for a statutory basis for the concepts and further financing of the initiative."<sup>44</sup>

30. In the context of the UPR, Germany has committed to "continue its efforts in combatting discrimination of women, particularly in its public policies for [...] refugee women [...], which [...] may be subject to multiple forms of discrimination in respect of education, health, employment and social and political participation".<sup>45</sup> Nevertheless, health care provisions are often restricted to emergency care of acute diseases. The provision of emergency post-rape care, including post-exposure prophylaxis, antibiotics, and emergency contraception has been reported to be at the discretion of individual hospitals.<sup>46</sup>

31. Furthermore, many policy prescriptions towards improving the lives of female refugees tend to treat them solely as victims who require protection, without actively engaging them in the discourse on refugee policies.<sup>47</sup> Strikingly, those camps where refugee women have been consulted in the design and implementation of protection strategies are much safer.<sup>48</sup> From WILPF Germany conversations with refugee

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<sup>44</sup> The German Institute for Human Rights (October 2017), "Third Review of Germany under the Universal Periodic Review of the Human Rights Council", paragraph 20. Available at: [https://www.institut-fuer-menschenrechte.de/fileadmin/user\\_upload/Publikationen/Weitere\\_Publikationen/DIMR\\_UPR-Bericht\\_2017\\_Englisch.pdf](https://www.institut-fuer-menschenrechte.de/fileadmin/user_upload/Publikationen/Weitere_Publikationen/DIMR_UPR-Bericht_2017_Englisch.pdf).

<sup>45</sup> UPR II 124.75: "Continue its efforts in combatting discrimination of women, particularly in its public policies for immigrant women and refugee women as well as those belonging to minorities, which CEDAW pointed out may be subject to multiple forms of discrimination in respect of education, health, employment and social and political participation (Paraguay)".

<sup>46</sup> Women's Refugee Commission (2016), "Falling through the Cracks – Refugee Women and Girls in Germany and Sweden". Available at: <http://www.refworld.org/pdf/56ef98954.pdf>.

<sup>47</sup> <https://www.hertie-school.org/the-governance-post/2017/04/strangers-strange-land-experience-female-refugees-germany/>.

<sup>48</sup> <http://www.womenpeacesecurity.org/resource/statement-unscc-sexual-violence-open-debate-may-2017/>.

activists, it is also clear that more projects and language courses have to be in place to increase women refugee's participation in protection strategies and other decision-making processes. In its Human Rights Report 2017, the *Deutsches Institut für Menschenrechte* reported that "restricted access to language courses and the labour market works to delay the process of building a life in Germany."<sup>49</sup>

32. In July 2018, the minister of interior introduced his "Masterplan Migration". The plan seeks to deport refugees, who were denied asylum, more quickly. Amongst others, the plan envisions 'decision centres' (*Ankerzentren*), where asylum seekers would be held until a decision is made.<sup>50</sup> The UN High Commissioner for Refugees has criticised the underlying tone of the document that focuses on the intensification of administration and asylum applications and neglects the most important factor: the human being.<sup>51</sup>

33. In 2016, the European Parliament's Committee on Women's Rights and Gender Equality put forth a report calling for gender-sensitive processing mechanisms for female refugees.<sup>52</sup> The CESCR has recognised the vulnerability of women and girl migrants and refugees to gender-based violence.<sup>53</sup> General Recommendation 32 by the CEDAW Committee also addresses gender-related dimensions of refugees and highlights state parties' obligations "to prevent and investigate acts of discrimination against women that are perpetrated by non-State actors, to prosecute and adequately punish perpetrators of such acts and to provide reparations to women who are victims of discrimination".<sup>54</sup> As per UPR II 124.196, Germany also committed to "take into consideration the full spectrum of international refugee and human rights law and standards when considering issues related to asylum seekers."<sup>55</sup> Germany is a state party to the Istanbul Convention, which requires the development of gender-sensitive reception procedures and support services for asylum-seekers as well as gender guidelines and gender-sensitive asylum procedures.<sup>56</sup>

## Recommendations

34. Germany should:

- 34.1. Guarantee access to justice for refugee women and collect disaggregated data on incidents of gender-based violence against women refugees, including by adopting a global compact for safe, orderly and regular migration with gender equality at its core;

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<sup>49</sup> See Executive Summary of the report "Development of the Human Rights Situation in Germany July 2016 – June 2017", page 5. Available at: [https://www.institut-fuer-menschenrechte.de/fileadmin/user\\_upload/Publikationen/Menschenrechtsbericht\\_2017/Human\\_Rights\\_Report\\_2017\\_Short\\_version.pdf](https://www.institut-fuer-menschenrechte.de/fileadmin/user_upload/Publikationen/Menschenrechtsbericht_2017/Human_Rights_Report_2017_Short_version.pdf)

<sup>50</sup> [http://www.deutschlandfunk.de/sicherheits-und-migrationspolitik-seehofer-kuendigt.1939.de.html?drn:news\\_id=864378](http://www.deutschlandfunk.de/sicherheits-und-migrationspolitik-seehofer-kuendigt.1939.de.html?drn:news_id=864378).

<sup>51</sup> <https://www.zeit.de/news/2018-07/10/deutschland-unhcr-reagiert-mit-skepsis-auf-seehofers-masterplan-10140207>.

<sup>52</sup> <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-%2f%2fEP%2f%2fTEXT%2bREPORT%2bA8-2016-0024%2b0%2bDOC%2bXML%2bV0%2f%2fEN&language=EN>.

<sup>53</sup> See CESCR statement on the "Duties of States towards refugees and migrants under the International Covenant on Economic, Social and Cultural Rights", March 2017. Available at: <http://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=4slQ6QSmIBEDzFEovLCuW1AVC1NkPsgUedPIF1vfPMJbFePxX56jVyNBwivepPdIEe4%2BUb4qsdJhuBDpCRSOWCXPjZ7VN7SXNOoRoXkZhCuB9Z73iyU35LZveUjXOd7u>.

<sup>54</sup> UN Index CEDAW/C/GC/32, paragraph 8.

<sup>55</sup> UPR II 124.196: "Take into consideration the full spectrum of international refugee and human rights law and standards when considering issues related to asylum seekers (Brazil)".

<sup>56</sup> Council of Europe Treaty Series – No. 210, Council of Europe Convention on preventing and combating violence against women and domestic violence, Article 60 (3).

- 34.2. Implement or improve a mechanism by which the LAF<sup>57</sup> or comparable entities deploy more regular control visits in refugee camps. Those visits should be unannounced and accompanied by a translator, so as to facilitate any reporting of gender-based violence;
- 34.3. Ensure the widespread dissemination and translation of information to women refugees about the existence of *Frauenhäuser* and other initiatives providing protection to refugee women, as well as on women's rights and gender equality through, inter alia, workshops and language and integration courses and increase the financial support to *Frauenhäuser* and similar initiatives;
- 34.4. Train all security staff in refugee reception centres on gender, the protection of women from gender-based violence, and about their key responsibility to abdicate from perpetuating patriarchal gender stereotypes and ensure that refugee women, who have come to Germany by themselves or only with their children, can live in women-only facilities with trained women-only security staff;
- 34.5. Guarantee full access to sexual and reproductive health and rights, including access to safe abortion, allocate additional resources to healthcare provision as a matter of urgency and ensure comprehensive and adequately resourced programmes to address the unmet short- and long-term health needs of women refugees, including psychosocial and trauma counselling;
- 34.6. Ensure the involvement of female refugees in policy-making that affect them and greater representation of female refugees in organisations that work on refugee-related issues in order to improve the security and comprehensiveness of services provided to refugees. Increase availability of language courses to remove any language barriers;
- 34.7. Increase efforts to mainstream the WPS Agenda in domestic policies, particularly with respect to women refugees in Germany, including by promoting policy coherence in the implementation of Sustainable Development Goals (SDGs), particularly SDGs 5.2 on gender-based violence, 16.4 on arms, and 17.14 on policy coherence.

## Appendix: Germany's International Human Rights Obligations as a Member State of International Bodies

35. Germany does not cease to be bound by its human rights obligations when it acts as a member of an international institution. Whilst the states implementing austerity measures bear the primary responsibility for the guarantee of all human rights, Germany, as a member state of the International Monetary Fund (IMF) and the European Union (EU), has an international responsibility for violations of economic and social rights and non-discrimination in other countries under the doctrine of extraterritorial obligations.

36. The European Court of Human Rights (ECtHR) has confirmed that acting within, or in accordance with, a decision of an international organisation cannot justify violations of Germany's obligations under human rights law.<sup>58</sup> It furthermore held in the case *Richard Waite and Terry Kennedy v. Germany* that it would be incompatible with the purpose and object of the Convention if Germany, as part of the Contracting States who have established an international organisation, were absolved from its responsibility under the Convention in relation to the field of the organisation's activity.<sup>59</sup>

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<sup>57</sup> *Landesamt für Flüchtlingsangelegenheiten*, County office for matters relating to refugees.

<sup>58</sup> *Al-Dulimi and Montana Management Inc. v. Switzerland* (Application no. 5809/08, ECtHR, GC, 21 June 2106) – violation ECHR, Article 6 on the right of access to a court).

<sup>59</sup> *Richard Waite and Terry Kennedy v. Germany*, ECHR, 18 February 1999, paragraph 67.

37. This judgment was cited by the International Law Association in support of its view that: “States cannot evade their obligations under customary law and general principles of law by creating an [international organisation] that would not be bound by the legal limits imposed upon its Member States.”<sup>60</sup> Therefore, Germany cannot avoid responsibility by vesting competence for a specific policy area in an international organisation, and then having the organisation commit a breach of the State’s international obligations.

38. The Maastricht Principles on Extraterritorial Obligations of States in the area of Economic, Social and Cultural Rights similarly confirm that Germany should “ensure that [its] own national [obligations] on economic, social and cultural rights [...] are not ignored when the very same state, headed by the very same government, is representing a multilateral organisation”<sup>61</sup> and that International Financial Institutions (IFIs) should “correct their policies and practices so that they do not result in deprivation of economic, social and cultural rights.”<sup>62</sup>

39. In addition to being party to the International Covenant on Economic, Social and Cultural Rights, Germany is also party to among other human rights treaties, the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW). There is no provision for derogation in either the ICESCR or CEDAW, emphasising their continued applicability.

40. For member states of IFIs and other international bodies such as the EU, the application of their continuing human rights obligations is extra-territorial. Various bodies have emphasised the extra-territorial applicability of the human rights treaties including the International Court of Justice,<sup>63</sup> the Human Rights Committee,<sup>64</sup> the CEDAW Committee,<sup>65</sup> the CESCR,<sup>66</sup> and the Independent Expert on the effects of foreign debt.<sup>67</sup>

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<sup>60</sup> International Law Association, Committee on the Accountability of International Organisations, Final Report, Berlin, 2004.

<sup>61</sup> See WILPF (2017), “A Feminist Perspective on post-conflict Restructuring and Recovery. The Case of Bosnia and Herzegovina”, page 35. Available at: <http://wilpf.org/wpcontent/uploads/2017/08/Feminist-political-economy-ENG-FINAL.pdf>.

<sup>62</sup> Ibid.

<sup>63</sup> See for instance: ICJ 21 June 1971, Legal Consequences for States of the Continued Presence of South Africa in Namibia (Advisory Opinion), ICJ Reports 1971, paragraph 118.

See also: In *Georgia v. Russian Federation*, a pending case initiated by Georgia in August 2008, the International Court of Justice has applied the “effective control” standard for determining jurisdiction under human rights treaties. In its decision on provisional measures in the case, the ICJ held that the Convention on the Elimination of All Forms of Racism (CERD) applies beyond the territorial jurisdictions of states parties. See Sarah H. Cleveland (2010), “Embedded International Law and the Constitution Abroad”, 110 COLUM. L. REV. 225.

<sup>64</sup> See, for instance, UN Index CCPR/C/DEU/CO/6, Concluding Observations on Germany, paragraph 16 and UN Index A/50/40, Report of the Human Rights Committee, 1994, paragraph 284.

<sup>65</sup> UN Index CEDAW/C/2010/47/GC.2 Recommendation 28 on the Core Obligations of States Parties under Article 2 of the Convention on the Elimination of All Forms of Discrimination against Women, 19 October 2010, paragraph 36; UN Index CEDAW/C/GC/30 General Recommendation No. 30 on women in conflict prevention, conflict and post-conflict situations, 18 October 2013, paragraphs 8-12.

<sup>66</sup> See, for instance, UN Index CESCR/C.12/2011/1, Statement on the obligations of States Parties regarding the corporate sector and economic, social and cultural rights, 20 May 2011, paragraph 5; UN Index CESCR/C.12/GC/24, General Comment on Business and Human Rights, 10 August 2017; CESCR General Comment No.12 on the right to adequate food, paragraphs 36-39 (1999); CESCR General Comment No. 15, paragraphs 30-36 and CESCR General Comment No. 19 on the right to water, paragraphs 52-58 (2003). Concluding Observations relating to: Austria (UN Index E/C.12/AUT/CO/4), paragraphs 11-12; Belgium (UN Index E/C.12/BEL/CO/4), paragraph 22; China (UN Index E/C.12/CHN/CO/2), paragraphs 12-13; Germany (UN Index E/C.12/DEU/CO/5), paragraphs 9-11; Switzerland (UN Index E/C.12/CHE/CO/2-3).

<sup>67</sup> See, for example, UN Index A/HRC/20/23, Report of the Independent Expert on the effects of foreign debt and other related international financial obligations of States on the full enjoyment of all human rights, particularly economic, social and cultural rights to the 20<sup>th</sup> session of the UN Human Rights Council.

41. The ICESCR makes explicit reference to the need for international cooperation and assistance in complying with state parties' obligations under the Covenant. Thus, under article 2 states parties are to take steps "individually and through international assistance and cooperation" towards realisation of the Covenant rights; article 11(1) recognises "the essential importance of international cooperation based on free consent." Article 11 (2) also asserts that states parties shall take measures individually and "through international cooperation." The CESCR has also applied the doctrine of extraterritoriality and expressed concern about the use of development assistance: "in some cases [it] has reportedly been used for activities in contravention of economic, social and cultural rights in the receiving countries".<sup>68</sup>

42. Agreeing on, or in Germany's case sometimes even pushing for, conditions or requirements imposed by the EU or the IMF as an element of financial restructuring that fail to take into account states' obligations under the ICESCR and CEDAW, negatively impacts human rights in a third state, and constitutes a violation of Germany's own human rights obligations.<sup>69</sup>

43. Various human rights bodies, including CESCR and the CEDAW Committee, have emphasised specifically the threat of austerity measures to economic and social rights and women's rights. In line with obligations under ICESCR, the State's obligation is to move forward and there is no exception whereby any backward steps could be justified by a conflict or the need for economic stringency.<sup>70</sup> The CESCR has underscored that a policy, demanded by austerity measures or economic adjustment policies, must identify the minimum core content of the rights enshrined in the Covenant, and must ensure the protection of the core content at all times. It further highlighted that policies must not be discriminatory.<sup>71</sup>

44. Specifically, CESCR has highlighted that States parties have an obligation to adopt policies aimed at reducing the unemployment rate, in particular among women and disadvantaged and marginalized groups.<sup>72</sup> Therefore, States parties, like Germany, have an obligation not to take retrogressive steps to individuals' economic and social rights, including when providing assistance in form of conditionalities to other countries.

45. The CEDAW Committee has echoed the emphasis that austerity measures must not be discriminatory. It considers the disproportionate impact of austerity measures on women amounts to indirect discrimination under article 1 of the Convention (discriminatory effect). For instance, in its Concluding Observations to Slovenia it noted "with concern that austerity measures, adopted in an effort to stabilize public finances, have had a detrimental and disproportionate impact on women in many spheres of

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<sup>68</sup> Concluding Observations on the UK (UN Index: E/C.12/GBR/CO/6), paragraph 14.

<sup>69</sup> In its Concluding Observations to Canada the CEDAW Committee recommended the state to "ensure that trade and investment agreements negotiated by the State party recognize the primacy of its international human rights obligations over investors' interests, so that the introduction of investor-State dispute settlement procedures shall not create obstacles to full compliance with the Convention". (CEDAW, Concluding Observations on the combined eighth and ninth periodic reports of Canada, CEDAW/C/CAN/CO/8-9, 18 November 2016, paragraph 19). The CESCR has asserted that "failure of a State to take into account its international legal obligations regarding the right to food when entering into agreements with other States or with international organizations" (CESCR, General Comment No. 12, The Right to Adequate Food (Art. 11), 12 May 1999, paragraph 19) violates the right to food under the ICESCR.

<sup>70</sup> For more information, see WILPF (2017) "A Feminist Perspective on Post-Conflict Restructuring and Recovery. The Case of Bosnia and Herzegovina", page 32. Available at: <https://wilpf.org/wp-content/uploads/2017/08/Feminist-political-economy-ENG-FINAL.pdf>.

<sup>71</sup> Next to this requirement, the Committee has underscored three additional requirements that any proposed policy change should meet: The policy must be temporary and limited to the period of crisis; it must be necessary and proportionate; and the policy must encompass all possible measures, including fiscal measures, to mitigate inequalities that may arise in times of crisis. See: Letter dated 16 May 2012 from the Chair of the Committee on Economic, Social and Cultural Rights addressed to States parties to the International Covenant on Economic, Social and Cultural Rights.

<sup>72</sup> Committee on Economic, Social and Cultural Rights, General Comment No. 18 (2005) on the right to work.

life”.<sup>73</sup> In its General Recommendation 35 on gender-based violence, the CEDAW Committee has stated that “significant reductions in public spending, often as part of ‘austerity measures’ following economic and financial crises, further weaken the state responses”<sup>74</sup> to gender-based discrimination or violence. The UN Independent Expert on the effects of foreign debt<sup>75</sup> has stated, for example that “austerity measures and labour market reforms have often contravened the international human rights obligations of States, eroded labour rights and resulted in the retrogression of work-related gender equality.”<sup>76</sup>

46. These statements that human rights obligations must not be subordinated to economic reform or austerity programmes are consistent with the Human Rights Council’s repeated affirmation that “the exercise of the basic rights of the people of debtor countries to food, housing, clothing, employment, education, health services and a healthy environment cannot be subordinated to the implementation of structural adjustment policies, growth programmes and economic reforms arising from the debt”.<sup>77</sup>

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<sup>73</sup> UN Index CEDAW/C/SVN/CO/5-6, Concluding Observations on the combined fifth and sixth periodic reports of Slovenia, paragraphs 33-34, 24 November 2015; UN Index CEDAW/C/GC/35, General recommendation No. 35 on gender-based violence against women, updating general recommendation No. 19, paragraph 7, 14 July 2017.

<sup>74</sup> UN Index Doc CEDAW/C/GC/35, paragraph 7.

<sup>75</sup> Full title: Independent Expert on the effects of foreign debt and other related international financial obligations of States on the full enjoyment of all human rights, particularly economic, social and cultural rights.

<sup>76</sup> Report of the Independent Expert on the effects of foreign debt and other related international financial obligations of States on the full enjoyment of all human rights, particularly economic, social and cultural rights to the 34th session of the UN Human Rights Council, UN Index: A/HRC/34/57 (27 December 2016).

<sup>77</sup> See UN Index A/HRC/RES/20/10 (18 July 2012), The effects of foreign debt and other related international financial obligations of States on the full enjoyment of all human rights, particularly economic, social and cultural rights. See also UN Index A/HRC/RES/23/11 (13 June 2013), The effects of foreign debt and other related international financial obligations of States on the full enjoyment of all human rights, particularly economic, social and cultural rights.

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