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REFERENCE:
WRGS/RES40/5

Subject: Report of the Office of the High Commissioner for Human Rights on the elimination of discrimination against women and girls in sport, pursuant to resolution 40/5 of the Human Rights Council

The Office of the United Nations High Commissioner for Human Rights (OHCHR) presents its compliments to all Permanent Missions and to the United Nations Office and other International Organizations at Geneva, and has the honour to refer to Human Rights Council Resolution 40/5 entitled "Elimination of discrimination against women and girls in sport", adopted on 21 March 2019.

The resolution requests the Office of the High Commissioner for Human Rights (OHCHR) "to prepare a report on the intersection of race and gender discrimination in sports, including in policies, regulations and practices of sporting bodies, and elaborating on relevant international human rights norms and standards, and to present the report to the Human Rights Council at its forty-fourth session". [*The resolution is attached for ease of reference*]

To assist in the preparation of this report, the OHCHR kindly requests information in response to the questions set out in the attached questionnaire, with the analysis capturing national and intra-national exclusions on ethnicity; information if any on participation of athletes in policy making processes; an analysis of media and its role in propagating gender stereotypes; and information on non-state actors and the obligations of sports bodies to uphold and promote human rights and ways in which States should appropriately resource them.

The Office of the High Commissioner for Human Rights would be grateful if any such information could be sent by **15 November 2019** to: registry@ohchr.org with kkyalo@ohchr.org and elepenec@ohchr.org in CC.

The information provided will be made available on the website of OHCHR. Please expressly indicate if any information provided cannot be made publicly available in this manner.

The Office of the High Commissioner for Human Rights avails itself of this opportunity to renew to the Permanent Missions to the United Nations Office at Geneva and to the United Nations in New York the assurances of its highest consideration.





Questionnaire

Human Rights Council Resolution 40/5

1. Please provide information on any laws, policies, or substantive initiatives that promote the participation of women and girls in sport. In providing this information, please consider and respond to the following:
 - a. *What are the objectives, target populations (e.g., racially or otherwise marginalized or economically disadvantaged women and girls), methods and achievements of these laws, policies, or initiatives?*
2. Please provide information and data on the prevalence and types of inequality and discrimination, including on the basis of gender, race and the intersection of these and other grounds of discrimination, as well as other human rights violations, experienced by women and girls in sport. In providing this information, please consider and respond to the following:
 - a. *What barriers prevent women and girls from engaging in sport on an equal basis with men and boys (e.g., specific barriers related to sociocultural norms, attitudes and prejudices, resource allocation, laws, regulations and policies, harassment, abuse and violence)?*
 - b. *What barriers prevent certain women and girls from engaging in sport on an equal basis with other women and girls (e.g., specific barriers related to sociocultural norms, attitudes and prejudices; race, ethnicity, socioeconomic status)?*
 - c. *What barriers impact women and girls with differences of sex development/intersex variations¹ in particular?*
 - d. *Do any of these barriers reinforce harmful gender stereotypes, racism, sexism, and stigma, and/or infringe upon the dignity, privacy, bodily integrity and bodily autonomy of women and girls, including those with differences of sex development?*
 - e. *How do all of these barriers affect the participation of women and girls at different levels of competition, from local recreational sport to international high-performance sport, and at different stages of sport (initial entry, in-sport experience, continuation, advancement, retirement)?*
3. Please provide information on domestic laws (including relevant domestically-implemented international law), policies and practices that protect against or respond to: (i) discrimination on the basis of gender and race; and (ii) violations of bodily integrity or bodily autonomy, including practices that force, coerce, or otherwise pressure individuals into undergoing medical exams/testing and following medication schedules and/or other treatment. In providing this information, please consider and respond to the following:

¹ Some women have differences of sex development (DSD), also called intersex variations, which are naturally occurring differences in sex characteristics (including genitals, gonads, hormones and chromosome patterns). Some sporting bodies have adopted criteria for participation in sport that specifically target such women. These eligibility regulations for the female classification are variously called DSD regulations, hyperandrogenism regulations, gender verification regulations, testosterone regulations, etc.



- a. *To what extent do these domestic laws, policies or practices apply in the context of sport? Please refer to leading case law and legal/policy guidance.*
 - b. *Do any of these domestic laws, policies, and/or practices address, implicitly or explicitly, women and girls marginalised due to their race and/or socio-economic background?*
 - c. *Do any of these domestic laws, policies or practices address, implicitly or explicitly, women or girls with differences of sex development?*
4. Please identify and provide information about the organizations, both public and/or private, that administer and regulate sport in your jurisdiction (e.g., schools, community programs, clubs, leagues, national and subnational governing bodies) as well as regional or international governing bodies headquartered or operating in your jurisdiction.² In providing this information, please consider and respond to the following:
- a. *Which types of organizations receive public funding or other public support?*
 - b. *Do these organizations have regulations and policies in place to protect against: (i) discrimination on the basis of gender and/or race; and (ii) interference with the right to bodily integrity and bodily autonomy? Please describe.*
 - c. *Do the domestic human rights laws and policies referred to in question 3 apply to these organizations? Please identify any relevant case law or legal/policy guidance.*
5. How have your Government and other domestic actors participated in the development of eligibility criteria for female athletes?
- a. *How have domestic actors, both public and private, participated in establishing criteria and processes for determining eligibility for participation in female categories of sport?*
 - b. *By what processes are women and girls in your jurisdiction deemed eligible or ineligible for participation in female categories of sport? Please describe any physical exams or medical tests used to determine female eligibility (including general eligibility tests, such as doping tests, that may be used in ways that connect to female eligibility testing)?*
 - c. *Have international female eligibility regulations, such as those published by the International Association of Athletics Federations or prior versions of these regulations³ (e.g., the regulations governing eligibility of females with hyperandrogenism to compete in women's competition), been implemented domestically?*

² Please consider, for example, sport ministries and agencies, national sport federations, national Olympic and Paralympic committees, organizing committees for international sport events, international sport federations, multi-sport organizations, professional leagues, etc.

³ The latest iteration of these regulations are those termed "Eligibility regulations for the female classification (athletes with differences of sex development)", for example. As noted in fn 1, these eligibility regulations for the female classification have variously been called DSD regulations, hyperandrogenism regulations, gender verification regulations, testosterone regulations, etc.



General Assembly

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Human Rights Council

Fortieth session

25 February–22 March 2019

Agenda item 3

Resolution adopted by the Human Rights Council on 21 March 2019

40/5. Elimination of discrimination against women and girls in sport

The Human Rights Council,

Guided by the purposes and principles of the Charter of the United Nations,

Reaffirming the Universal Declaration of Human Rights and recalling the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights, the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention on the Elimination of All Forms of Discrimination against Women, the Convention on the Rights of the Child and all other relevant international human rights instruments,

Recalling Human Rights Council resolutions 32/4 of 30 June 2016, 33/9 of 29 September 2016, 34/19 of 24 March 2017, 35/18 of 22 June 2017, 37/18 of 23 March 2018 and 38/1 of 5 July 2018, and all relevant resolutions on the elimination of racial discrimination and of discrimination against women and girls adopted by the Council, the General Assembly and other United Nations agencies and bodies,

Recalling also General Assembly resolution 70/1 of 27 September 2015, entitled “Transforming our world: the 2030 Agenda for Sustainable Development”, and the Sustainable Development Goals enshrined therein, including, inter alia, those pertaining to reducing inequality based on race and gender,

Recognizing that racial discrimination does not always affect women and men equally or in the same way, and that some forms of racial discrimination have a unique and specific impact on women, and the need for explicit recognition and acknowledgement of the different life experiences of women,

Recognizing also the potential value of sport as a universal language that contributes to educating people on the values of respect, dignity, diversity, equality, tolerance and fairness and as a means to combat all forms of discrimination and to promote social inclusion for all,

Recognizing further the imperative need to engage women and girls in the practice of sport and to enhance, to this end, their participation in sporting events at the national and international levels,

Noting with concern that many women and girls face multiple and intersecting forms of stigma and discrimination in sport, and are still subjected to discriminatory laws and

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practices based on their race and gender, and that States have an obligation to ensure and promote a broader framework of substantive equality for women and girls,

Noting with concern also that the eligibility regulations for the female classification published by the International Association of Athletics Federations that came into effect on 1 November 2018 may not be compatible with international human rights norms and standards, including the rights of women with differences of sex development, and concerned that there may have been a lack of legitimate and justifiable evidence for the regulations to the extent that they may not be reasonable and objective, and lack proportionality between their aim and the measures proposed,

Noting the interim arbitral award issued on 24 July 2015 by the Court of Arbitration for Sport, according to which many variables were legitimately associated with performance in sports, including a range of physical and biological traits, as well as social and economic factors,

1. *Expresses concern* that regulations, rules and practices that require women and girl athletes with differences of sex development, androgen sensitivity and levels of testosterone to medically reduce their blood testosterone levels may contravene international human rights norms and standards, including the right to equality and non-discrimination, the right to the highest attainable standard of physical and mental health, the right to sexual and reproductive health, the right to work and to the enjoyment of just and favourable conditions of work, the right to privacy, the right to freedom from torture or other cruel, inhuman or degrading treatment or punishment, and full respect for the dignity, bodily integrity and bodily autonomy of the person;

2. *Recognizes* that sports regulations and practices that discriminate against women and girls on the basis of race, gender or any other ground of discrimination can lead to the exclusion of women and girls from competing as such on the basis of their physical and biological traits, reinforce harmful gender stereotypes, racism, sexism and stigma, and infringe upon the dignity, privacy, bodily integrity and bodily autonomy of women and girls;

3. *Calls upon* States to ensure that sporting associations and bodies implement policies and practices in accordance with international human rights norms and standards, and refrain from developing and enforcing policies and practices that force, coerce or otherwise pressure women and girl athletes into undergoing unnecessary, humiliating and harmful medical procedures in order to participate in women's events in competitive sports, and to repeal rules, policies and practices that negate their rights to bodily integrity and autonomy;

4. *Requests* the United Nations High Commissioner for Human Rights to prepare a report on the intersection of race and gender discrimination in sports, including in policies, regulations and practices of sporting bodies, and elaborating on relevant international human rights norms and standards, and to present the report to the Human Rights Council at its forty-fourth session;

5. *Decides* to continue its consideration of this matter under the same agenda item in accordance with its programme of work.

*52nd meeting
21 March 2019*

[Adopted without a vote.]