

Committee on the Elimination of Discrimination
against Women
cedaw@ohchr.org



Magistratsabteilung 57

Frauenförderung und Koordinierung
von Frauenangelegenheiten
1082 Wien, Friedrich-Schmidt-Platz 3
Tel.: (+43) 01 4000-83515
Fax: (+43) 01 4000 99 83511
E-Mail: frauen@ma57.wien.gv.at
www.frauen.wien.at

DVR: 0000191

M57/INT-A/780501/16/1

Wien, 23.09.2016

**Draft Update of CEDAW General
Recommendation No. 19 –
Comments**

Vorher zur Einsicht
Büro der GGr. für
Frauen, Bildung,
Integration, Jugend und
Personal

Termin: 30.09.2016

Dear Madam or Sir,

The Municipal Department for the Promotion and Coordination of Women's Issues, City of Vienna (hereinafter: Women's Department) very much welcomes the updating of CEDAW General Recommendation no. 19 (hereinafter: GR 19), a milestone in protecting the right of all women to live a life free of violence. The elimination of gender-based violence against women and girls is a policy priority for the City of Vienna. Therefore, the Women's Department very much appreciates the opportunity to provide the following inputs and recommendations:

Paragraph 13 – General obligations of states parties: GR 19 has played a fundamental role in shaping the development of international, regional and national standards to eliminate gender-based violence against women. This is particularly true for GR 19's paragraphs 6-9 which provide a clear definition of gender-based violence, put such violence in a human rights context and specify the basic obligations of states to end violence committed by both, state and non-state actors. Due to the outstanding importance of the content of these provisions as well as the succinct language used, it is recommended to incorporate GR 19's paragraphs 6-9 in or after paragraph 13 of the current draft.

Paragraphs 8, 13, 15 – Nature of obligations of states parties: The draft update of GR 19 seeks to update and specify the obligations of states parties to eliminate gender-based violence against women. While the Women's Department very much supports this endeavour, we would like to present the following suggestions, with a view to further strengthening user-friendliness and harmonization of the draft text with existing human rights standards and terminology:

- Replacing the terminology used in paragraph 13 subparagraphs a) and b) ("responsibility for acts or omissions of state actors", "responsibility for acts or omissions of non-state-actors") with language from Article 2 (d)-(e) CEDAW and GR 19, paragraphs 8-9.

- Using the typology of the three core state duties (respect, protect, fulfil human rights) as main structure for organizing the recommendations to end gender-based violence against women, thereby replacing the current categorization used in paragraph 15 (prevention; protection and redress; data collection and monitoring; international cooperation). This would not only help to avoid occasional inconsistencies (e.g. legislative measures are addressed mainly under “prevention”, whereas legislation also has other effects that go beyond prevention. Cooperation with women’s organizations in the drafting of legislation and encouraging cooperation between these organizations and the justice system is addressed under the heading of “data collection and monitoring”, whereas the recommended measures certainly go beyond that policy area). Most important, building the analysis on the pillars of the duty to respect, protect and fulfil would contribute to promoting the human rights based approach to ending gender-based violence against women, further building on the CEDAW Committee’s excellent analysis of states parties’ obligations in General Recommendation no. 28 (The Core Obligations of States Parties under Article 2 of the Convention on the Elimination of All Forms of Discrimination against Women), §§ 16-20. For this purpose, the CEDAW Committee might want to consider the following resource as guidance: *Kartusch, Verpflichtung der Staaten zur Bekämpfung von Gewalt*, in: *Schläppi, Ulrich, Wytttenbach* (eds), CEDAW. Kommentar zum Übereinkommen der Vereinten Nationen zur Beseitigung jeder Form der Diskriminierung der Frau, Stämpfli Verlag, Manz Verlag, 2015, pp 1275-1307 (legal commentary on CEDAW, chapter on violence against women, available in German language only).
- In its GR 19, the CEDAW Committee has assigned specific obligations of states parties to end gender-based violence against women to specific articles of the Convention. This analysis can be of great help for women wishing to submit a complaint under CEDAW’s Optional Protocol, as well as organizations or experts assisting them in this endeavour. The Women’s Department therefore suggests to replicate this structure in the updated GR and to further update it in the light of the CEDAW Committee’s jurisprudence since the adoption of GR 1992.

Paragraph 14 – Domestic violence/duty to protect: The Women’s Department welcomes the clarification that the obligations of states parties to end gender-based violence against women encompass all levels of state action – legislative, executive and judicial. At the same time it is recommended to also add a reference to Art. 2 (e) CEDAW to the text, as the executive and judicial powers also carry an obligation not only to refrain from committing violence and other forms of discrimination, but also to protect women from violence committed by non-state actors.

Paragraph 15 – Role of the health sector: The Women’s Department welcomes the references to the health sector in the draft document, under the headings of prevention (subparagraph d): training of service providers) and protection and redress (subparagraphs a) iii. and c): access to health care services that are trauma-sensitive and address women’s reproductive health). Given the key role that health professionals play in identifying potential cases of gender-based violence against women, providing first-line support and specialist care to women survivors of such violence and ensuring effective referrals to other service providers, the emphasis on the health sector could be expanded, building on the CEDAW Committee’s General Recommendation no. 24 (Article 12 - women and health) and the [WHO’s clinical and policy guidelines](#) on intimate partner violence and non-partner sexual violence (2013).

Paragraph 15 - Multi-agency cooperation: The Women’s Department supports the reference of the draft document to cooperation of states parties with NGOs/women’s organization in the areas of prevention (subparagraph b): measures to address harmful gender stereotypes) and data collection and monitoring (subparagraph a): development and

evaluation of laws, policies and programmes, encouragement the work of these organizations in general and their cooperation with the justice sector), thereby recognizing the important work done by women's organizations towards eliminating gender-based violence against women. As noted earlier, the allocation of these aspects of cooperation with women's organizations to the section on "data collection and monitoring" leaves room for clarification. Also, the Women's Department recommends to insert a recommendation to design, implement, monitor and evaluate multi-sectoral referral mechanisms that operate at both, national and local levels to ensure effective access of women survivors of gender-based violence to comprehensive services. In all stages of the process, states should ensure full participation of and cooperation with non-governmental women's organizations.

Paragraph 15 – Budgeting for addressing gender-based violence: Earmarking funds in public budgets for addressing gender-based violence is a key prerequisite for the effective implementation of measures to this end. Therefore, the Women's Department suggests adding the allocation of adequate funding for measures aimed at eliminating gender-based violence against women in state budgets at all levels - central, regional and local.

Paragraph 15 – Numbering of subparagraphs: For best possible user-friendliness, it is recommended to continue the numbering of paragraphs at the first level, thus replacing Prevention, subparagraph a), subparagraph b), etc., Protection and Redress subparagraph a), subparagraph b) etc. with numbered paragraphs (16, 17, 18 etc.).

Sincerely,
Head of the Women's Department:

Dr.ⁱⁿ Marion Gebhart

Head of Section:
Karin Tertinegg
Tel. +43-1/4000-83514

Legal Officer:
Angelika Kartusch
Tel. +43-1/4000-83528