



# WOMEN, PEACE AND SECURITY

A review of Germany's National Action Plan 1325

Issues in focus: domestic implementation; refugees; arms transfers; human rights obligations of Germany as a member of multilateral institutions (re: austerity measures)

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during a demonstration in Germany, urging to  
'move the money from war to peace'  
- Picture by Heidi Meinzolt

# 1 | Executive Summary

## I. INTRODUCTION

In May 2018, Germany will undergo the Universal Periodic Review (UPR). In a joint report, WILPF Germany and WILPF International review Germany's National Action Plan from 2017-2020 on Security Council Resolution 1325 on Women, Peace and Security (NAP) from various angles at both the national and international level. In so doing, WILPF foregrounds discrepancies between Germany's commitments made under the NAP on the one hand and domestic and foreign policies on the other hand.

## II. GENERAL WEAKNESSES IN THE NAP'S DRAFTING

WILPF criticises the NAP's drafting and conceptualisation process as well as the lack of specific budget allocation and monitoring mechanism for its implementation. During consultation processes, German state representatives have been reluctant to discuss anything beyond the pure provision of information by civil society, such as the concept of militarised masculinities. In so doing, Germany denies the implications of these normative concepts with respect to gender equality and peace. Recommendations call for ensuring sufficient and sustained funding to the NAP's implementation, the establishment of a monitoring and evaluation mechanism, and continued and comprehensive cooperation with civil society actors.

## III. DOMESTIC IMPLEMENTATION

Prevention is one of the WPS agenda's essential pillars. This includes tackling root causes of conflict and preventing any form of gender-based violence. In light of this, national implementation strategies on WPS are also relevant for countries not involved in conflict. States should always examine how women and gender issues are included in their own structures and mechanisms dealing with peace and security domestically.

WILPF therefore raises attention to the steep increase of 'small' licenses for weapons (*Kleine Waffenscheine*) that are relatively easy to acquire.<sup>1</sup> WILPF highlights the link between the increase of ownership of such weapons and an amplified climate of fear and the perceived threat of refugees. The submission cautions that the increased securitisation of German society and 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. Recommendations are geared towards countering the narrative by media and right-wing political groups that stereotypes migrants and refugees and that could lead to perceived increased levels of insecurity; to collect data about a potential correlation between an increase of *Kleine Waffenscheine* and incidents of violence; and to implement tighter regulation for the acquisition of these weapons.

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<sup>1</sup> Registered *Kleine Waffenscheine* increased from 273,000 in September 2016 to 440,000 in the same month of 2017, according to the Ministry of Interior.

WILPF also draws attention to the linkages between the WPS agenda and the situation of refugee women and women asylum seekers. Examples are provided where women refugees and asylum seekers suffer from gender-based violence in refugee centres. 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. WILPF emphasises the insufficient response by the German government. There is no formal national mechanism in place that would identify gender-based violence cases against refugees and there is a lack of awareness about services and support among refugee and asylum seeker women who experience gender-based violence. Recommendations highlight the need to include concerned women in decision-making processes and policy making; to ensure the presence of security staff trained on gender; to collect disaggregated data about incidents of gender-based violence and to ensure the widespread dissemination and translation of information about support services.

#### IV. EXTERNAL IMPLEMENTATION

##### **The National Action Plan 1325 and Germany's arms transfers**

Arms proliferation has a distinctly negative impact on women's rights and safety. This, in turn, can prevent them from participating in decision-making fora. While Germany, one of the largest arms exporters in the world, has a well-developed export control system, it continues to grant export licences to countries with dubious human rights records. As WILPF has

highlighted both in the UPR submission and in a joint submission with the European Center for Constitutional and Human Rights (ECCHR) for the CEDAW Committee's review of Germany in early 2017,<sup>2</sup> German arms transfers have violated its international legal obligations, including under CEDAW. These have included transfers to India, Iraq, Mexico, Qatar, and Saudi Arabia. In spite of what is required by the Arms Trade Treaty, the EU Common Position on Arms Exports, and its own national export law, Germany has not established a specific mechanism to prevent arms sales from having an impact on gender-based violence in the recipient countries. Recommendations are therefore focussed on adopting specific and transparent criteria to analyse whether any arms transfers and the granting of licences on production facilities will facilitate or contribute to gender-based violence in the recipient country, urging to align Germany's overall defence and security policies, as well as the foreign ministry's and economic ministry's policies with the WPS agenda and Germany's NAP.

##### **The National Action Plan 1325 and Germany's role as a member of multilateral institutions in imposing austerity measures in third countries**

In its NAP, Germany has committed itself to ensure "the social and political participation of women and girls".<sup>3</sup> One of the biggest 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. Against this backdrop, WILPF draws attention to the direct role and responsibilities of Germany as a member of multilateral international legal bodies, specifically

<sup>2</sup> WILPF and ECCHR (2017), The Impact of Germany's Arms Transfers on Women. Germany's Extraterritorial Obligations under CEDAW

<sup>3</sup> Page 21, Germany's NAP1325 from 2017-2020

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. Particularly, the submission illustrates the link between austerity measures imposed by these international bodies, and their disproportionate and discriminatory impact on women's economic and social rights. Germany's role in the IMF or the EU goes not only against its commitments made under the NAP, but also against a plethora of other human rights obligations. In the annex to this report,

WILPF offers extensive evidence of Germany's international human rights obligations as a member of multilateral institutions. WILPF also provides examples of the impact of austerity measures on women in the countries of Bosnia and Herzegovina, Greece and Ukraine. Recommendations are geared towards the implementation of gender and human rights impact assessments of austerity policies, that has to include civil society actors participation; and to change policies based upon those assessments to prevent human rights violations.

## 2 | Implementation of the National Action Plan 1325 for the Period 2017-2020

The Security Council Resolution 1325 (UNSCR1325) and subsequent resolutions on Women, Peace and Security (WPS)<sup>4</sup> recognise the crucial need for women's participation and the inclusion of gender perspectives in conflict prevention, peace negotiations, humanitarian planning, peace-keeping operations, and post-conflict peace-building and seek to ensure the promotion and protection of women's rights in armed conflict. Compelling research indicates that women's participation increases the probability of a peace agreement lasting at least two years by 20 per cent, and the probability of a peace agreement lasting 15 years by 35 per cent.<sup>5</sup>

WILPF therefore welcomes the Federal Government's National Action Plan on Resolution 1325 (NAP) adopted for the period 2017-2020 that aims to ensure full implementation and policy coherence across ministries at the national, regional and international levels.<sup>6</sup> The NAP's measures seek to protect women and girls against violence in armed conflict, foster greater involvement of women in crisis prevention, conflict management and post-conflict peace-building and seek to strengthen and promote

the WPS Agenda at the national, regional and international level.<sup>7</sup>

However, Germany's NAP lacks specific budget allocation that would ensure sufficient resources for its implementation. It neither includes a monitoring mechanism nor concrete indicators to assess the implementation of the WPS Agenda on the ground. Furthermore, whilst the NAP spells out collaboration with civil society in the implementation and monitoring phase, civil society representatives were not included in the development, conceptualisation and drafting of the present NAP.<sup>8</sup>

We welcome the establishment of a consultative group of representatives of civil society and of the Ministries as part of the Inter-Ministerial Working Group, and the recognition of the valuable expert knowledge of civil society organisations, including women's organisations.<sup>9</sup> However, during past consultation processes, German state representatives have been reluctant to discuss anything beyond the pure provision of information by civil society. They have not been receptive to discuss concepts

<sup>4</sup> UN Index S/RES/1325 (2000); UN Index S/RES/1820 (2009); S/RES/1888 (2009); S/RES/1889 (2010); S/RES/1960 (2011); S/RES/2106 (2013); S/RES/2122 (2013); S/RES/2242 (2015). See also: <http://www.peacewomen.org/resolutions-texts-and-translations>.

<sup>5</sup> See UN Women (2015), Preventing Conflict, Transforming Justice, Securing the Peace. A Global Study on the United Nations Security Council resolution 1325, available at: [http://peacewomen.org/sites/default/files/UNW-GLOBAL-STUDY-1325-2015%20\(1\).pdf](http://peacewomen.org/sites/default/files/UNW-GLOBAL-STUDY-1325-2015%20(1).pdf) See also <http://peacewomen.org/security-council/2015-high-level-review-global-study>.

Furthermore, with only a five per cent increase in women's representation in parliament, a country becomes five times less likely to use violence when faced with an international crisis. A study of 58 conflict-affected states between 1980 and 2003 found the risk of relapse into war was near zero when at least 35 per cent of the post-conflict legislature were women. See Mary Caprioli and Mark Boyer, "Gender, Violence, and International Crisis," *Journal of Conflict Resolution* 45 (August 2001): 503-518 and Jacqueline H.R. Demeritt, Angela D. Nichols, "Female Participation and Civil War Relapse," *Civil Wars* 16, no. 3 (2014): 362.

<sup>6</sup> For Germany's NAP1325 from 2017-2020, see: [http://www.auswaertiges-amt.de/cae/servlet/contentblob/756004/publicationFile/223409/170111\\_Aktionsplan\\_1325.pdf](http://www.auswaertiges-amt.de/cae/servlet/contentblob/756004/publicationFile/223409/170111_Aktionsplan_1325.pdf)

<sup>7</sup> See page 6 of Germany's NAP1325 from 2017-2020, see: [http://www.auswaertiges-amt.de/cae/servlet/contentblob/756004/publicationFile/223409/170111\\_Aktionsplan\\_1325.pdf](http://www.auswaertiges-amt.de/cae/servlet/contentblob/756004/publicationFile/223409/170111_Aktionsplan_1325.pdf)

<sup>8</sup> See pages 7 and 8, Germany's NAP1325 from 2017-2020, available at: [http://www.auswaertiges-amt.de/cae/servlet/contentblob/756004/publicationFile/223409/170111\\_Aktionsplan\\_1325.pdf](http://www.auswaertiges-amt.de/cae/servlet/contentblob/756004/publicationFile/223409/170111_Aktionsplan_1325.pdf)

<sup>9</sup> See page 8, Germany's NAP1325 from 2017-2020, see: [http://www.auswaertiges-amt.de/cae/servlet/contentblob/756004/publicationFile/223409/170111\\_Aktionsplan\\_1325.pdf](http://www.auswaertiges-amt.de/cae/servlet/contentblob/756004/publicationFile/223409/170111_Aktionsplan_1325.pdf)

such as militarised masculinities or conventionally understood security. Yet, these normative conceptualisations have far-reaching implications with respect to gender equality and peace and need to be addressed in discourses and policies around the WPS Agenda.

Against this backdrop, the NAP does not meet all of the criteria on effectiveness identified by the OSCE in an analysis of 27 National Action Plans that would ensure successful implementation of the UNSCR1325.<sup>10</sup>

## RECOMMENDATIONS

### Germany should:

- Ensure specifically allocated, sufficient and sustained funding for the implementation of the NAP, with detailed roles and responsibilities for implementation of various ministries and agencies, and make that information publically available by the end of 2018;
- By 2019, establish a strong mechanism based on a specific list of indicators to evaluate and monitor the effectiveness of the implementation of UNSCR1325 and subsequent resolutions;
- Ensure continued cooperation with a broad range of civil society actors, based upon its commitments made in its NAP, as well as civil society's participation beyond the provision of information in order to challenge patriarchal notions, of, for instance, masculinity, security and other concepts;
- Ensure full involvement of civil society across the NAP cycle, including the conceptualisation and development to implementation and evaluation, for the next NAP as of 2020.

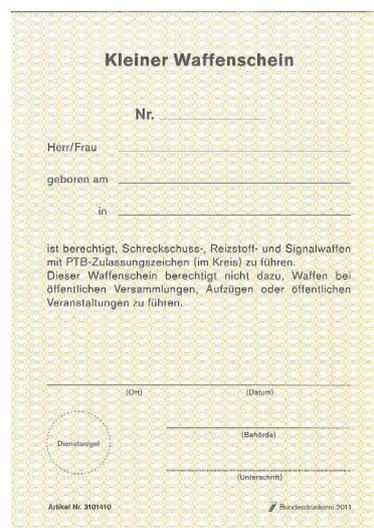
<sup>10</sup> Page 9-10, see OSCE (2014), OSCE Study on National Action Plans on the Implementation of the United Nations Security Council Resolution 1325. Available at: <http://www.osce.org/secretariat/125727?download=true>

# 3 | The NAP1325 - Domestic Implementation

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. Sustainable peace must be based on women's human rights, environmental protection, and political economies of gender justice. The UNSCR1325 Global Study also suggests that "women, peace and security is about preventing war, not about making war safer for women."<sup>11</sup> Preventing and responding to acts of gender-based violence, promoting women's meaningful participation and livelihoods and upholding women's rights are therefore vital for preventing conflicts and sustaining peace.

The principles of the WPS Agenda have to be applied to the national German context as well and mainstreamed in domestic policies, legislation and linked with everyday actions. The OSCE'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>12</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>13</sup> and to increase women's representation in decision-making positions,<sup>14</sup> a crucial component of the WPS Agenda.



Small licence for weapons (*Kleiner Waffenschein*) - Picture retrieved from Wikimedia Commons

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 Waffenscheine* grew by 54 per cent.<sup>15</sup> Furthermore, registered *Kleine Waffenscheine* increased from 273,000 in September 2016 to 440,000 in the same month of 2017, according to the Ministry of Interior.<sup>16</sup>

<sup>11</sup> Chapter 8 of UN Women (2015), Preventing Conflict, Transforming Justice, Securing the Peace. A Global Study on the United Nations Security Council resolution 1325, available at <http://wps.unwomen.org/pdf/CH08.pdf>.

<sup>12</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>13</sup> UPR II 124.71. Take measures to further improve the situation of gender equality (Norway); UPR II 124.72. Establish concrete goals to accelerate the achievement of substantive equality between women and men and ensure effective elimination of discrimination against women (Republic of Moldova).

<sup>14</sup> UPR II 124.74. Intensify the promotion of gender equality and encourage the presence of women in high-level positions (Djibouti); UPR II 124.157. Take further measures to promote equal representation of men and women in decision-making positions (State of Palestine)

<sup>15</sup> <https://deutsche-wirtschafts-nachrichten.de/2016/08/21/deutsche-bewaffnen-sich-deutlicher-anstieg-bei-kleine>

<sup>16</sup> <http://www.spiegel.de/panorama/gesellschaft/kleiner-waffenschein-in-deutschland-laien-am-abzug-a-1118109.html> m-waffenschein/

The weapons covered by the *Kleine Waffenscheine* 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>17</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 if attacked.<sup>18</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 securitisation of German society and 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>19</sup>

The surge in ownership of *Kleine Waffenscheine* is partly fuelled by an amplified climate of fear and anti-immigrant sentiments.<sup>20</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, right-wing politicians deploy narratives about the threat of 'islamisation' and refugees' criminal tendencies.<sup>21</sup> Frauke Petry of AfD welcomed the increase of applications for these licences and claimed that every family should be able to protect itself.<sup>22</sup> Biased media reports and so-called 'fake news'<sup>23</sup> further contribute to increased sentiments of insecurity and a perceived disproportionate threat from refugees.<sup>24</sup>

As a result, in 2016, according to Eurobarometer, 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

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

<sup>18</sup> <http://www.zeit.de/gesellschaft/zeitgeschehen/2016-10/waffenbesitz-kleiner-waffenschein-deutschland-kriminalitaet>

<sup>19</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 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-firearms-on-women/>

<sup>20</sup> <http://www.spiegel.de/panorama/gesellschaft/kleiner-waffenschein-alle-infos-im-ueberblick-a-1071966.html>

<sup>21</sup> <http://www.abendzeitung-muenchen.de/inhalt.lumpenproletariat-quotenneger-schiessbefehl-so-fremdenfeindlich-ist-die-afd-eine-zitatesammlung.7608283f-6291-44bf-b4f0-16033928e83c.html>. See also: Koch (2016), AfD und Pegida: Rassismus im Anmarsch? Rechtspopulismus, Fremdenfeindlichkeit und Islamophobie 2015-2016

<sup>22</sup> <https://deutsche-wirtschafts-nachrichten.de/2016/08/21/deutsche-bewaffnen-sich-deutlicher-anstieg-bei-kleinem-waffenschein/>

<sup>23</sup> <http://www.faz.net/aktuell/politik/inland/geruechte-im-internet-wie-falschmeldungen-die-terrorangst-schueren-14356204.html>

<sup>24</sup> <http://www.sueddeutsche.de/muenchen/fluechtlinge-die-angst-der-frauen-laesst-sich-nicht-wegargumentieren-1.2871605-2>

<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/>

2017 elections: the far-right party AfD has entered parliament as the third-largest party.<sup>27</sup>

In the previous UPR cycles, Germany committed to take measures to avoid such stigmatisation and negative stereotyping of migrants and minorities.<sup>28</sup> Furthermore, it committed to “take effective measures to prevent the dissemination of racist and xenophobic speeches on the Internet and through the media”.<sup>29</sup> 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>30</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>31</sup> In light of continuous racist attacks and hate speech directed towards immigrants and refugees, prevalent at all levels of society, and the threat of a general societal shift to the right, WILPF Germany will monitor the implementation of the National Action Plan against Racism closely.

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<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> UPR I 81.18: Take the necessary measures to avoid the stigmatization of migrants and ethnic or religious minorities living in the country and to ensure that they do not become the subject of racism, racial discrimination, xenophobia and other forms of related intolerance, including the prohibition of any organization and propaganda based on racist or xenophobic ideologies (Cuba); UPR II 124.189: Continue their efforts to eliminate stereotypical attitudes about migrants and to increase measures to protect them (State of Palestine); UPR II 24.192: Continue its efforts to change the perception of the general public and government officials, vis-à-vis minorities (Thailand); UPR II 24.85: Take effective measures to prohibit any manifestations of discrimination and racism (Uzbekistan); UPR II 124.95: Strengthen its efforts to prevent racism and related phenomena (Senegal); UPR II 124.96: Continue efforts to address racism, discrimination and xenophobia (Trinidad and Tobago).

<sup>29</sup> UPR II 124.88 (China). See also: UPR I 81.17: Take effective measures to counter the incitement to discrimination and violence in the media (Islamic Republic of Iran); respect its commitments and take necessary measures to combat incitement to discrimination and violence in the media (Djibouti); UPR II 124.114: Take necessary measures to eradicate the trend and/or the dissemination, through the media and by public officials, of stereotypes that might encourage discrimination against migrants, especially migrant women (Argentina); UPR II 124.98: Strengthen all necessary measures to effectively prohibit and prevent incitement to hatred and racist propaganda, particularly on the Internet, including by ensuring awareness of the problem at the federal and Länder levels (Uruguay); UPR II 124.99: Take effective legal measures to prevent and combat the dissemination of racist, xenophobic and Islamophobic propaganda, particularly in the press and on the internet (Iran (Islamic Republic of)); UPR II 124.105: Step up its efforts to prohibit and prevent hate speech and racist propaganda including on the internet and to increase public awareness on this issue (Malaysia).

<sup>30</sup> See here for the updated National Action Plan against Racism <https://www.bmfsfj.de/blob/116798/72771122e62aadf97f1137f4a98e230b/nationaler-aktionsplan-rassismus-data.pdf>

<sup>31</sup> See page 187, updated National Action Plan against Racism: <https://www.bmfsfj.de/blob/116798/72771122e62aadf97f1137f4a98e230b/nationaler-aktionsplan-rassismus-data.pdf>

## RECOMMENDATIONS

### Germany should:

- In line with its commitment in manifold accepted UPR recommendations and its updated National Action Plan against Racism, immediately follow up on these commitments 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;
- Specifically, implement measures to promote a welcoming political climate for refugees. As accepted by Germany in previous UPR cycles,<sup>32</sup> it should raise public awareness about the impact of xenophobic propaganda. By 2018, 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;
- Immediately support civil society groups that carry out awareness raising campaigns about the risks associated with an increase of 'small' weapon licence ownerships;
- By mid 2018, 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;
- By 2019, 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.

<sup>32</sup> For instance UPR II 124.105: Step up its efforts to prohibit and prevent hate speech and racist propaganda including on the internet and to increase public awareness on this issue (Malaysia) and UPR 124.107: Further strengthen its overall law enforcement to effectively combat all forms of race-related crimes and hate speech as well as to raise public awareness in this field (Republic of Korea)

# 4 | The NAP 1325 - Women Asylum Seekers and Refugees

The following information is relevant to both asylum seekers and refugees, accordingly references to refugees in this document include asylum seekers. The prevention and protection pillar of the WPS Agenda is not effectively realised for women refugees in Germany. Despite Germany's commitment as per UPR II 124.75<sup>33</sup> and its commitment set out in the NAP,<sup>34</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 recent 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>35</sup>

There is no formal national mechanism in place that would identify gender-based violence cases

against refugees. Such cases 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>36</sup>

WILPF Germany has spoken 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 have highlighted that many women do not know about their existence due to a lack of information and language barriers,<sup>37</sup> and that sometimes, *Frauenhäuser* do not have sufficient capacities to take in all the women in need of protection.

They have confirmed that sexual harassment in Berlin's refugee camps is common. Often, security guards are of the same cultural background as refugee women and if women decide to abandon traditions and practices from

<sup>33</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>34</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>35</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>36</sup> <https://www.hertie-school.org/the-governance-post/2017/04/strangers-strange-land-experience-female-refugees-germany/>.

<sup>37</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.

their country of origin, they may not only face violence by their own family members, but also by security guards. Our interviewees also noted that even if the police was called, cases of gender-based violence, perpetrated by security forces, are being dropped due to language barriers and a supposed lack of witnesses.

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.

In previous UPR cycles, Germany 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>38</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>39</sup>

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>40</sup> Strikingly, those camps where refugee women have been consulted in the design and implementation of protection strategies are much safer.<sup>41</sup> From WILPF Germany conversations with refugee 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 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>42</sup> General Recommendation (GR) 32 by the Committee on the Elimination of Discrimination against Women (CEDAW Committee) also addresses gender-

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<sup>38</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>39</sup> Women's Refugee Commission (2016), "Falling through the cracks – Refugee Women and Girls in Germany and Sweden" Available at: <http://www.refworld.org/pdfid/56ef98954.pdf>

<sup>40</sup> <https://www.hertie-school.org/the-governance-post/2017/04/strangers-strange-land-experience-female-refugees-germany/>

<sup>41</sup> <http://www.womenpeacesecurity.org/resource/statement-unscc-sexual-violence-open-debate-may-2017/>

<sup>42</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>

related dimensions of refugees and highlights state parties' obligations to "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>43</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>44</sup> Germany has also signed 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>45</sup>

## RECOMMENDATIONS

### Germany should:

- 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;
- Guarantee access to justice for refugee women and collect disaggregated data on incidents of gender-based violence against women refugees by mid 2018, including by adopting a global compact for safe, orderly and regular migration with gender equality at its core;
- Immediately implement or improve a mechanism by which the LAF<sup>46</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;
- 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 by 2018;
- 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 by 2019;

<sup>43</sup> UN Index CEDAW/C/GC/32, paragraph 8

<sup>44</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>45</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)

<sup>46</sup> Landesamt für Flüchtlingsangelegenheiten, County office for matters relating to refugees

- 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;
- Immediately 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.
- Immediately proceed to ratifying the Istanbul Convention.

# 5 | The NAP 1325 - External Implementation: Arms Transfers

Preventing conflict is an essential aspect of implementing the Women, Peace and Security (WPS) Agenda. As part of the prevention pillar in its NAP, Germany aims to “more strongly integrate a gender perspective into planning and carrying out disarmament and arms control projects”.<sup>47</sup> The NAP clearly addresses women’s important role in disarmament efforts and recognises arms as a risk to women’s security.

As per UPR II 124.62, Germany committed to continue to work in the field of human rights worldwide;<sup>48</sup> and per UPR II 124.42, it accepted to align its national legislation with international human rights standards.<sup>49</sup> Fulfilling those commitments and the NAP’s pledges, as well as realising holistic action on the WPS Agenda, requires a thorough revision of Germany’s defence and security policy, including its practices on arms exports and their impact on the risk of increased sexual and gender-based violence in importing countries.

In 2013, Germany was the world’s third top exporter of small arms and light weapons.<sup>50</sup> Germany’s arms exports almost doubled in 2015

to their highest level since the beginning of this century.<sup>51</sup> From January 2017 to June 2017, the government granted export licenses of small arms and light weapons worth 31.7 million euros, almost three times as much than in the same period in 2016. India was the second-largest receiver of German arms in the first half of 2017.<sup>52</sup>

Germany does have well-developed export control standards<sup>53</sup> and offers substantive financial and technical support to other governments to develop and improve their arms control standards. This has to be positively noted.

However, a lack of transparency is inherent in the decision-making process for granting export licenses. The *Bundessicherheitsrat* (German Federal Security Council), composed of a selected board of the German federal government, is the competent institution for granting export licenses. The decision-making process is kept secret and parliamentarians and the public are often notified only after decisions have been taken. Information about arms exports can be accessed in the annual arms exports report. These reports lack specificity, and are

<sup>47</sup> Germany’s NAP1325 from 2017-2020, page 13. Available at: [http://www.auswaertiges-amt.de/cae/servlet/contentblob/756004/publicationFile/223409/170111\\_Aktionsplan\\_1325.pdf](http://www.auswaertiges-amt.de/cae/servlet/contentblob/756004/publicationFile/223409/170111_Aktionsplan_1325.pdf)

<sup>48</sup> UPR II 124.62: Continue to work in the field of human rights worldwide (Chad)

<sup>49</sup> UPR 124.42: Align its national legislation with international human rights standards (Iraq)

<sup>50</sup> “In 2013, the top exporters of small arms and light weapons (those with annual exports of at least USD 100 million) were (in descending order) the United States, Italy, Germany, Brazil, Austria, South Korea, Turkey, the Russian Federation, the Czech Republic, Israel, Belgium, Croatia, China, Switzerland, Japan, and Spain.” Pavesi, I. (2016), “Trade update 2016 - Transfers and transparency” Small Arms Survey, Available at <http://www.smallarmssurvey.org/fileadmin/docs/S-Trade-Update/SAS-Trade-Update.pdf>

<sup>51</sup> Reuters (2016), “German arms exports almost doubled in 2015: report, available at: <http://www.reuters.com/article/us-germany-arms-idUSKCN0ZL23R>. See Military Equipment Export Reports: The total amount doubled from €3,3 billion in 2002 ([http://ruestungsexport-info.de/fileadmin/media/Dokumente/Zahlen\\_\\_\\_Fakten/Jahresbericht\\_BReg/ruestungsexportbericht2002.pdf](http://ruestungsexport-info.de/fileadmin/media/Dokumente/Zahlen___Fakten/Jahresbericht_BReg/ruestungsexportbericht2002.pdf), p. 3) to €7,86 billion in 2015 ([http://ruestungsexport-info.de/fileadmin/media/Dokumente/Zahlen\\_\\_\\_Fakten/Jahresbericht\\_BReg/Ruestungsexportbericht-2015.pdf](http://ruestungsexport-info.de/fileadmin/media/Dokumente/Zahlen___Fakten/Jahresbericht_BReg/Ruestungsexportbericht-2015.pdf), p. 2)

<sup>52</sup> “Deutsche Firmen liefern wieder mehr Kleinwaffen”, Tobias Schulze, TAZ (Die Tageszeitung), Article in the printed edition, 5 September 2017

<sup>53</sup> For more information, see page 4 of WILPF and ECCHR (2017), The Impact of Germany’s Arms Transfers on Women. Germany’s Extraterritorial Obligations under CEDAW. Available at [http://wilpf.org/wp-content/uploads/2017/02/CEDAW-Shadow-Report-on-Germany\\_20170130.pdf](http://wilpf.org/wp-content/uploads/2017/02/CEDAW-Shadow-Report-on-Germany_20170130.pdf)

published after decisions have been taken, which removes any potential for public debate.<sup>54</sup> Further information may only be released to the parliament if individual parliamentarians ask for specific information. On 21 October 2014, a judgment of the German Constitutional Court spelled out the limits of access to information about decisions by the *Bundessicherheitsrat*.<sup>55</sup> The Court decided that the parliament has a right to information, yet only after decisions have been taken, and only when such information “does not harm the public weal”. The decision of whether the information harms the public weal is to be taken by the federal government alone.<sup>56</sup>

It is interesting to note that whilst Germany continues to approve arms exports to countries with dubious human rights records, Heckler & Koch, German weapons manufacturer, whose weapons were linked to the mass disappearance of students in Mexico in 2014,<sup>57</sup> has announced the adoption of a new export policy. Since 2016, the company has pledged to no longer sell arms into warzones or to countries that violate corruption and democracy standards, including Saudi Arabia, Israel, Egypt, the United Arab Emirates, Turkey, Malaysia,

Indonesia, or any African countries. The new strategy was included in Heckler & Koch’s latest yearly financial report,<sup>58</sup> and confirmed at an annual general meeting in August 2017.<sup>59</sup> Whilst it remains to be seen if implementation follows these pledges, it has been noted that “the move makes Heckler & Koch the first arms company to have a more ethical export control policy than its own government”.<sup>60</sup>



WILPF Germany during a demonstration in Germany, urging to 'move the money from war to peace' - Picture by Heidi Meinzolt, WILPF Germany

Security Council Resolution 2106 specifically notes that all exporting states should consider the risk of arms being used to perpetrate gender-based violence.<sup>61</sup> This is in line with requirements of the Arms Trade Treaty (ATT), particularly under articles 6 and 7,<sup>62</sup> to which Germany is a party.

<sup>54</sup> [https://www.bicc.de/uploads/tx\\_bicctools/Studie\\_Ruestungsexportkontrolle.pdf](https://www.bicc.de/uploads/tx_bicctools/Studie_Ruestungsexportkontrolle.pdf)

<sup>55</sup> Parliamentarians from the Left and Green party sued the German Federal Security Council at the Constitutional Court, based on the claim that according to the *Grundgesetz* (Basic Law), the government is to decide on arms exports, and not only a selection of ministry officials.

<sup>56</sup> See also page 13 of WILPF and ECCHR (2017), *The Impact of Germany’s Arms Transfers on Women. Germany’s Extraterritorial Obligations under CEDAW*. Available at [http://wilpf.org/wp-content/uploads/2017/02/CEDAW-Shadow-Report-on-Germany\\_20170130.pdf](http://wilpf.org/wp-content/uploads/2017/02/CEDAW-Shadow-Report-on-Germany_20170130.pdf)

<sup>57</sup> <http://www.dw.com/en/german-arms-maker-heckler-koch-illegally-exported-rifles-to-mexico/a-18437977>

<sup>58</sup> See page 11 of the H6K AG Annual Report, available at: <https://www.heckler-koch.com/en/ir/annual-accounts.html>: “Heckler & Koch will künftig kein Neugeschäft mehr mit Staaten außerhalb der NATO-Einflussphäre generieren, es sollen nur noch sogenannte “grüne Länder” beliefert werden, die also demokratisch, nicht korrupt sowie NATO-Staaten oder deren Gleichgestellte sind.”

<sup>59</sup> <https://www.theguardian.com/global-development/2017/sep/08/germany-deadliest-company-stop-selling-guns-crisis-regions-heckler-and-koch>

<sup>60</sup> <https://www.theguardian.com/global-development/2017/sep/08/germany-deadliest-company-stop-selling-guns-crisis-regions-heckler-and-koch>

<sup>61</sup> Furthermore, UNSCRs 1888, 1960 and 2106 focus particularly on the prevention of sexual and gender-based violence in armed conflict

<sup>62</sup> See here for the text of the Arms Trade Treaty: <https://unoda-web.s3.amazonaws.com/wp-content/uploads/2013/06/English7.pdf>. Article 7 (4) requires that States shall, prior to authorization of the export of arms under its jurisdiction, in an objective and non-discriminatory manner, take into account the risk of conventional arms being used to commit or facilitate serious acts of gender-based violence or serious acts of violence against women.

Various human rights bodies have expressed concern about specific negative consequences of arms transfers on the rights of women and girls in arms-importing countries.<sup>63</sup>

Specifically, the CEDAW Committee has included concerns and recommendations concerning German arms transfers in its 2017 Concluding Observations.<sup>64</sup>

In a joint submission with the European Center for Constitutional and Human Rights (ECCHR) for the CEDAW Committee's review of Germany in early 2017,<sup>65</sup> WILPF used examples of German arms transfers that violate its international legal obligations, including under CEDAW. These include transfers to India, Iraq, Mexico, Qatar, and Saudi Arabia.<sup>66</sup>

In spite of what is required by the Arms Trade Treaty, the EU Common Position on Arms Exports, and its own national export law, Germany has

not established a specific mechanism to prevent arms sales from having an impact on gender-based violence in the recipient countries. While the facilitation of gender-based violence is said to be accounted for as part of an overall arms export assessment, the method by which this happens has not yet been made clear and constitutes a significant gap in the German control system.<sup>67</sup> It is important to stress that under the ATT, only the identification of a risk of committing or facilitating serious violations of international humanitarian law or human rights law triggers the obligation for State Parties to deny arms exports.<sup>68</sup>

The CEDAW Committee has recommended to Germany "that legislation regulating arms export control be harmonized" and that "before export licenses are granted, comprehensive and transparent assessments should be conducted on the impact that the misuse of small arms and light weapons have on women, including in conflict zones."<sup>69</sup>

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<sup>63</sup> These include: The Human Rights Council: HRC Resolution 24/35 (2013): "Impact of arms transfers on human rights in armed conflicts"; HRC Resolution 26/16 (2014): "Human rights and the regulation of civilian acquisition, possession and use of firearms"; HRC Resolution 29/10 (2015): "Human rights and the regulation of civilian acquisition, possession and use of firearms"; and HRC Resolution 32/12 (2016): "Impact of arms transfers on human rights". The CEDAW Committee's General Recommendations 30: CEDAW/C/GC/30: The CEDAW Committee has restated its concerns that "the proliferation of conventional arms, especially small arms, including diverted arms from the legal trade, can have a direct or indirect effect on women as victims of conflict-related gender-based violence, as victims of domestic violence and also as protestors or actors in resistance movements." (paragraph 32.). The Committee has also affirmed that States parties are required to focus on the prevention of conflict and all forms of violence, including by having "a robust and effective regulation of the arms trade, in addition to appropriate control over the circulation of existing and often illicit conventional arms, including small arms, to prevent their use to commit or facilitate serious acts of gender-based violence." (paragraph 29)

<sup>64</sup> "27. The Committee commends the State party on its commitment to the implementation of Security Council resolution 1325 (2000), on the launch of its first national action plan on women and peace and security in 2013 and on the adoption of its small arms principles in 2015. The Committee is nevertheless concerned about the use of arms exported by the State party, including in conflict zones, and the inadequate monitoring by arms-producing corporations of the use of their arms in the context of violence against women, in line with its obligations under the Arms Trade Treaty. It is also concerned that the small arms principles do not mention gender-based violence as a ground for denying an export licence.

28. The Committee recommends that legislation regulating arms export control be harmonized in line with article 7 (4) of the Arms Trade Treaty and the Council Common Position 2008/944/CFSP of the European Union. It also recommends that, before export licences are granted, comprehensive and transparent assessments be conducted of the impact that the misuse of small arms and light weapons has on women, including those living in conflict zones." UN Index: CEDAW/C/DEU/CO/7-8, paragraphs 27 and 28 (3 March 2017)

<sup>65</sup> WILPF and ECCHR (2017), The Impact of Germany's Arms Transfers on Women. Germany's Extraterritorial Obligations under CEDAW. Available at [http://wilpf.org/wp-content/uploads/2017/02/CEDAW-Shadow-Report-on-Germany\\_20170130.pdf](http://wilpf.org/wp-content/uploads/2017/02/CEDAW-Shadow-Report-on-Germany_20170130.pdf)

<sup>66</sup> [http://wilpf.org/wp-content/uploads/2017/02/CEDAW-Shadow-Report-on-Germany\\_20170130.pdf](http://wilpf.org/wp-content/uploads/2017/02/CEDAW-Shadow-Report-on-Germany_20170130.pdf)

<sup>67</sup> In 2015, Germany adopted its "Small Arms Principles". Nowhere in these principles do the issues of gender-based violence feature as an explicit reason to deny an export licence. Germany's NHRI, the German Women Lawyers Association with the German Women Security Council have also addressed this deficiency.

<sup>68</sup> For further information on the weaknesses in Germany's arms regulations, see page 13 and 14 of WILPF and ECCHR (2017), The Impact of Germany's Arms Transfers on Women. Germany's Extraterritorial Obligations under CEDAW. Available at: [http://wilpf.org/wp-content/uploads/2017/02/CEDAW-Shadow-Report-on-Germany\\_20170130.pdf](http://wilpf.org/wp-content/uploads/2017/02/CEDAW-Shadow-Report-on-Germany_20170130.pdf)

<sup>69</sup> Concluding Observations on Germany CEDAW/C/DEU/CO/7-8, paragraph 28. The CEDAW Committee also recommended stronger regulation of arms transfers in its concluding observations to Switzerland, Netherlands, Sweden, France. Concluding observations on Sweden, CEDAW/C/SWE/CO/8-9, paragraph 26 and 27; France, CEDAW/C/FRA/CO/7-8, paragraph 22; Switzerland, CEDAW/C/CHE/CO/4-5, paragraph 17c); Germany.; Netherlands, CEDAW/C/NLD/CO/6, paragraph 30a)

## RECOMMENDATIONS

### Germany should:

- Proceed with a review of the existing laws and guidelines regulating the control of arms exports in Germany and adopt a single and harmonised law on arms export control by 2019, which includes specific criteria to analyse whether any arms transfers and the granting of licences on production facilities will facilitate or contribute to gender-based violence or violence against women in the recipient country;
- To that end, provide a more robust assessment of the risk of gender-based violence in Germany's next submission to the ATT Baseline Assessment Project;<sup>70</sup>
- Provide training for export control officials about how to assess the risk of gender-based violence, and what indicators and sources to utilise;
- Improve overall transparency around arms transfer decisions, including by providing transparent, comprehensive, and timely reports of arms export decisions and the rationale for allowing transfers to states with poor human rights records, and create opportunities for public debate and input as well as possibilities for judicial review of export licences;
- Align Germany's defence and security policies, as well as the foreign ministry's and economic ministry's policies with the Women, Peace and Security Agenda and Germany's NAP on UNSCR1325, including through strengthening policy coherence on SDG implementation around SDG Goals 5, 16, and 17;
- Strengthen holistic gender frameworks of policies and legislation to address prevention as a key gap area, including by addressing preventive diplomacy, disarmament and gender-sensitive regulation of the arms trade in line with the Arms Trade Treaty (ATT).

<sup>70</sup> <http://www.armstrade.info/countryprofile/germany/>

WILPF has issued recommended guidelines for assessing the risk of gender-based violence. They are available in "Preventing gender-based violence through arms control: tools and guidelines to implement the Arms Trade Treaty and UN Programme of Action." (2016). Available at: <http://www.reachingcriticalwill.org/resources/publications-and-research/publications/10792-preventing-gender-based-violence-through-arms-control-tools-and-guidelines-to-implement-the-arms-trade-treaty-and-un-programme-of-action>

# 6 | The NAP 1325 - External Implementation: Impact of Austerity Measures on Women's ESCRs in Other Countries

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>71</sup> Such obligations demand, at a minimum, Germany avoid conduct that would create a foreseeable risk of impairing the enjoyment of human rights by persons living beyond its borders, refrain from imposing measures that would lead to retrogression on economic, 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.<sup>72</sup> Germany's international human rights obligations as a member of multilateral institutions are

elaborated in Part 1 of the Annex to this submission.

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>73</sup> One of the biggest 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.

<sup>71</sup> See, for instance, 53- 68, 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>  
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>72</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>73</sup> Page 21, Germany's NAP1325 from 2017-2020. Available at: [http://www.auswaertiges-amt.de/cae/servlet/contentblob/756004/publicationFile/223409/170111\\_Aktionsplan\\_1325.pdf](http://www.auswaertiges-amt.de/cae/servlet/contentblob/756004/publicationFile/223409/170111_Aktionsplan_1325.pdf)

It is within this framework that WILPF draws attention to the direct role and responsibilities of Germany as a member of multilateral international legal 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, compounded by gendered impacts. These examples are illustrated in the Annex to this submission.

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>74</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>75</sup>

The IMF and the EU are among the international organisations that have promoted economic development strategies based on neo-liberal

assumptions underpinning their interventions, such as privatization and introduction of austerity measures.



Greece Athens, 3 July 2015: A woman has 'Oxi' (Greek for no) written on her forehead. She holds a Greek flag. Tens of thousands of people came to Athens' Syntagma Square, to hear Greek Prime Minister Alexis Tsipras call for a 'No' vote in the upcoming Greek austerity referendum - Picture by Michael Debets (Retrieved from Flickr)

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 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>76</sup> Various human rights bodies, including Committee on Economic, Social and

<sup>74</sup> As a founding member of the European Union and the Eurozone, Germany has established itself within the EU as the strongest economic power. Its gross domestic product (GDP) in 2017 was more than any other EU country's GDP. 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>75</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. 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 (see <http://www.imf.org/external/np/sec/memdir/members.aspx#1> and <https://www.thenationalherald.com/125023/germany-makes-imf-blink-over-greek-debt-relief-tsipras-loses-big/>)

<sup>76</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>

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

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 feminization of care in both paid and unpaid work, women tend to be employed in the sectors where most job cuts have taken place.<sup>77</sup>

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>78</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.

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<sup>77</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>78</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.

## RECOMMENDATIONS

### Germany should:

- In line with its international human rights obligations, push for the conduct of human rights and gender impact assessments before supporting and approving additional adjustment programmes in other countries. In particular, in the context of the new conditional bailout of up to \$1.8bn agreed by the IMF for Greece in July 2017 following demands of euro-area creditors<sup>79</sup> and for which conditionalities are yet to be determined.
- 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;
- Push, as a member of the relevant international organisations, to review economic reform policies and adjustment measures to ensure they do not undermine the progressive realization 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;
- Push, as a member of the relevant international organisations, the development of guidelines for comprehensive human rights and social impact assessment of adjustment programmes;
- 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.

<sup>79</sup> <http://www.independent.co.uk/news/business/news/greece-imf-loan-1-billion-international-monetary-fund-greek-economy-a7852226.html>

# 7 | ANNEX

## Germany's International Human Rights Obligations as a Member State of International Bodies and Case Studies on Greece, Bosnia Herzegovina and Ukraine<sup>80</sup>

### GERMANY'S INTERNATIONAL HUMAN RIGHTS OBLIGATIONS AS A MEMBER STATE OF INTERNATIONAL BODIES<sup>81</sup>

Germany does not cease to be bound by its human rights obligations when it acts as a member of an international institution. Whilst Greece, Ukraine or Bosnia and Herzegovina (BiH) as the host states bear the primary responsibility for the guarantee of all human rights, Germany, as a member state of the International Monetary Fund (IM) 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.

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>82</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 organization, were absolved from its responsibility under the Convention in relation to the field of the organisation's activity.<sup>83</sup>

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>84</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.

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,

<sup>80</sup> Information provided as an annex to the joint submission by WILPF International and WILPF Germany to the UPR Working Group 30th session (May 2018)

<sup>81</sup> Note: WILPF has also argued that there is sufficient legal precedent to maintain that IFIs and international organisations have an international responsibility for the violation of economic and social rights and sex- and gender-based discrimination of individuals within a state that has implemented the organisations' required economic reforms. See more how WILPF grounds the argument of international organisations' legal responsibilities in WILPF (2017), "A Feminist Perspective on post-conflict Restructuring and Recovery. The Case of Bosnia and Herzegovina". Available at: <http://wilpf.org/wpcontent/uploads/2017/08/Feminist-political-economy-ENG-FINAL.pdf>

<sup>82</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>83</sup> *Richard Waite and Terry Kennedy v. Germany*, ECHR, 18 February 1999, paragraph 6

<sup>84</sup> International Law Association, Committee on the Accountability of International Organisations, Final Report, Berlin, 2004

is representing a multilateral organization”<sup>85</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>86</sup>

Germany is party, among other human rights treaties, to the International Covenant on Economic, Social and Cultural Rights (ICESCR) and 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.

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>87</sup> the Human Rights Committee,<sup>88</sup> the CEDAW Committee,<sup>89</sup> the CESCR,<sup>90</sup> and the Independent Expert on the effects of foreign debt.<sup>91</sup>

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 co-operation” towards realisation of the Covenant rights; article 11(1) recognises “the essential importance of international co-operation 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>92</sup>

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

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<sup>85</sup> See page 35 of WILPF (2017), “A Feminist Perspective on post-conflict Restructuring and Recovery. The Case of Bosnia and Herzegovina”. Available at: <http://wilpf.org/wpcontent/uploads/2017/08/Feminist-political-economy-ENG-FINAL.pdf>

<sup>86</sup> Ibid

<sup>87</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>88</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>89</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>90</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>91</sup> See, for example, UN Index A/HRC/20/23, Report of the Independent Expert on 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 20th session of the UN Human Rights Council

<sup>92</sup> Concluding Observations on the UK (UN Index: E/C.12/GBR/CO/6), paragraph 14

and CEDAW, negatively impacts human rights in a third state, and constitutes a violation of Germany's own human rights obligations.<sup>93</sup>

Various human rights bodies, including Committee on Economic, Social and Cultural Rights (CESCR) and the CEDAW Committee, have emphasised specifically the threat of austerity measures to economic and social rights and women's rights.<sup>94</sup>

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. 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>95</sup>

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>96</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.

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 life".<sup>97</sup> In its General Recommendation (GR) 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>98</sup> to gender-based discrimination or violence.

The UN Independent Expert on the effects of foreign debt<sup>99</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>100</sup>

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<sup>93</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>94</sup> For more information, see page 32 in WILPF (2017) "A Feminist Perspective on post-conflict Restructuring and Recovery. The Case of Bosnia and Herzegovina"./2-3)

<sup>95</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>96</sup> Committee on Economic, Social and Cultural Rights, General Comment No. 18 (2005) on the right to work.

<sup>97</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>98</sup> Paragraph 7, UN Index Doc CEDAW/C/GC/35

<sup>99</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>100</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)

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>101</sup>

## THE IMPACT OF AUSTERITY MEASURES ON WOMEN'S ECONOMIC AND SOCIAL RIGHTS – GREECE, BOSNIA AND HERZEGOVINA AND UKRAINE

### I. Greece<sup>102</sup>

An Issue Paper by the European Commissioner for Human Rights states: "In recent decisions related to collective complaints about pension rights from Greece, the [European Committee of Social Rights] ECSR has highlighted the failure of the government to conduct the minimum level of research and analysis on the effects of austerity measures and assess in a meaningful manner their full impact on vulnerable groups in society in consultation with the organisations concerned. The duty to consult stakeholders applies to EU institutions as well through Article 11(2) and (3) of the Treaty on European Union,

which states that "[EU] institutions shall maintain an open, transparent and regular dialogue with representative associations and civil society. The European Commission shall carry out broad consultations with parties concerned in order to ensure that the Union's actions are coherent and transparent."<sup>103</sup>

The Independent Expert on foreign debt has also highlighted that the "the reductions [in the pension reform] on top of earlier cuts are incompatible with the obligation to ensure that all persons in Greece can enjoy at least core minimum essential levels of social and economic rights and are incompatible with the obligations contained in article 2 (1) of the [ICESCR]".<sup>104</sup> He expressed concern that "social protection expenditures were not sheltered at a time when they were most needed for covering an increasing number of persons in situations of vulnerability."<sup>105</sup> He further regretted that "the concerns and recommendations of the Greek Ombudsmen and the Greek national Commission for Human Rights have not been taken into account by European and national stakeholders in the design and implementation of the economic adjustment programmes".<sup>106</sup>

Against this backdrop, the EU, the IMF and individual governments, such as Germany, have not placed sufficient consideration on the integration of human rights into policies

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<sup>101</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

<sup>102</sup> WILPF seeks to illustrate how austerity measures, demanded by Greece's creditors, with Germany as a major weight, have exacerbated the detrimental impact on social and economic rights. However, it should be noted that the preceding debt crisis had already considerably affected the Greek population's ability to enjoy their economic and social rights

<sup>103</sup> Page 17, Council of Europe Commissioner for Human Rights (2013), "Safeguarding human rights in times of economic crisis", Issue paper. Cited cases are: ECSR, Panhellenic Federation of pensioners of the Public Electricity Corporation (POS-DEI) v. Greece, complaint No. 79/2012, decision on the merits of 7 December 2012, paragraphs 75-77

<sup>104</sup> UN Index A/HRC/31/60/Add.2, Report of the Independent Expert on the effects of foreign debt and other related international financial obligations of States on the full enjoyment of human rights, particularly economic, social and cultural rights, paragraph 3

<sup>105</sup> Ibid., paragraph 33

<sup>106</sup> Ibid., paragraph 54

and programmes. Whilst the IMF conducts annual economic evaluations of many European countries to assess and enforce their compliance with fiscal rules, no such evaluations have been systematically applied to monitor the human rights consequences of economic policies, and have always taken precedence over securing financial and fiscal stability.<sup>107</sup>

As a response to the debt crisis in 2008, Germany led euro-area creditors' key demand to have the IMF co-finance rescue programmes, including that for Greece, seeing IMF's participation as a way to ensure credibility of the reforms that countries were asked to implement.<sup>108</sup> The IMF responded to this request; EU-IMF bailouts totalled 240bn EUR from 2010-2014.<sup>109</sup> In 2015, the Quartet of EU-IMF-European Central Bank and European Stability Mechanism gave Greece a third rescue pack worth 86bn EUR. In this rescue pack, conditionalities entailed powers over vast areas of economic and social policymaking by the creditors that have been identified as unprecedented.<sup>110</sup>

The bailouts were tied to strict conditionalities encompassing harsh austerity measures, including pension cuts, tax increases, privatisation of state assets, cutting of minimum wage, of social benefits, and of health and public sector employment. Concrete examples of austerity measures included: the cutting of 150,000 state jobs by 2015 and freezing of public sector recruitment; freezing of public sector

salaries at 2009 levels and then cutting it further; cutting workers' minimum wage above 25 by 22% and below 25 of age by 32%, thereby legalising the payment of wages below the poverty level for young people in Greece; repealing labour allowances and benefits; cutting public spending on health at 6% of GDP; and cutting the number of doctors by at least 20% by 2013.<sup>111</sup> Cuts in the public spending on health has had particularly devastating effects, as the crisis has increased the need for health care; and more people have turned to public health facilities after not being able to afford private healthcare anymore. Despite increasing poverty and falling income, fees for users of outpatient visits increased, and fees for consultations with doctors of the Greek National Organisation for Healthcare Provision (EOPYY) were introduced.<sup>112</sup>

In striking contrast, other sectors, where such budget cuts would likely have had a less negative impact on human rights, seemed less affected. Although the defence sector was not immune to cuts, when compared to other public sectors such as welfare, transport and education, this sector saw a relatively lower share of expenditure cuts.<sup>113</sup> According to Sipri, more than a quarter of Greece's weapons imports between 2000 and 2011 were from Germany, a country that has become its main creditor.<sup>114</sup> As of April 2012, just under 15% of Germany's total arms exports had been made to Greece, its biggest market in Europe.<sup>115</sup>

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<sup>107</sup> Council of Europe Commissioner for Human Rights (2013), "Safeguarding human rights in times of economic crisis", Issue paper  
See also: ILO, Report on the High Level Mission to Greece (Athens, 19-23 September 2011), 2011

<sup>108</sup> <http://www.independent.co.uk/news/business/news/greece-imf-loan-1-billion-international-monetary-fund-greek-economy-a7852226.html> and  
<http://www.spiegel.de/international/germany/german-power-in-the-age-of-the-euro-crisis-a-1024714.html>

<sup>109</sup> <http://www.bbc.co.uk/news/world-europe-33407742>

<sup>110</sup> <https://www.theguardian.com/world/2015/aug/12/memorandum-understanding-what-exactly-has-greece-signed-up-for> and  
<https://www.theguardian.com/world/2015/aug/12/greece-bailout-terms-eurozone-policy-making-powers>

<sup>111</sup> "Downgrading rights: the cost of austerity in Greece" (FIDH & Hellenic League for Human Rights, n.d)

<sup>112</sup> See pages 10-11 of the report "Downgrading rights: the cost of austerity in Greece" (FIDH & Hellenic League for Human Rights, n.d)

<sup>113</sup> <http://securityobserver.org/financial-crisis-and-defense-cuts-the-view-from-greece/>

<sup>114</sup> <https://www.theguardian.com/world/2015/jun/23/why-has-greece-only-now-included-defence-cuts-in-its-brussels-proposals>

<sup>115</sup> <https://www.theguardian.com/world/2012/apr/19/greece-military-spending-debt-crisis>

In 2012, the European Committee of Social Rights (ECSR) observed in its decision on a collective complaint that pension reform measures in Greece would “risk bringing about a large-scale pauperisation of a significant segment of the population”.<sup>116</sup> Indeed, austerity measures have had a substantial impact on the enjoyment of economic and social rights among the Greek population:<sup>117</sup> unemployment rates were at 23,5% in 2016,<sup>118</sup> and youth unemployment rates at skyrocketing 47,4%.<sup>119</sup> The General Confederation of Greek Workers (GSEE) reported that out of the 1.4 million unemployed persons as of 2014, only 110,000 had received unemployment benefit, whilst the rest had not received any form of relief.<sup>120</sup> The heavy burden placed on families and individuals due to tax increases and rising costs for health services, along with feelings of desperation and lack of hope has resulted in an alarming increase in suicide rates and depression. In 30 years, the months with the highest suicide rates occurred in 2012. According to a study, “the passage of new austerity measures in June 2011 marked the beginning of significant, abrupt and sustained increases in total suicides of 35,7%”.<sup>121</sup>

As in other countries undergoing far-reaching austerity measures, women’s economic and social rights have been distinctly impacted.

Access to the labour market has been extremely difficult for women. According to the Greek Ombudsmen, pre-existing gender inequalities and discrimination in the workplace have been exacerbated by the crisis. For example, pregnant or young women who may want to have children may find it even more difficult to find, or keep, their employment, and are faced with discriminatory practices”.<sup>122</sup> Moreover, in 2013, the unemployment gap between men and women reached almost 7 points.<sup>123</sup>

Women’s access to healthcare has also significantly worsened as a result of spending cuts and increased costs of health services.<sup>124</sup> According to Eurostat, women’s self-reported unmet needs for medical examination have increased considerably after re-structuring programmes. The difference between the self-reported increase of unmet needs for treatment in the period from 2006-2012 lied at 44% for women, compared to 36% of the total population.<sup>125</sup>

## II. Bosnia and Herzegovina (BiH)<sup>126</sup>

Reacting to social protests in 2014, Germany and the United Kingdom launched a joint initiative aiming at revitalization of the BiH’s EU integration process, which was followed by the EU adopting the initiative as the Union’s own new BiH initiative.

<sup>116</sup> ECSR, Federation of employed pensioners of Greece (IKA-ETAM) v. Greece, complaint no. 76/2012, decision on the merits of 7 December 2012, paragraph 81

<sup>117</sup> For more information, see also: UN Index A/HRC/31/60/Add.2, paragraphs 55-74

<sup>118</sup> <https://data.oecd.org/greece.html>

<sup>119</sup> <https://data.oecd.org/unemp/youth-unemployment-rate.html>

<sup>120</sup> “Downgrading rights: the cost of austerity in Greece” (FIDH & Hellenic League for Human Rights, n.d)

<sup>121</sup> <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4316557/>

<sup>122</sup> Page 25, “Downgrading rights: the cost of austerity in Greece” (FIDH & Hellenic League for Human Rights, n.d)

<sup>123</sup> In 2013, unemployment rates lied at 31,4% of unemployed women against 24,5% of unemployed men. This may be partly due to the closing down of small and medium sized enterprises on a massive scale. Small enterprises were an important source of female employment. See page 26, “Downgrading rights: the cost of austerity in Greece” (FIDH & Hellenic League for Human Rights, n.d)

<sup>124</sup> Koutsogeorgopoulou, V. et al., Fairly Sharing the Social Impact of the Crisis in Greece, OECD Economics Department Working Papers No. 1106,9 January 2014

<sup>125</sup> Page 33, “Downgrading rights: the cost of austerity in Greece” (FIDH & Hellenic League for Human Rights, n.d)

<sup>126</sup> This part on BiH is a condensed and shortened version of the section “Deconstructing the Reform Agenda”, pp. 16- 27, from WILPF’s publication: 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>

For additional information, reference and sources, please see the publication

The new requirements<sup>127</sup> from EU on BiH were enforced with 'financial conditionality' in cooperation with finance institutions. The Bosnian Reform Agenda (RA) rests on 6 main pillars to foster socio-economic and related reforms, at all governmental levels, with a focus on fiscal consolidation for macroeconomic stability. The implementation also relies on lending agreements with the IMF, WB and the EU.

A gender impact analysis was absent in the decision-making process and very few (if any) analyses on the progress of the implementation of the RA are gender sensitive. One of the RA's main goals is fiscal consolidation, meaning reduction in the government's deficits and depth. This implies massive cuts in public spending.<sup>128</sup> The BiH lending agreements with IFIs have come with severe austerity conditionalities. Without conflict and gender analysis informing these measures, the burden of the austerity measures will be carried by the larger portions of the BiH society, and it can be expected that women will be affected more than any other group.

BiH has very high rates of unemployment with just one in every four Bosnians in formal employment, poverty stands at 15%; and around half of the population lives in a precarious situation. Youth unemployment stands at 63%.<sup>129</sup>

The likely impact of the BiH government's reform plan of massive reduction in the size of the public sector and cuts in civil service salaries and

wages is that women, disproportionately employed in that sector, will lose their jobs.<sup>130</sup> There may also be differential negative gender impacts of the reduction in wages. The contraction in the public sector will involve efficiency cuts in public services and increases in prices, which will likely be compensated for by women's unpaid work in the household and informal economies.<sup>131</sup>

Whereas the stated intention of the reform of the health care system was to create quality health services for the citizens of BiH, up until now the reform of the health sector has led to the abolition of different segments of the public healthcare sector, such as women and maternity care. In addition to limitations to access to health for all, women will be forced to absorb the deficiency in health services through labour in the household and care economy, further constraining women's formal labour market participation.<sup>132</sup>

Reform of the labour legislation in the two entities in BiH was undertaken in 2015. Passing of the new labour laws drew much public attention, and provoked more social and political resistance than any other reform thus far. The major effects of the new labour law reforms have been deregulation in the realm of employment protection legislation; flexibilisation of working conditions without a proper understanding of which aspects of the employment protection framework prevent from hiring and firing of workers (and to what extent); and side-lining of the labour dispute resolution mechanisms.

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<sup>127</sup> These were laid down in three steps: signing of a letter of intent, a written commitment to implementation of reforms framed within the language of socio-economic reforms, good governance and rule of law; the signing would then be followed by the membership application to EU; and the full implementation of the agenda would lead to Commission opinion

<sup>128</sup> While recognising that fiscal stability and sustainability is necessary in BiH, the reform plan runs counter to a paper published by three IMF economists which issues a strong warning that harsh austerity policies can do more harm than good. There is no evidence, they argue, that fiscal consolidation leads to growth

<sup>129</sup> See page 14, 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>

<sup>130</sup> See pages 20 – 21, *ibid*

<sup>131</sup> See page 21, *ibid*

<sup>132</sup> See pages 21-22, *ibid*

The reforms of the labour law will lead to increase in job insecurity, more temporary, part-time, non-unionised jobs with fewer benefits, lower-wages (that for many continue to be unpaid by the employer) and deterioration in the safety at work. The RA is focused on lowering labour costs and reducing labour protections to attract foreign investors and transnational business. Reducing the cost of labour, however, does not necessarily mean more jobs or better jobs involving skill development and good working conditions.<sup>133</sup>

The women of BiH will be double-burdened by this. Cutting down on public sector, as proposed by the RA, will lead to women being disproportionately affected because they are more likely to depend on public resources in support of reproductive labour and are culturally expected to fill the gap with respect to caring labour. Effects include more women working triple shifts, the feminisation of poverty, and both short and long-term deterioration in female health and human capital. Job creation plans, mainly in the private sector, will not provide sufficient opportunities or job security for women. Most of these plans are developed without a proper gender analysis or understanding of the work demographic of women.

The RA only understands security with respect to countering terrorism and organized crime, which can only play out through further militarization of

the society. Interventions in public sector and investments, on the other hand are seen as something completely separate from security, and only in relation to creation of a favourable climate for businesses. Because of the RA's narrow view on security, the BiH economic reform program exacerbates the conditions for social and gender inequalities as well as gendered violence.<sup>134</sup>

### III. Ukraine<sup>135</sup>

In early 2014, the Government of Ukraine requested support from the IMF to restore macroeconomic stability in Ukraine.<sup>136</sup> In early 2015, a revised economic reform programme totalling 17.5 billion USD was agreed between the IMF and the government, requiring the restructuring of the state debt on the terms and conditions proposed by the IMF.

Austerity measures implemented as part of IMF's requirements include public sector cuts, welfare cuts, tax increases for individuals and the de facto elimination of fuel subsidies. As WILPF has shown in joint submissions to the CEDAW Committee and Ukraine's Universal Periodic Review, these measures have impacted women disproportionately.<sup>137</sup>

The de facto elimination of fuel subsidies has led to higher prices for gas, heating, electricity,

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<sup>133</sup> See pages 23-24, *ibid*

<sup>134</sup> For more information, see pages 24-26, *ibid*.

<sup>135</sup> For more information on the impact of IMF's conditionalities on women's economic and social rights, see in 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)

<sup>136</sup> Since 1994, Germany, second biggest foreign investor and third largest trading partner to Ukraine, has been consulting Ukraine on macroeconomic, tax and energy policy through its "German Advisory Group". The group, funded by the Federal Ministry of Economic Affairs and Energy (BMWi), reportedly encouraged Ukraine to accept assistance from the IMF. See <https://www.kyivpost.com/article/content/business/world-in-ukraine-german-advisory-group-favors-imf-cooperation-335927.html>

<sup>137</sup> See "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) 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)

transportation and other goods and services related to fuel use.<sup>138</sup>

In 2017, bills for heating were five to six times higher than in previous years. This massive increase is not matched by a corresponding increase in real wages and has affected not only vulnerable groups but also the so-called “middle class”, who after paying utility bills have very little budget left for clothes, food and similar expenditures. The impact of the cancellation of fuel shortages on residents in rural areas, where one third of the total population is located, and who rely more on gas boilers, coal and firewood than on central heating found in urban areas, is highly disproportionate.

Earlier this year, the CEDAW Committee expressed concern about the disadvantaged status of women in rural areas in Ukraine.<sup>139</sup> Rural women tend to age faster and suffer from worse health than urban women. They also tend to experience, more than both urban women and rural men, unemployment, domestic violence and harsh living conditions including because, as a general rule in Ukraine, women earn less than men.<sup>140</sup>

In accordance with IMF requirements, during 2014-2015, 165,000 civil service jobs were cut, with overall plans of a 20 percent reduction

in the civil service workforce. This reduction has been undertaken through, inter alia, the reorganization of ten and closing of eight government agencies. There are plans for further downsizing of the public sector with the goal of lowering the overall spending on salary for civil servants to around 9% of GDP in the medium term. Women comprise more than 75 percent of the civil service, predominantly in non-managerial positions. Accordingly, women have been disproportionately impacted - and will continue to be - by these cuts in the public sector workforce.<sup>141</sup>

In 2014, 12,000 social workers lost their jobs; many of them were women. These cuts had extremely negative consequences for both the beneficiaries of social services and the women whose jobs were cut. A year later, the State cut down 25,000 healthcare professionals, again disproportionately impacting women, since the vast majority of workers in schools, hospitals and clinics are women.<sup>142</sup>

Lastly, as we illustrate in our submission to the UPR of Ukraine, cuts in the education sector<sup>143</sup> and in child benefits<sup>144</sup> and pension reforms<sup>145</sup> have further contributed to the feminization of poverty and has had disproportionate effects on women, thereby amounting to indirect discrimination.

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<sup>138</sup> See pages 7-9 as to why IFI requirements have led to de facto elimination of fuel subsidies in “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)

<sup>139</sup> UN Index CEDAW/C/UKR/CO/8, Concluding Observations on Ukraine (9 March 2017), paragraph 40

<sup>140</sup> See page 8, “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) ibid

<sup>141</sup> See page 9, ibid.

<sup>142</sup> See pages 10-11, ibid

<sup>143</sup> For more information, see page 11-12, ibid

<sup>144</sup> For more information, see pages 13-14, ibid

<sup>145</sup> For more information, see page 13, ibid





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